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NOMINATIONS OF JOSHUA A. DEAHL, DEBORAH J. ISRAEL, ANDREA L. HERTZFELD, AND ROBERT A. DIXON

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

NOMINATIONS OF JOSHUA A. DEAHL NOMINATED TO BE AN ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS, DEBORAH J. ISRAEL NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, ANDREA L. HERTZFELD NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, AND ROBERT A. DIXON NOMINATED TO BE U.S. MARSHAL, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

OCTOBER 22, 2019

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NOMINATIONS OF JOSHUA A. DEAHL, DEBORAH J. ISRAEL, ANDREA L. HERTZFELD, AND ROBERT A DIXON

TUESDAY, OCTOBER 22, 2019

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

The Committee met, pursuant to notice, at 10 a.m., in room 342, Dirksen Senate Office Building, Hon. James Lankford presiding.

Present: Senators Johnson, Lankford, Romney, Peters, Hassan, and Sinema.

OPENING STATEMENT OF SENATOR LANKFORD[1]

Senator LANKFORD. Good morning, everyone. This morning we are considering four nominees for the D.C. judiciary system—Joshua Deahl to be Associate Judge of the D.C. Court of Appeals; Deborah Israel and Andrea Hertzfeld, to be Associate Judges of the Superior Court of D.C.; and Robert Dixon to be U.S. Marshal for the D.C. Superior Court. Thank you all for going through this process. You will have a longer introduction by Delegate Eleanor Holmes Norton in just a moment but let me make just a brief statement.

Josh Deahl currently works as an appellate attorney at the Public Defender Service of the District of Columbia. Previously, Mr. Deahl had served as a clerk to the U.S. Supreme Court Justices Sandra Day O'Connor and Anthony Kennedy. Mr. Deahl also clerked in the U.S. Court of Appeals for the Fifth Circuit.

Deborah Israel, currently a partner at Womble Bond Dickinson, has a legal career steeped in complex civil litigation. Thank you for your service.

Andrea Hertzfeld has been an Assistant U.S. Attorney in the U.S. Attorney's Office for the District of Columbia since 2010. Before that, she spent 6 years as an associate in private practice.

And Robert Dixon spent his entire career in public service with the Department of Labor (DOL). You have a very distinguished career, serving in a lot of ways. He began his career as an investigator in their Atlanta office and later moved to D.C. in the Office of Inspector General (OIG), retiring in 2016, as the Director of Investigations for the Department of Labor's Inspector General (IG) Office.

[1] The prepared statement of Senator Lankford appears in the Appendix on page 21.

Mr. Dixon is currently a member of the board of directors of the Alliance for Safe Traffic Stops and the D.C. President in the National Organization of Black Law Enforcement Executives (NOBLE).

The Committee takes all of these nominations very seriously and we are pleased to have these nominees before us. Committee staff has reached out to many colleagues and affiliates of the nominees. They spoke highly of your professional abilities and your fitness to potentially serve in the roles to which you have been nominated. Staff have interviewed the nominees on an array of issues. Each has thoughtfully and competently answered each question.

I look forward to speaking with each of you more today and your experience and the accomplishments, how you intend to be able to bring them to bear for the District of Columbia.

I would also say today is not a great day to be in the court in D.C., because I think most of the judges in our court are actually here rather than there today. You have a lot of fans and a lot of folks that are here, that are excited to be able to get some help coming to the court, and we appreciate you stepping up to be able to lead in the way that you are choosing to do that.

And we also ask, not only as a favor to us but also to in recognition of the folks around you, many of you brought family and friends and loved ones with you today. We fully expect you, when you begin your opening testimony, to introduce the family and friends that are with you, and to be able to recognize those folks, because they are walking through a very long journey with you as well, and they most certainly deserve that recognition also.

So with that I would recognize Ranking Member Sinema for her opening statement.

OPENING STATEMENT OF SENATOR SINEMA[1]

Senator SINEMA. Thank you, Mr. Chairman, and thank you to our nominees for their willingness to serve. Our nation's courts need the best possible people to serve, and all four of our nominees bring excellent qualifications for the positions they seek.

I am especially pleased that one of our nominees is from my State, Arizona, Joshua Deahl, a nominee to be an Associate Judge for the District Court—District of Columbia Court of Appeals. He was born in Tucson, as was I, and later graduated from Arizona State, as did I. It is always great to have another Sun Devil in our hearing room.

So I will let the nominees share their own biographies, but I do want to note that all three of our judicial nominees are part of the first generation of families to graduate from college. So best of luck to all of our nominees, and I look forward to our conversation.

Mr. Chairman, I yield back.

Senator LANKFORD. Thank you. I want to recognize our special guest delegate, Eleanor Holmes Norton, to be able to introduce all of the folks that are going to be on our panel today. Thank you for being here today.

[1] The prepared statement of Senator Sinema appears in the Appendix on page 23.

TESTIMONY OF THE HONORABLE ELEANOR HOLMES NORTON,[1] A REPRESENTATIVE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. NORTON. Thank you, Mr. Chairman. If I may proceed, I will speak only briefly about these exceptionally well-qualified candidates. Deborah Israel is a partner of the Washington, DC. office of Womble Bond Dickinson and chief operating partner at that office. She heads the litigation practice—a fellow in the Litigation Council of America, trial lawyer, Honor Society, cited as—in America's Top 100 Lawyers. She has such exceptional credentials, I will not go through all of them.

Joshua Deahl is an attorney in the Appellate Division of the Public Defender Service for the District of Columbia. He frequently appears before the D.C. Court of Appeals. He was Counsel in Supreme Court and appellate practice at O'Melveny & Myers before that. He served as a clerk to Supreme Court Justice Anthony Kennedy, and to Supreme Court Justice Sandra Day O'Connor. He is a graduate of the University of Michigan Law School, where he was Articles Editor of the Michigan Law Review. He has his degree magna cum laude, et cetera. These are the typical credentials of these very qualified candidates.

Andrea Hertzfeld, Senior Assistant United States Attorney, for the past 9 years at the office of District of Columbia United States Attorney, prosecuting child exploitation crimes. She has been awarded many United States attorneys awards. She has practiced complex litigation in private practice. She was a Summa cum laude graduate of Bowling State College and a graduate of Harvard Law School.

And finally, Robert Dixon is the President's nominee to be U.S. Marshal for the D.C. Superior Court. He has served as Director of the Division of Investigations of the U.S. Department of Labor's Office of Inspector General. He retired in 2016. He is President of the D.C. Chapter of the National Organization of Black Law Enforcement Executives.

Mr. Chairman, may I also indicate how pleased we are that you are receiving these nominees. I have brought to the attention of the Committee several times the numerous vacancies that have severely burdened the District's judicial system. Currently, there are two vacancies on the Court of Appeals, for one of which Mr. Deahl is a nominee. The other vacancy has no nominee at this time. There are currently an astonishing nine vacancies on the Superior Court. That is the District's trial court for criminal and civil matters, for which there are currently three names pending before this Committee, besides Mr. Hertzfeld and Ms. Israel.

I appreciate, again, this Committee taking up these Superior Court and District Court of Appeals nominees, and I hope to work with you going forward to address the vacancies as they arise.

Unfortunately, we seem to have a vacancy crisis in these courts in the District of Columbia every few years. I understand the Senate has, of course, before them nominees for our own Federal courts. I recognize that the Committee does not have the sole responsibility for the fate of D.C. judges. Senate leadership is under-

[1] The prepared statement of Hon. Norton appears in the Appendix on page 24.

standably more focused on nominees for life-long Federal judgeships and Federal agencies than for D.C. courts, and any individual Senator can effectively block a nominee, of course, on the floor. I do think that it is my duty to bring these vacancies to your attention, even as I express my gratitude for the nominees that you are hearing this morning.

Senator LANKFORD. Delegate Norton, thank you for being here but for your representation of the District of Columbia. This Committee will continue to be able to work through the process as expeditiously as possible, to be able to make sure that those individuals that are ready to go can be heard by the full Senate and be approved by the full Senate. So thank you for that. We will continue to be able to work through this process.

You are welcome to stay, as long as you would like to stay, but there is also a little bit of House business going on right now as well, and so we will definitely understand that.

I get the unique opportunity of swearing in potential judges. It is my one moment to be on the other side of the table at this point, so if you would all please rise. It is the custom of the Committee to swear in all witnesses before they appear before us.

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

Mr. DEAHL. I do.

Ms. ISRAEL. I do.

Ms. HERTZFELD. I do.

Mr. DIXON. I do.

Senator LANKFORD. Thank you. You may be seated. Let the record reflect all of the witnesses answered in the affirmative.

I want to recognize Josh Deahl for his opening statement, and we will work our way right down the table. And again, we fully expect you to be able to introduce family and friends that came with you, as well.

TESTIMONY OF JOSHUA A. DEAHL[1] TO BE AN ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS

Mr. DEAHL. Thank you, Chairman Lankford, Ranking Member Sinema, and Members of the Committee, I am humbled and grateful to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank the Judicial Nomination Commission and its chair, Judge Emmet Sullivan, who I know is in the audience today, for recommending me to the White House, and I thank the President for nominating me.

I would like to express my sincere thanks and appreciation to the Committee, to the Members and the dedicated Committee staff for their hard work in undertaking the Senate's constitutional duty of advice and consent. I would also like to recognize Chief Judge Anna Blackburne-Rigsby of the D.C. Court of Appeals, who is here as well, and I am thankful for her support. I also thank Congresswoman Norton for the incredibly kind introduction.

[1] The prepared statement of Mr. Deahl appears in the Appendix on page 27.

I would not be sitting here today if not for the help and inspiration of my colleagues, family, and friends, many of whom are here with me today. My brother, Nathan Deahl, who is here with his wife, Karen Deahl, and his children Tessa, Laney, and Jackson. My sister Ashlea. My wife's parents, Mike and Rosalind Wanke. My co-clerks from my time with Justice Kennedy, Allon Kedem, Scott Keller, and Misha Tseytlin are here with me as well. And of course my wife, Jessica, who has been my partner for the past 17 years, and has made my life immeasurably better with her good humor and patience.

My 6-year-old son, Cary, at this young age is already one of the warmest and friendliest people I have ever known, and my 4-year-old daughter, Georgie, she is one of the most decisive and determined people I have ever known. I love and admire both of my children and count my part in raising them to date as the greatest accomplishment in my life.

I also want to acknowledge my parents, Nichola and DeLonnie Deahl. My father, DeLonnie, passed a decade ago, and he now rests at Arlington National Cemetery, just a few miles from here, and my mother's health did not permit her to make the trip, but I know both of them are with me in spirit. I would like to provide a little background on them because it shines light on who I am. Both of my parents grew up in small, German-speaking farming communities on the border of North and South Dakota. My dad's farm had no running water and no plumbing, and as you can imagine in North Dakota that made for some interesting trips to the outhouse during the winters. He then enlisted in the Air Force during the Vietnam War, which led him to a career as a defense contractor. So it is an understatement to say that between his being a farmer and a military man, my childhood involved a lot of hard work.

That discipline has served me well in life. My mom was always quick to bring some levity and cheer into our home, and I am lucky to have such a loving family. My parents, neither of them graduated from college, but both of them worked tirelessly to make sure their children did, and I am eternally grateful for that. They raised us in Arizona, where we attended public schools, and I stayed there to do my undergraduate studies at Arizona State University, before going to Michigan for law school.

I started my legal career as a law clerk to Judge Fortunato Benavides on the United States Court of Appeals for the Fifth Circuit, and I then clerked for Justice Sandra Day O'Connor and Justice Anthony Kennedy of the Supreme Court of the United States. Each embodied the meaning of judicial temperament. They were patient, they were unbiased, they were open-minded. None of them wanted anything more than to get each individual case right, and never hinted that they ever had any personal preference in a case. They maintained their fidelity to the law above all, and if fortunate enough to be confirmed, these are the values that would guide me.

After my clerkships I joined the appellate and Supreme Court practice at O'Melveny & Myers here in Washington, D.C., where I represented some of America's largest companies. I then went to work as a criminal defense attorney at the Public Defender Service for the District of Columbia, which was a shift, as I now work representing some of the most disadvantaged members of this commu-

nity, and it is a privilege to do so. It is by no means an easy job. It is incredibly difficult to stand by and make sure that even the most unpopular among us get their day in court.

But our Founding Fathers understood the value of that, and John Adams embodied it when he successfully defended British soldiers when nobody else would after the Boston Massacre, and described his representation as "one of the best pieces of service I ever rendered my country." I share his sentiment. Being a public defender requires advocating that the law be applied without regard to public opinion, without regard to any personal beliefs, and the work of a judge requires the same.

I understand the D.C. Court of Appeals' mission to provide justice for all and to apply the law evenhandedly, without favor or prejudice. If I am fortunate enough to receive your support, you have my word that I will strive to achieve that mission.

Thank you again for considering my nomination and I look forward to answering your questions.

Senator LANKFORD. Thank you. Ms. Israel.

TESTIMONY OF DEBORAH J. ISRAEL[1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. ISRAEL. Good morning. I would like to begin by expressing my gratitude to the Committee. Thank you, Chairman Lankford, Chairman Johnson, and Ranking Member Sinema for holding this hearing, and thank you to all of the Members of the Committee for your consideration. Thank you to the Committee staff for their hard work preparing for this hearing and the courtesy they have shown me throughout this process. I am honored by the opportunity to appear before you today as a nominee to be an Associate Judge on the Superior Court of the District of Columbia.

I would like to thank the Judicial Nomination Commission and its chair, the Honorable Emmett G. Sullivan, for recommending me to the White House for consideration, and I thank the President for the honor of this nomination. Thank you to Congresswoman Norton for her generous introduction and support. I would also like to recognize the Chief Judges of our District of Columbia Courts who have joined us here today, including Chief Judge Anna Blackburne Rigsby and Chief Judge Robert E. Morin. I also wish to acknowledge the community from the D.C. courts who have joined us today.

Now it is my privilege and joy to introduce my family members. Here with me today are my mother, Alice Israel, who traveled from her home in Delaware, my partner, Laurie McMahon, of the District of Columbia, and my sister, Tiffany Israel, who joins us from Connecticut. My father, Gary Israel, was not able to travel here today, but he is watching with great excitement by video. And back in Connecticut watching by video, are my brother-in-law, the Reverend Luk DeVolder, and my 5-year-old niece, Audrey, as well as my brother, Dean. In particular, I want to thank my parents and my family. My parents worked very hard to provide me with opportunities that they never had. My family has made sacrifices over the years so that I can be where I am today. Whatever is best in me that I have to offer in service, I owe to them.

[1] The prepared statement of Ms. Israel appears in the Appendix on page 56.

I am also honored that a number of friends and colleagues have joined me here today. I wish to recognize and thank the Honorable Judge Carol Dalton and Joanne Young for their support. I want to thank the attorneys and staff at Womble Bond Dickinson for sharing their brilliance and wisdom over the years, and in particular, I want to thank the partners of my team who are here with me today, Louis Rouleau, Cathy Hinger, and Mark Schamel. It has been my privilege and great joy to work with such a disciplined, generous, and exceptional team of professionals.

I have been a member of our legal community here in the District of Columbia for my entire professional career, and I know first-hand the strong reputation our courts have earned as fair and hardworking, with well-qualified and smart judges. I come before you today with deep experience in the private sector, and if I am fortunate enough to be confirmed, it would be an honor and a privilege to bring my skill set and experience to the mix of talents on our bench and to serve alongside the District's exceptional judges. I am deeply humbled by this opportunity and I look forward to answering the Committee's questions.

Senator LANKFORD. Ms. Hertzfeld.

TESTIMONY OF ANDREA L. HERTZFELD[1] TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. HERTZFELD. Thank you and good morning. Mr. Chairman and Members of the Committee, it is an honor and a privilege to be here today. I am grateful for the opportunity to appear before you as you consider my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I extend my thanks to each of you, and to your staff for your consideration of my nomination.

There are many other people to thank as I sit here today as well. I extend my deep appreciation to the Chair of the Judicial Nomination Commission, Judge Emmet Sullivan, who has provided great support and encouragement throughout this process, and to the Commission's dedicated members for recommending me to the White House. I extend my humble thank you to the President for nominating me to serve the people of the District of Columbia in this capacity, and to Congresswoman Norton for her support as I appear before you.

I also extend my thanks to Chief Judge Morin who is taking a break from running one of the busiest trial courts in the country to be here in support of us as well.

I can only try and express my appreciation for the support of my colleagues, family, and friends, especially those who are present here today. I want to recognize my current boss, the United States Attorney for the District of Columbia, Jessie Liu, who has wholeheartedly supported and encouraged me as I have traveled this path. I thank the many colleagues from the United States Attorney's Office present here today who have served with me in the pursuit of justice for the past 9 years. It has been my great opportunity and privilege to work with all of you.

[1] The prepared statement of Ms. Hertzfeld appears in the Appendix on page 90.

The Honorable Kelly Higashi, my former chief at the United States Attorney's Office is here today as well, and I cannot thank her enough for her support, guidance and friendship throughout the years.

Also here are several members of the law-enforcement community from the Federal Bureau of Investigations (FBI), the U.S. Marshal Service, and the Metropolitan Police Department. It has been an extraordinary and humbling opportunity to work alongside these brave men and women in their tireless efforts to protect our community and especially the children who are the victims of child exploitation and human trafficking. These colleagues have all served as a tremendous encouragement and source of inspiration to me every day I have walked into the courthouse here in the District of Columbia.

I reserve a special thanks for the people in my life who are here because they love and support me in my home and community. My husband, Charles Tompkins, is here today, as he has been every day of our lives together, to support my pursuit of a career in public service. He has sacrificed much, including our time together, and has been without complaint about the around-the-clock demands that are often made in a job where emergencies are frequent and every single case merits answering the phone in the middle of the night. He has done so with incredible grace and patience.

My parents, Don and Linda Hertzfeld, are also here today. They traveled here from my hometown in rural Ohio to once again extend the unwavering support they have provided me throughout my entire life. Without that support, I have no doubt I would not be sitting here before you today. My parents raised five children, including myself and my beloved twin sister, Anne Henderson, who has, with the same unfailing support, taken time away from her husband and three wonderful young children to travel from Ohio here to support me as well. My parents also raised my three younger siblings, who are triplets, all of whom are somewhere else in the country watching this by broadcast.

I am so fortunate to have parents who, in the chaos of raising five children under such atypical circumstances, managed to teach me through their words and actions the non-negotiable values of integrity, fairness, and hard work. If confirmed, it is these values that will serve as my guide posts each and every day I sit on the bench.

I moved to the District of Columbia immediately after graduating from Harvard Law School with the intention of pursuing a career in the public service. I was drawn to Washington, DC, by its vibrancy, diversity, and sense of community. After spending 6 years practicing complex civil litigation at two major law firms, I had the opportunity to fulfill my dream of becoming an Assistant United States Attorney. For the last 9 years, I have had the distinct privilege of serving the citizens of this city in both the Superior Court and the United States District Court.

Throughout my legal career, I have sought to be fair-minded to each and every person whose life I have impacted, whether that person was a victim of crime, a community member, or a defendant whose future my prosecutorial decisions would impact. I have

sought to uphold the law and the values of fairness and justice. If given the opportunity, I will commit to continuing to adhere to those principles in adjudicating any controversy that may come before me.

Thank you again for considering my nomination, and I look forward to answering any questions you might have.

Senator LANKFORD. Thank you. Mr. Dixon.

TESTIMONY OF ROBERT A. DIXON[1] TO BE U.S. MARSHAL, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. DIXON. Good morning. Thank you, Chairman Johnson, Chairman Lankford, Senator Sinema, Senator Romney, and all other Members of the Committee for the opportunity to appear before you today. I am grateful for this honor and appreciative of your consideration of my qualifications to be the United States Marshal for the Superior Court of the District of Columbia.

I would like to thank the National Organization of Black Law Enforcement Executives for recommending me to the White House, as well as those who have supported my nomination with their endorsement of my qualifications. I am thankful to President Donald Trump for nominating me. My thanks, as well, to the Senate Committee staff for their professionalism and the guidance they have provided throughout this process.

I am blessed and delighted to have my family, friends, and colleagues with me here today. I would like to recognize and express my sincere gratitude to my wife, Lou Dixon; my father, Reverend Bobby Dixon; sisters, Pamela Taylor and Cynthia Grier; and my brother, Jeffrey Dixon, who could not be here. I also, I might say, have my nephew, Christian Taylor, in the audience, and I would like to thank him as well for attending.

In addition, I would like to acknowledge some others who would be here and who have played a significant role in my life. They are my mother, Louise Dixon; my grandmother, Louise Dews; and other special relatives: Margaret Elliot and Rebecca Davis, all who have passed on, but are forever with me. The wisdom, support, encouragement, and unconditional love they poured into my life is what makes my consideration for the marshal position even a possibility.

Finally, I would like to thank all other family members, friends, mentors, and colleagues, including the Marshal's Office of Congressional Affairs for their guidance and their support during this process.

I am honored to have served our Nation for more than 35 years in law enforcement. As mentioned, most of that time has been with two agencies, the Office of Labor Management Standards and the Office of the Inspector General. During my extensive career, I demonstrated my commitment to honorably and effectively serve the American public and our country. The United States Marshal Service is the oldest Federal law enforcement agency in the country, and there is no greater honor for me than to continue my service for such a prestigious institution.

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[1] The prepared statement of Mr. Dixon appears in the Appendix on page 112.

I would also like to thank the Honorable Congresswoman Eleanor Holmes Norton for her gracious introduction.

If I am fortunate enough to be confirmed for this position, I look forward to utilizing my knowledge and practical skills acquired over the course of my law enforcement career to lead this critical office with honor and integrity.

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

Senator LANKFORD. Thank you. Thank you to all of you.

There are three mandatory questions that we ask every nominee that comes before us, and I will ask the question once and then ask you each to be able to answer orally to each of these, and they are all yes or no statements.

So the first question, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Yes or no. Mr. Deahl.

Mr. DEAHL. No, Senator.

Senator LANKFORD. Ms. Israel.

Ms. ISRAEL. No, Senator.

Senator LANKFORD. Ms. Hertzfeld.

Ms. HERTZFELD. No, Senator.

Senator LANKFORD. Mr. Dixon.

Mr. DIXON. No, Senator.

Senator LANKFORD. Thank you. 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?

Mr. DEAHL. No, Senator.

Ms. ISRAEL. No, Senator.

Ms. HERTZFELD. No.

Mr. DIXON. No.

Senator LANKFORD. Thank you. Third question. Do you agree, without reservation, to comply with any requests for summons to appear to testify before any duly constituted committee of Congress if you are confirmed?

Mr. DEAHL. Yes, Senator.

Ms. ISRAEL. I do.

Ms. HERTZFELD. I do.

Mr. DIXON. Yes, Senator.

Senator LANKFORD. Thank you very much. I am going to defer my questions to the end and recognize Senator Sinema to be able to ask questions first.

Senator SINEMA. Thank you so much, Mr. Chairman. And this first question is for the three judicial nominees. As a former social worker myself, I know the obstacles that young people face in their pursuit of a quality education. All three of you are among the first in your families to earn a college degree and attend law school, pursue distinguished legal careers, and become judicial nominees.

For each of you, my question is what is a personal characteristic you maintain that you derive from your upbringing or your education that you believe will positively contribute to your courtroom and to those who will depend on you to find justice?

Mr. DEAHL. I can think of two things, Senator. The first that comes to mind is, given my upbringing, that we worked really hard in my household, and I think in order to be a judge you have to bring that type of work ethic to the job. The D.C. Court of Appeals is extremely busy. They have a docket of 1,500 cases a year, and currently split between seven active judges that means a whole lot of cases that you need to get off your desk. So that is one quality that comes to mind.

A second that I think I have, by virtue of my upbringing, is sort of a general amount of empathy for people who have gone through their lives and made mistakes and were brought up with less than every advantage to see that they, to be somewhat understanding of the mistakes that they have made. That obviously plays into my current role a public defender, where I work with people who have made some of the most horrendous mistakes imaginable.

But when I sit across from them I am still capable of recognizing our shared humanity, no matter what the crime was.

So those are two qualities I would point to.

Ms. ISRAEL. Thank you for the question, Senator. I think of two qualities, in response to your question. One is open-mindedness, willing to listen openly, and to pay attention. And the second is a love of people.

Ms. HERTZFELD. Thank you, Senator. I, too, have two qualities that come to mind, both also, as Mr. Deahl said—and I would echo those—the value of hard work and the ability to really manage to sort of plow your way through, even when the amount of work before you seems insurmountable. I have two very hard-working parents, as I said. They raised five children under pretty difficult circumstances. And they led by the example of showing me that, with a lot of hard work and a sense of really digging in, that you can manage to accomplish a lot. And I think obviously given the State of the D.C. Superior Court and the volume of the workload and the number of cases that are to be decided every year, that is a value that would come to bear every single day on the job.

And I think the second thing is a sense of integrity. As I said, my parents were two hard-working people who were very strongly guided by a sense of principle and knowing what it was that was their compass, in terms of making good decisions, fair decisions, looking at people equally and with open-mindedness and fairness. And I think all of those sort of are embodied in the concept of integrity, and I would intend to bring that to the bench, to make fair and thoughtful decisions as a judge.

Senator SINEMA. Thank you.

Mr. Dixon, I want to thank you for your public service and commend you on what is already a very distinguished career as an investigator, Federal agent, and manager. What success or failure in life, or experience in your previous employment, has prepared you most for the responsibilities you will face as U.S. Marshal?

Mr. DIXON. Thank you for the compliments, and also for the question, Senator. I have had an extensive career, and during that career one of the things that has become most clear to me is the importance of people, which I consider to be the greatest resource of any organization. What has prepared me to take on this responsibility best is perhaps my understanding that people, while dif-

ferent, and while having different ideas and views of things, are still valuable, and if you listen to them you will learn things that will help you in your management and in your conduct of your business.

I think that the ability to listen and to learn, in spite of having an extensive career, is certainly one of the greatest lessons that I have learned, and something that I think I will rely on heavily going forward, should I be so fortunate to get confirmed.

Senator SINEMA. Thank you.

I direct this question to each of our judicial nominees. You each currently practice as an attorney. What challenges do you foresee as you shift from the world of advocacy to the role of adjudication, and how will your legal approach change, if at all?

Mr. DEAHL. Senator, I can foresee, two big challenges. One is sort of a management challenge and the other one is the big challenge that any lawyer faces going on the bench, which is shifting from the role of advocate, where partiality is really the name of the game. Every time you have a live issue before you as an advocate, something that is undecided by the courts, you already know what your answer is, going in. It is whatever answer helps my client. And when you shift to the role of a judge, that becomes very different. There is no longer any assumption on what the answer is. Your only job is to make sure that you get the law right.

And that is a shift I have made before in my career. When I worked at the Public Defender between clerkships, I then had to go from the Public Defender to clerk at the Supreme Court. And I remember that shift. I remember picking up briefs and going from, oh, I am definitely on this side, and having to recalibrate my brain and say, that is not at all what we do here. We read the law with an open mind and we find the right answer, rather than with favor toward anybody. So that is the first challenge.

And the second one—and I see I am eating up your time so I will be very brief—is just managing a staff of a few clerks, with an incredibly large case load, and relying on them to delegate some work to, is the other challenge I could foresee.

Ms. ISRAEL. Thank you, Senator. I think the top challenge will be learning new areas of the law. We go in to serve, and there will be some areas that I will not be as facile with. I have great confidence, though, in the courts. We have a tremendous system in our courts for training new judges, both for new judges and for judges when they rotate calendars. And I feel very confident in the mentor program and the training that the courts provide. Thank you.

Ms. HERTZFELD. Thank you, Senator. I have been in a little bit of a different position as an "advocate," sitting here at this table today. Because while certainly as an assistant U.S. attorney we are advocates in the courtroom, insofar as we represent the people of the United States and the District of Columbia, it is a slightly different role than the role described by Mr. Deahl as an advocate, because as assistant U.S. attorney is our job not just to advocate for a particular side but to keep in mind, at all times, in pursuing a case, the interests of fairness and justice and what is the right outcome, regardless of the side of the courtroom that we are sitting on.

And so I think that will help ease the transition for me, from being an advocate to a judge, because I think, the role is to apply the law to the facts as fairly and with as much integrity and open-mindedness as possible, and I think that is also a lot of what is embodied in the role of a prosecutor in trying to make a good determination about how and whether to pursue a case. So I think that challenge will be eased by that experience.

I do also agree with Ms. Israel. I have been practicing in the criminal world for the last 9 years. I practiced in civil practice for 6 years before that. But there are areas of the law that I have never practiced in, and I think, you go to work every day feeling very capable and facile with the area of law you are practicing, and there is certainly a learning curve to practicing in different areas and to adjudicating cases in areas of the law I know little about.

The U.S. Attorney's Office, given the volume of cases that we have and the number of areas we have to learn as we are proceeding through the office before receiving a senior appointment, I think, has prepared me well for the challenge of addressing questions of law in areas that I have not practiced in before, and I trust that that experience will help me be able to meet that challenge, if I were fortunate enough to be confirmed today.

Senator SINEMA. Thank you. Thank you, Mr. Chairman.

Senator LANKFORD. So we have met before and I have gone through some conversations in my office, or staff has gone through conversations, and I have gone through all of your FBI files.

And one of the things I mentioned to several of you, in the dialogue preparing for this day, was the two things you should hope for, as a nominee. One is that you do not sit at that table by yourself, because those are not fun days for whoever is there by themselves on it. The second thing you would hope for is that people show up and hear your opening statement and then leave because they have no questions. So it is going good so far for you. [Laughter.]

Because that is one that, as each person dips in and watches and then goes, "Yep, I am good," and walks out, that is a very good sign, as we go through.

So let me cleanup here for a while and let's talk through a couple of things. Mr. Dixon, I want to be able to begin with you.

The U.S. Marshal position in D.C. is very different than other U.S. Marshal positions in other parts of the country. So let me just list this out in case folks do not know: judicial security, prisoner services, fugitive investigations, execution of court orders, asset seizure, forfeitures, administrative functions. Also responsible for serving civil and small claims bench warrants, executing court-ordered evictions issued by the D.C. Superior Court, and a lot of it, as assigned.

You interact with both Federal and municipal authorities, and that is different than any other U.S. Marshal.

So there are a lot of U.S. Marshal positions that you could have pursued, and you chose the D.C. one, and it chose you back, in the process. How do you prepare yourself for this kind of diversity and so many different bosses in the process?

Mr. DIXON. Thank you for the question. It is a very good one.

As I said, I have had an extensive career, and throughout that career I have had a very diverse set of responsibilities. And so I have managed multiple aspects of an organization, a large organization, and I might say I have done that very successfully.

You are absolutely correct, Senator, and in my research I find, also, that this is a rather unique district, or a rather unique office. It is the largest in the Marshal Service and it has the uniqueness of being located here in the District, which is, itself, a bit unique in its structure.

That notwithstanding, I think that my expertise, from previous experiences, has prepared me well to deal with the collaborative nature of this environment, working with other law enforcement agencies, working with other interested parties and stakeholders, dealing with the circumstances that are for the common good, and knowing how to diplomatically maneuver such concerns.

So I am not at all intimidated by what the District represents. In fact, I see it as a challenge. Again, because of the nature of the Marshal Service, and, quite frankly, in my research I have been reassured that the hard-working, talented, men and women who make up the Marshal Service are there to support me, and I will be there to support them.

I think from a team perspective, and that is how I am looking at this, a team perspective in terms of what I bring to the table, what they offer me in support, and what we will collectively offer the law enforcement community, and the community in general, in the District, I think we are well-suited to address the concerns.

Senator LANKFORD. You are coming out of Inspector General's Office, where the perspective is to be able to look for the problems and issues, challenges, and present a set of options to be able to solve it. You also look through and say they are not prioritizing this area and they are ignoring this area, and you are going to try to bring some attention to it.

Bringing that kind of mindset to the U.S. Marshal Service here in D.C., I have an odd question for you that may not be fair to ask yet, but I am going to go ahead and do it anyway. Is there an area that you see in D.C. that you say this area needs more attention? Of all of the diverse things that have to be done, and there are a lot that have to be done by the U.S. Marshal Service here, do you look at it and go, this area is going to need more attention quickly, that we are going to have to either raise their profile or spend more time working on this for the benefit of the citizens of D.C.?

Mr. DIXON. Senator, as it stands now, the answer would be no, but it is simply because I am an outsider, and I think it would be a disservice to the people who are internally working on maters now, in the Marshal Service, to try and speak on something that I am just not that well-informed about now. I will agree to, and I look to, becoming well-versed in the concerns of the Marshal Service, and at that time I would be more than happy to get back with you and give you a better answer as to what I see that might need correcting or might need addressing.

Senator LANKFORD. That is fair, and I understand that. Walking in from the outside, I would just say you have this gift and this experience in your background of working with the IG's Office. Use it wisely in the next location that you step into, because that is a

tremendous asset, that some people do not walk in with that same type of skill set that you are walking into. I think that is intentional, that you will be able to bring something to the Marshal Service in D.C. that others cannot, just that simple experience to be able to look for the gaps and the holes and to also know how to make the recommendations to be able to solve those. So we will look forward to your success in the days ahead.

Mr. DIXON. Thank you, sir.

Senator LANKFORD. For our judicial nominees, let me ask some questions on this. We have had conversations about delayed justice, and it is one of the challenges of any court system, especially a court system that is so full with a caseload so large now, and, quite frankly, a lot of openings. There are a lot of folks that are in this room that are looking for some additional help, to be able to help them with the caseload.

Delays sometimes are based on backlog, just not enough judges to be able to work it through. Sometimes it is caused on an attorney that did not show up well-prepared and just asked for more time, and said, "I have four other cases that were just more important to me and I did not spend enough time, and so I just need more time to be able to do this."

How are you, from the bench, going to manage your courtroom to be able to make sure justice is not delayed? And let me start on the right side here, Ms. Hertzfeld, and we are going to work our way to the left.

Ms. HERTZFELD. Thank you, Senator. I think the efficient management of the courtroom is a really important thing I have seen from the judges I have appeared before in Superior Court. It is a very busy court. I think that for judges who take the bench and have high expectations of litigants, who are clear about deadlines and the fact that those deadlines are to be met, and that there are expectations that they are to be met with a full and prepared understanding of what it is that that day's proceeding is about, and that the parties that show up prepared to respond to those demands really helps make the efficiency of that courtroom better.

I think that those courtrooms where judges have those kinds of expectations of the litigants are the courtrooms that I have seen where judges move cases through and ensure that the litigants have an opportunity to be heard and have their cases adjudicated quickly and fairly. And so I would make every effort, if I were to be confirmed today, to run that kind of a courtroom with efficiency and high standards set for the litigants, to have expectations that showing up unprepared or without an understanding of what those proceedings were to be about and able to answer questions would not be allowed in that courtroom.

Senator LANKFORD. Thank you. Ms. Israel.

Ms. ISRAEL. I think one of the important questions any time an attorney comes in unprepared is whether or not that is going to create prejudice for their client, prejudice for the other side. So I think one of the important roles that the court has to play is trying to assess prejudice with respect to how the case is proceeding and what is going on with any sort of a delay.

One of the things that I can do, on an individual basis, is come prepared. I think it matters very much when the judges come pre-

pared. I know, as someone who litigates in front of our courts, that it matters a great deal to us and to our ability to move cases.

And then, finally, I would say not all cases are on the same pace. Some cases need to move slower—they are more complex, they have more issues—and some can be moved more quickly. And understanding that and moving those that can be moved quickly to a decision I think is an important role that I could play.

Senator LANKFORD. Great. Mr. Deahl.

Mr. DEAHL. I would echo the sentiments of both Ms. Hertzfeld and Ms. Israel on the topic. I would add a couple of other things. The first is my share with your concern, that I share your concern. I have seen cases where criminal convictions have been reversed and my client has already served his years in prison, so that reversal does not do him any good. I have seen cases where you have child custody issues that the Court of Appeals changes things years after the fact, and that can put a child's life in disarray and families' lives in disarray.

I do not mean to impugn, there are a lot of different reasons for those delays. One are the lawyers, and it is important as a judge to hold them accountable, and to make sure that they stick to deadlines. And I think the best way to do that, Senator, is to stick to your own deadlines as well, that it starts with you. Because if you are backlogged and lawyers know that you have an opinion from 3 years ago that you have not issued, it becomes really difficult to tell them, "You do not get another 30 days to write that brief" or "You do not get another 60 days to write that brief."

And so the most critical thing is that you are on top of your things so that you are in a position where you can make demands of attorneys without being hypocritical, so to speak. Thank you.

Senator LANKFORD. No, that is very fair. By the way, I also understand fully the irony of anyone in the Senate right now talking about delays. But in a courtroom setting it is a gift, to those folks that are coming to appear in front of the judge, to say we are going to stay on schedule, because they do not do this every day. The attorneys, the counsel, the judges, everyone else in the courtroom is used to it every day. For that individual appearing, they are just trying to get justice. They are trying to get an answer, and so I appreciate just a focus on that.

Everyone comes with their own set of biases and backgrounds; everyone does. You have worked on both sides of cases before. You have the opportunity to be able to look at it. But as a judge it is not about your personal biases. It is about the law. And when people walk in, the counsel is sitting down with their clients and saying, "The law says X. I think this is where we are." And if suddenly the law does not mean X today, it means something else, everyone does not know what is happening anymore."

And my question may be a straightforward judicial philosophy question, but how do you protect your own biases and backgrounds and compassion for people and balance that with the law as well, to make sure that the law is consistent?

I am going to start with Mr. Deahl.

Mr. DEAHL. Yes. I will provide two answers. The first is that when I was leaving my clerkships I was looking at criminal law. I wanted to be an appellate criminal lawyer. And when I did that,

the first place I applied was the Department of Justice (DOJ) Criminal to be a prosecutor. And when some friends of mine found out that I was talking to them they said, "Well, you should also talk to the Public Defender." I might be one of the only people who has ever gone to a morning interview to be a prosecutor and then an afternoon interview to be a public defender.

So my starting point has been a willingness to hear out both sides of an argument, and that probably starts all the way back from my high school days, when I debated, and they make you debate both sides of every topic.

I guess my starting point is to be fair. It has been very difficult for me to beat that out of myself, as an advocate. I am often voicing the arguments of the other side, and my supervisor is like, "Stop doing that. They are not going to make that argument. You are making it better than they are going to. Just stick to your argument."

So I feel comfortable backsliding into what I think is my more natural role, the one that I played when I was a clerk, both in the Fifth Circuit and the Supreme Court, which is just calling balls and strikes, looking at the law, making sure that you are applying the law to the facts, and not introducing any of your own personal preferences or biases into that. It is a role that I filled before, and I think am ready to do again.

Senator LANKFORD. OK. Thank you. Ms. Israel.

Ms. ISRAEL. Senator, you are correct. I have represented both plaintiffs and defendants. I think the willingness to represent both sides is a reflection of an open-mindedness and a search for the best arguments, the right approach, and the law. And if I were fortunate enough to be confirmed, I would apply the law to the facts.

We generally have a good understanding of where the law is and what it is, and many times we are arguing for changes in the law, and I feel confident I would be able to apply the law to the facts.

Senator LANKFORD. Thank you. Ms. Hertzfeld.

Ms. HERTZFELD. Thank you, Senator. I think you are absolutely right that we all have to be aware that when we come to make a decision in any matter we all bring our personal backgrounds to the table. I think that as a judge it is appropriate to recognize that that has to be stripped away in order to accomplish what Ms. Israel is describing, to be able to look at each case in a fair-minded way, so as to just evaluate the application of the law to the facts in that individual case.

I think part of being able to achieve that comes from looking at each case individually, independent of any, political considerations or opinions or biases that you may have, to try to look individually at those facts. I think having been at the U.S. Attorney's Office for as long as I have, as I said in response to the first question, you come from a different perspective, where you learn to evaluate cases individually, where each person who walks in the door, and you are evaluating their case, you are looking at it not just from the perspective of an advocate but from a perspective of what is the fair and just result.

And you have to look at each one of those cases individually and decide what is in the interest of justice and make determinations accordingly. I think having had that experience for as long as I

have, to try to achieve just results would be an asset and something valuable that I could bring to the bench, and would help to deal with the challenge of stripping away all the other opinion or other considerations that do not have an appropriate place in the courtroom.

Senator LANKFORD. Yes, it is a challenge, and I fully understand the difficulty of it. But the United States, at this point, if you finish out this process and go to the bench, the entire country is counting on you to apply the law equally and fairly.

And this is a position where the Senate and the District of Columbia and others, the President and others, have looked at you and said, "You will be fair. You will follow what the law says rather than what you hoped it would say, but what it actually says." And that allows everyone else in the District to also look at it and go, "I know the consequences for this because I know what the law is." And when attorneys sit down, to be able to sit down with a client and say, "Let me talk you through the consequences of the decision you made and what I expect to happen here," there is a certain consistency to that, that helps all of society.

It is the nature of our law that makes us such a unique nation in many parts of the world where law seems to move around. And we move the law around rather than allow the law to be changed and interpreted at random points.

So I appreciate your willingness to be able to step up. There are many difficult days where you look people in the face in the days ahead and make decisions that are emotionally difficult and very hard, as you walk through the process. But we appreciate your willingness to be able to step up and do it.

Mr. Dixon, we appreciate your willingness to be able to go kick in doors and to help people out, and to be able to do things that the Marshal Service occasionally has to do, as well as take care of the security for these fine folks, and to be able to make sure this is a safe place for them to be able to be, as well. And we appreciate your willingness to be able to step up and take a leadership in that area.

The nominees have all made financial disclosures.[1] They provided responses to biographical and pre-hearing questions selected by this Committee.[2] Without objection, I would like to ask—and I do not think there will be an objection today—without objection, this information be made a part of the hearing record,[3] with the exception of the financial data, which is on file and available for public inspection in the Committee offices, only in the offices there, as well.[4]

I appreciate very much your willingness to go through this very long process. It has been a very long process for several of you to be able to go through, and I thank you for doing that. We will pass this on, from this Committee, on to the full Senate. The hearing record will remain open until noon tomorrow for additional questions or observations, October 23rd, for the submission of statements, questions for the record.

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[1] The information for Mr. Deahl appears in the Appendix on page 29.
[2] The information for Ms. Israel appears in the Appendix on page 57.
[3] The information for Ms. Hertzfeld appears in the Appendix on page 92.
[4] The information for Mr. Dixon appears in the Appendix on page 113.

With that, this hearing is adjourned.
[Whereupon, at 10:51 a.m., the Committee was adjourned.]

APPENDIX

Nominations of Joshua A. Deahl to be Associate Judge, District of Columbia Court of Appeals, Deborah J. Israel and Andrea L. Hertzfeld to be Associate Judges, Superior Court of the District of Columbia, and Robert A. Dixon to be a U.S. Marshal, Superior Court of the District of Columbia

Opening Statement of Chairman James Lankford
October 22, 2019
AS PREPARED FOR DELIVERY

Good morning. This hearing of the Homeland Security and Government Affairs Committee will come to order. This morning, we will consider four nominees for the D.C. judiciary system: Joshua Deahl to be an Associate Judge of the D.C. Court of Appeals; Deborah Israel and Andrea Hertzfeld to be Associate Judges of the Superior Court of D.C.; and Robert Dixon to be a U.S. Marshal for the D.C. Superior Court.

Joshua Deahl currently works as an appellate attorney at the Public Defenders Service for the District of Columbia. Previously, Mr. Deahl has served as a Clerk to U.S. Supreme Court Justices O'Connor and Kennedy. Mr. Deahl also clerked in the U.S. Court of Appeals for the Fifth Circuit.

Deborah Israel, currently a partner at Womble Bond Dickinson, has a legal career steeped in complex civil litigation.

Andrea Hertzfeld has been an Assistant United States Attorney in the U.S. Attorney's Office for the District of Columbia since 2010. Before that, she spent six years as an associate in private practice.

And Robert Dixon spent his entire career in public service with the Department of Labor. He began his career as an Investigator in their Atlanta office, and later he moved to D.C. and to the Office of Inspector General, retiring in 2016 as the Director of Investigations for the Department of Labor IG's Office. Mr. Dixon is currently a Member of the Board of Directors of the Alliance for Safe Traffic Stops and the D.C. President of the National Organization of Black Law Enforcement Executives.

The Committee takes these nominations very seriously, and we are pleased to have these nominees before us. Committee staff reached out to many of the colleagues and affiliates of the nominees, and they spoke highly of your professional abilities and fitness to potentially serve in the roles to which you have been nominated. Staff interviewed the nominees on an array of issues, and each has thoughtfully and competently answered each question.

I look forward to speaking with each of you more today on your experience and accomplishments and how you intend to bring them to bear for the District of Columbia.

I now recognize Ranking Member Sinema for her opening statement.

Opening Statement (as Prepared)
Sen. Kyrsten Sinema
Oct. 22, 2019, HSGAC Nomination hearing

Thank you, Mr. Chairman.

And thank you to our nominees for their willingness to serve. Our nation's courts need the best possible people to serve, and all four of our nominees bring excellent qualifications for the positions they seek.

I am especially pleased that one of our nominees is from my state of Arizona. Joshua Deahl, a nominee to be an Associate Judge for the District of Columbia Court of Appeals, was born in Tucson and later graduated from Arizona State. It is always great to have another Sun Devil in the hearing room.

I will let the nominees share their own biographies, but I do want to note that all three of our judicial nominees are part of the first generation in their families to graduate from college.

Best of luck to all our nominees, and I look forward to our conversation.

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEES
CHAIRWOMAN, HIGHWAYS AND TRANSIT
AVIATION
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

COMMITTEE ON OVERSIGHT AND REFORM
SUBCOMMITTEES
CIVIL RIGHTS AND CIVIL LIBERTIES
GOVERNMENT OPERATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-1501

Statement of Congresswoman Eleanor Holmes Norton
Senate Homeland Security and Governmental Affairs Committee
Hearing on Joshua A. Deahl, Andrea Hertzfeld, Deborah Israel, and Robert Dixon

October 22, 2019

Chairman Lankford and Ranking Member Sinema, I appreciate the opportunity to speak today in support of the nominations of Joshua A. Deahl to be an Associate Judge of the District of Columbia Court of Appeals, Andrea L. Hertzfeld and Deborah J. Israel to be Associate Judges of the Superior Court of the District of Columbia, and Robert Dixon to be the United States Marshal for the Superior Court of the District of Columbia.

Joshua Deahl brings a host of appellate litigation and other impressive legal experience. Mr. Deahl currently serves in the Appellate Division of the Public Defender Service for the District of Columbia (PDS). He has served there most recently since 2012, but he also worked for PDS in 2007 and 2008. During that break in his service with PDS, Mr. Deahl clerked for a judge on the Fifth Circuit and then for two Supreme Court Justices. He first clerked for the retired Sandra Day O'Connor and then for Justice Anthony Kennedy while Kennedy was still on the Supreme Court. After his clerkships, Mr. Deahl served in the Supreme Court & Appellate Practice at O'Melveny & Meyers here in the District. Mr. Deahl recently co-authored a textbook on the Federal Rules of Evidence.

Mr. Deahl graduated *magna cum laude* with a B.A. in philosophy and political science from Arizona State University in 2003. He then graduated *magna cum laude*, with an impressive 3.94 GPA, from the University of Michigan Law School in 2006. While in law school, Mr. Deahl was an articles editor for the *Michigan Law Review*, was a finalist in the school's 2L/3L moot court competition, and received the Best in Brief award in the Jessup Moot Court's International Competition. He was also elected to be the student commencement speaker. I am pleased to support his nomination.

I am also pleased to support the nomination of Andrea Hertzfeld to be an Associate Judge on the Superior Court of the District of Columbia. Ms. Hertzfeld is a Senior Assistant United States Attorney in the Office of the U.S. Attorney for the District of Columbia. She has served in that position for the past nine years. Ms. Hertzfeld currently serves as the Project Safe Childhood coordinator, a position she has held in the U.S. Attorney's Office for the past six years. In that position, she has managed cases prosecuting child exploitation crimes in federal court. Prior to that role, Ms. Hertzfeld served in the Sex Offense Unit, where she investigated

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and tried sexual assault cases in the Superior Court itself. She has been a Senior Litigation Counsel since 2018. Ms. Hertzfeld has received numerous awards for her work in the U.S. Attorney's Office, including the Attorney General's Distinguished Service Award in 2016. She won the John Evans & Victor Caputy Award for Outstanding Advocacy in 2018, was awarded the Federal Bureau of Investigation Service Award three times, and was presented the U.S. Attorney's Office Special Achievement Award five times.

Before joining the U.S. Attorney's Office, Ms. Hertzfeld worked for six years in private practice, litigating complex multi-district commercial disputes, focusing on human rights and antitrust. Ms. Hertzfeld graduated from Harvard Law School in 2004, where she served as an Articles Editor on two journals, the Women's Law Journal and the Civil Rights Civil Liberties Law Review. She graduated *summa cum laude* from Bowling Green State University with majors in Economics and Sociology. I am pleased to support her nomination.

I am also pleased to introduce and support the nomination of Deborah Israel to the Superior Court for the District of Columbia. Ms. Israel is a partner at Womble Bond Dickinson here in the District, where she has served as the Chief Operating Partner and currently heads the litigation practice. Ms. Israel has over 20 years of trial experience, working in commercial and business disputes. She is a Fellow of the American Bar Foundation and a Fellow in the Litigation Counsel of America – Trial Lawyer Honor Society. Ms. Israel previously served as a partner at DLA Piper, where she was lead counsel in real estate, corporate, fraud and fiduciary matters.

Ms. Israel has served on the District of Columbia Bar Lawyers Assistance Committee, providing support and services to members of the legal community with addiction, substance abuse and mental health challenges. She has also served as President of the Women's Bar Foundation, the charitable arm of the Women's Bar Association, and as President of the Women's Bar Association. Ms. Israel is a graduate of Rutgers University for both her undergraduate degree, which she received with honors in Political Science, and her law degree. I am pleased to support her nomination.

Finally, I support the nomination of Robert Dixon to be the U.S. Marshal for the D.C. Superior Court. Most recently, Mr. Dixon served as the Director of the Division of Investigations in the U.S. Department of Labor's Office of Inspector General. Before he retired in 2016, Mr. Dixon had worked for the Department of Labor since 1980. Mr. Dixon currently serves as the President of the Washington, D.C. chapter of the National Organization of Black Law Enforcement Executives (NOBLE). Mr. Dixon is a graduate of Morehouse College.

I very much appreciate that the Committee is moving these nominees. Several times I have brought to the attention of Congress the dire situation of numerous vacancies that have severely burdened the District's courts. Currently, there are two vacancies on the Court of Appeals, for one of which Mr. Deahl is the nominee. The other vacancy has no nominee. There are currently an astonishing nine vacancies on the Superior Court, the District's trial court for criminal and civil matters, for which there are currently three names pending before this Committee, besides Ms. Hertzfeld and Ms. Israel.

Again, I appreciate that this Committee is taking action to fill vacancies on the D.C. Superior Court and the D.C. Court of Appeals and hope to work with you going forward to address vacancies as they arise. Unfortunately, we seem to have a vacancy crisis every few years, whether the Senate is controlled by Democrats or Republicans. I recognize that this Committee does not have sole responsibility for the fate of D.C. judges. The Senate leadership is understandably more focused on nominees for lifetime federal judgeships and federal agencies than for local D.C. courts, and any individual senator can effectively block a nominee on the floor. However, I implore this Committee to process as many nominees as possible.

Thank you again for allowing me to introduce these remarkable nominees.

Opening Statement of Joshua A. Deahl
Nominee to be an Associate Judge of the District of Columbia Court of Appeals
October 22, 2019

Chairman Lankford, Ranking Member Sinema, and members of the Committee, I am humbled and grateful to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank the Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House. I thank the President for nominating me. I would like to express my sincere thanks and appreciation to the Committee members and the dedicated Committee staff for their hard work in undertaking the Senate's constitutional duty of advice and consent. I would also like to recognize Chief Judge Anna Blackburne-Rigsby of the D.C. Court of Appeals, who is here along with other judges of the Court whose presence and support I am very thankful for.

I would not be sitting here today if not for the help and inspiration of my colleagues, family, and friends, many of whom are here with me today. My brother Nathan who is here with his wife, Karen, and his children Tessa, Laney, and Jackson. My sister Ashlea. My wife's parents, Mike and Rosalind Wanke. My co-clerks from my time with Justice Kennedy, Allon Kedem, Scott Keller, and Misha Tseytlin are here with me as well. And of course my wife Jessica, who has been my partner for the past 17 years, and has made my life immeasurably better with her good humor and patience. My six year old son Cary, who at a young age is already one of the warmest and friendliest people I have ever known, and my four year old daughter Georgie, who is one of the most decisive and determined. I love and admire both of my children and count my part in raising them to date as the greatest accomplishment in my life.

I also want to acknowledge my parents Nichola and DeLonnie Deahl. My father passed a decade ago, and he now rests at Arlington National Cemetery just a few miles from here, and my mother's health did not permit her to make the trip, but I know both of them are with me in spirit. I would like to provide a little background on them because it shines light on who I am and how much it means for me to be here today. Both of my parents grew up in small, German-speaking farming communities on the border of North and South Dakota. My dad's farm had no running water and no plumbing, and as you can imagine in the Dakotas that made for some tough winter treks to the outhouse and water well. He then enlisted in the Air Force during the Vietnam War, which led him to a career as a defense contractor. It is an understatement to say that between his being a farmer and a military man, my childhood involved a lot of hard work. That discipline has served me well in life. My mom was always quick to bring some levity and cheer into our home, and I am lucky to have such a loving family. Neither of my parents graduated from college, but both worked to make sure that all of their children did, and I am eternally grateful for that. They raised us in Arizona, where we attended public schools. I stayed there to do my undergraduate studies at Arizona State University, and then I went to the University of Michigan for Law school.

I started my legal career as a law clerk to Judge Fortunato Benavides on the United States Court of Appeals for the Fifth Circuit, and I then clerked for Justice Sandra Day O'Connor and Justice Anthony Kennedy of the Supreme Court of the United States. Each embodied the meaning of judicial temperament—patient, unbiased, open-minded. None of them ever wanted anything more than to get each individual case right, and never hinted that they ever had any personal preference

as to how a case should turn out, maintaining fidelity to the law above all. If fortunate enough to be confirmed, these are the values that would guide me.

After my clerkships I joined the appellate and Supreme Court practice at O'Melveny & Myers here in Washington, D.C., where I represented some of America's largest companies. I then went to work as a criminal defense attorney at the Public Defender Service for the District of Columbia, which was a shift, as I now work representing some of the most disadvantaged members of this community, and it is a privilege to do so. It is by no means an easy job, as my clients are typically among the least popular in the community. But what is great about the law is that the same fairness and process is extended to even the most unpopular among us, including criminal defendants. Our Founding Fathers understood that, and John Adams embodied it when he successfully defended British soldiers when nobody else would after the Boston Massacre, and described his representation as "one of the best pieces of service I ever rendered my country." I share his sentiment. Being a public defender requires advocating that the law be applied without regard to public opinion, without regard to any personal beliefs, and to give every ounce of energy that I can to ensure that happens.

I understand the D.C. Court of Appeals' mission to provide justice for all and to apply the law evenhandedly, without favor or prejudice. If I am fortunate enough to receive your support, you have my word that I will strive to achieve that mission. Thank you again for considering my nomination and I look forward to answering any questions you might have.

REDACTED

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

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Joshua Adam Deahl

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

   I am a citizen of the United States of America.

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

   Public Defender Service for the District of Columbia
   633 Indiana Avenue, N.W.
   Washington, D.C. 20004
   (202) 824-2345

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

   February 13, 1981; Tucson, Arizona

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

   I am married to Jessica Lara Deahl (née Jessica Lara Wanke), Radio Producer and Editor at National Public Radio, 1111 North Capitol Street, N.E., Washington, D.C. 20002

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

   [redacted] REDACTED

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

   University of Michigan Law School, Ann Arbor, Michigan, Aug. 2003 – May 2006; J.D. received in May 2006

   Arizona State University, Tempe, Arizona, Aug. 1999 – May 2003; B.A. received in May 2003

Mountain View High School, Mesa, Arizona, Aug. 1996 – May 1999; high school diploma received in May 1999

Poston Junior High School, Mesa, Arizona, Aug. 1993 – May 1996; no degree awarded (the first year of high school curriculum is done in a junior high school in Mesa)

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

Summer 2005
O'Melveny & Myers
Two Embarcadero Center
San Francisco, CA 94111
Summer Associate

Summer 2004
Judge Michael Daly Hawkins
U.S. Court of Appeals for the Ninth Circuit
401 W. Washington St., Spc. 47
Phoenix, AZ 85003
Summer Extern

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

Student Commencement Speaker (2006).

Michigan's Grady Prize for Best Student Note (2006).

The Burton Award for Legal Writing (2006).

First Place Briefs in the International Rounds of the Jessup Moot court (2006).

Stenn Award for Leadership and Contribution to the Law School Community (2006).

Lee C. Bollinger Prize for Excellence in the Study of the First Amendment (2005).

Selected as Articles Editor for the Michigan Law Review (2005-2006).

Clarence Darrow Scholar (2003-2006).

Order of the Coif (2006)

Winner of Arizona State's Best Student Essay in the Field of Philosophy (2003)

National Forensic League, Coach of National Champion (Lincoln-Douglas Debate, 2003)

National Merit Scholar (1999-2003)

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

None.

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

District of Columbia Bar Association
Member, 2007-present

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

Phi Delta Phi
Member, 2003-2006

Supreme Court Historical Society
Member, 2010-present

The Smithsonian Institute
Member, 2012-present

Friends of Jug Bay Wetlands Sanctuary
Member, 2015-present

To my knowledge, none of these organizations has ever discriminated on the basis of race, sex, or religion.

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

District of Columbia, admitted September 2007.

United States Court of Appeals for the Second Circuit, admitted April 2012.

United States Court of Appeals for the Sixth Circuit, admitted April 2011.

United States Court of Appeals for the Federal Circuit, admitted Feb. 2012.

United States District Court for the Central District of California, admitted June 2011.

United States District Court for the District of Columbia, admitted May 2012.

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

Federal Rules of Evidence: Text and History (co-authored with Richard Friedman) (West Academic Publishing 2015)

Police Killings Call for New Kind of Prosecutor, Bloomberg News (Dec. 4, 2014)

Before and After the Colon, 10 Green Bag 2d 7 (2006)

Expanding Forfeiture Without Sacrificing Confrontation, 104 Mich. L. Rev. 599 (2005)

While in college, I was the opinion editor for The State Press, Arizona State University's daily student newspaper, from 2002 to 2003. In that capacity, I was responsible for editing about twenty opinion columns per week over the course of the academic year. The State Press archives are available online at https://cronkitezine.asu.edu/archives/. While in college, I also authored columns that appeared in The State Press, State Press Magazine, as well as the semi-annual satirical issue, "The Stale Mess." A search of the archives has yielded the following materials I wrote:

U.S. Will Inevitably Be World's Best Soccer Fans, The State Press (May 2, 2003)

Meet the State Press Columnists, The State Press (Jan. 21, 2003)

Sleep-Out Helps Homeless, The State Press (Nov. 12, 2002)

Shakespeare Gets Made, The State Press Magazine (Oct. 17, 2002)

King Triton Makes Bid on Cardinals Stadium, (Satire) The Stale Mess (Apr. 25, 2002)

"Hide and Beat Pete" Not a Real Game, Pete Discovers, (Satire) The Stale Mess (Apr. 25, 2002)

'Holy Shit' Rings True When Pope Blesses Bowel Movements, (Satire) The Stale Mess (Apr. 25, 2002)

Sparky: "You're Right, I am a Smelly, Puking Habit," (Satire) The Stale Mess (Apr. 25, 2002)

Chinese Men and Seals Know Viagra Should Be Deregulated, The State Press (Apr. 24, 2002)

Eclectic Budding Valley Band Begs for Wontons, State Press Magazine (Apr. 18, 2002)

'Obituary Craze' an Insincere, Unimaginative Ode to Dying, The State Press (Apr. 18, 2002)

Adoption: The Stress, the Sadness, the Success, State Press Magazine (Apr. 11, 2002)

Campus Playwright Close to Endless Success with New Play, State Press Magazine (Apr. 11, 2002)

No Need to Panic: Jacob is Just a Chip Off the Old Block, The State Press (Apr. 9, 2002)

Forensics Team Alive and Well With Talent, The State Press (Apr. 4, 2002)

New Man on Campus 'Wilder' Than Ever, State Press Magazine (Apr. 4, 2002)

Missing Krispy Kreme Doughnuts a Harmless Case of 'High' Crime, The State Press (Apr. 2, 2002)

Swedish Punks Sweat It Out Far From Home, State Press Magazine (March 28, 2002)

Advice to 'Dear Abby': Jail Not Helpful to Weiser, The State Press (March 26, 2002)

Music Review: The Eels' Souljacker, State Press Magazine (March 21, 2002)

Defend Yourself: When Karate Won't Cut It, State Press Magazine (March 21, 2002)

Yale Improv Member Takes Troupe Home, State Press Magazine (March 7, 2002)

Mute "Whiney Bitch" Speaks to Sell "Jay and Silent Bob," State Press Magazine, (Feb. 28, 2002)

One-Toothed Trainman Tells All in New York, State Press Magazine (Feb. 28, 2002)

Smart Megaphones Know: Olympic Judging Dubious, The State Press (Feb. 25, 2002)

Music Review: Satovan's, Shhh!! It's Satovan, State Press Magazine (Feb. 21, 2002)

Renn Fair, Scottish Games Awaken Past Times, State Press Magazine (Feb. 21, 2002)

Detect-a-Date, The State Press Magazine (Feb. 14, 2002)

Attention Actors: Marathon of Plays Meant for You, State Press Magazine (Feb. 14, 2002)

Sister's Nudity Unbelievable to God and Family, (Satire) The State Press (Feb. 11, 2002)

Student Production Board Shines with Second Play of Season, State Press Magazine, (Feb. 7, 2002)

Independent's Day: Student Filmmakers Far From Fame, State Press Magazine (Jan. 31, 2002)

A Super Troupe of Guys Straight Out of Sundance, State Press Magazine (Jan. 31, 2002)

Afghanistan's 'U.S. Style Radio Show' Suspect, The State Press (Jan. 28, 2002)

Casting Call Offers Reality Check for Would-Be Reporter, State Press Magazine (Jan. 24, 2002)

Count on Another Clunker From "The Musketeer" Man, State Press Magazine (Jan. 24, 2002)

Future Still Unwritten for Veteran Punk Band, State Press Magazine (Jan. 17, 2002)

Hoopla Over New 202 Freeway Expansion Just Pure Hokum, The State Press (Jan. 15, 2002)

U.S. Offers Taliban a Truce, (Satire) The Stale Mess (Nov. 29, 2001)

God's Gift to Women Turned Down, (Satire) The Stale Mess (Nov. 29, 2001)

"Harry Potter" Uses Magic to Convert Book to Film, The State Press Magazine (Nov. 15, 2001)

"13 Ghosts" Remake Still Scary After All These Years, The State Press Magazine (Nov. 1, 2001)

"The Last Castle" Saves Best Scene for Last, The State Press Magazine (Oct. 18, 2001)

There's Money in the (Sperm) Bank, The State Press Magazine (Oct. 11, 2001)

Contest Seeks Phoenix's Tough Men & Women, The State Press Magazine (Oct. 11, 2001)

Bargains Abound at Local 99-Cent Store, The State Press Magazine (Oct. 5, 2001)

Solution to Sinking Refugee Ship: Just Shove, The State Press (Aug. 31, 2001)

Jeff Golub Brings 'Up and Funky' Jazz to Celebrity Theatre, The State Press Magazine (Aug. 23, 2001)

Steel Prophet Gets Aggressive with Unique Brand of Metal, The State Press Magazine (Aug. 23, 2001)

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

I have not delivered any formal speeches in the past five years. I have led legal trainings for attorneys at Public Defender Service for the District of Columbia ("PDS") and for attorneys of D.C.'s Criminal Justice Act (CJA) bar. My records show the following such trainings, none of which involved formal written remarks.

Introduction to Hearsay Law, Training for D.C. CJA attorneys, April 11, 2017 (hosted by the Public Defender Service, Washington, D.C.)

Introduction to Hearsay Law, Training for PDS attorneys, October 17, 2016 (hosted by the Public Defender Service, Washington, D.C.)

Introduction to Hearsay Law, Training for PDS attorneys, October 21, 2015 (hosted by the Public Defender Service, Washington, D.C.)

Anticipating the Appeal: Preserving the Record, Training for D.C. CJA attorneys, June 2013 (hosted by the Public Defender Service, Washington, D.C.)

16. Legal career.

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

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

I served as a law clerk to the following judges:

Judge Fortunato P. Benavides
United States Court of Appeals for the Fifth Circuit
Austin, TX
August 2006 – August 2007

Justice Sandra Day O'Connor (Retired)

Supreme Court of the United States
Washington, D.C.
July 2009 – July 2010

Justice Anthony M. Kennedy
Supreme Court of the United States
Washington, D.C.
July 2009 – July 2010

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

I have not practiced law alone.

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

September 2007 – September 2008
Public Defender Service for the District of Columbia
633 Indiana Avenue, N.W.
Washington, D.C. 20004

September 2008 – June 2009
The Sandra Day O'Connor Project on the State of the Judiciary (now iCivics and the Sandra Day O'Connor Institute)
Housed at Georgetown Law School
600 New Jersey Avenue, N.W.
Washington, D.C. 20001

November 2010 – December 2012
O'Melveny & Myers
1625 Eye Street, N.W.
Washington, D.C. 20006

December 2012 – Present
Public Defender Service for the District of Columbia
633 Indiana Avenue, N.W.
Washington, D.C. 20004

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

As a law clerk for Judge Benavides from August 2006 to August 2007, my work focused on writing legal memoranda, advising the Judge, and drafting opinions in cases before the U.S. Court of Appeals for the Fifth Circuit. As a law clerk for Justice Kennedy from July 2009 to July 2010, my work focused on writing legal memoranda, advising the Justice, and drafting opinions in cases before the Supreme Court of the United States; I also wrote memoranda for distribution

amongst the Justices regarding which cases the Court should agree to hear, referred to as "cert pool" memoranda. As a law clerk for Justice O'Connor from July 2009 to July 2010, my work focused on writing legal memoranda, advising the Justice, and drafting opinions in cases that she was sitting on by designation in the U.S. Circuit Courts of Appeals (she sat on the Sixth, Seventh, Ninth, and Eleventh Circuits while I clerked for her). The legal issues confronted throughout my clerkships varied widely across a spectrum of civil and criminal matters. While working for Justice O'Connor's Project on the State of the Judiciary from September 2008 to June 2009, I drafted academic articles, newspaper articles, and speeches for Justice O'Connor addressing threats to judicial independence and how they might best be addressed.

After my clerkships, I worked in the Supreme Court and Appellate Practice of O'Melveny & Myers from November 2010 to December 2012 where I focused on civil appellate litigation, though a significant amount of my time was spent on trial court matters. I filed briefs in most of the United States Circuit Courts of Appeals as well as some state courts during that time. As a former Supreme Court clerk, I spent the bulk of my tenure at O'Melveny under a two-year bar precluding me from working on Supreme Court matters.

I have spent the majority of my career—from September 2007 to September 2008 and from December 2012 to the present—doing criminal appellate litigation in the District of Columbia Court of Appeals. While I have frequently appeared in the D.C. Superior Court to argue in support of motions, the vast majority of my work has been doing direct appeals on behalf of convicted individuals.

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

My clients while at the Public Defender Service have typically been tried and convicted of serious felonies. While working at O'Melveny & Myers, my clients were usually large corporations defending against civil suits, though occasionally they were plaintiffs in large civil suits. Those civil suits involved a vast array of issues: class certification, products liability, statutory interpretation, contract interpretation, failure to warn of pharmaceutical side-effects, patent infringement, and Article III standing. My clients included the Hollywood Foreign Press Association, the United States Chamber of Commerce, Warner Brothers, Johnson & Johnson, General Mills, and AIG. My areas of deepest expertise are constitutional criminal procedure, substantive criminal law, statutory interpretation, and evidence law.

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

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

During my time at the Public Defender Service, I have appeared in court frequently. I appeared in court infrequently during my time at O'Melveny & Myers, presenting—to the best of my recollection—two arguments in Federal District Court and acting as second chair in two Federal Appeals Court cases. I never appeared in court during my clerkships or during my time at the Sandra Day O'Connor Project.

(2) **What percentage of these appearances was in:**

(a) **Federal courts (including Federal courts in D.C.);**
5-10%

(b) **State courts of record (excluding D.C. courts);**
0%

(c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**
90-95%

(d) **other courts and administrative bodies.**
0%

(3) **What percentage of your litigation has been:**

(a) **civil;**
30%

(b) **criminal.**
70%

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

I have not tried any cases. My trial court experience, both at the Public Defender Service and at O'Melveny & Myers, has been limited to writing and arguing motions that are occasionally dispositive.

(5) **What percentage of these trials was to**

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

None.

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

1. United States v. Lewis, 147 A.3d 236 (D.C. 2016) (en banc)

I briefed this case before the en banc Court and argued it in June, 2015. In this case, my client was stopped for a traffic infraction, but a subsequent search of his vehicle uncovered a firearm which he was ultimately charged with illegally possessing. The question presented was whether police officers can conduct a warrantless search under the "search incident to arrest" exception to the Fourth Amendment's warrant requirement, when—at the time of the search—officers were not in the process of making an arrest and had not even made a decision to arrest. Two divisions of the D.C. Court of Appeals—*United States v. Nash & Lewis*, 100 A.3d 157 (D.C. 2014) & *Butler v. United States*, 102 A.3d 736 (D.C. 2014)—had held that so long as probable cause to arrest preceded the search (as it did in this case due to the traffic infraction), and an arrest ultimately followed, then a search incident to arrest was valid regardless of whether an arrest preceded the search. We argued that those rulings conflicted with Supreme Court precedent demanding an actual arrest, not mere probable cause to arrest, as a prerequisite for an incident search. In addition to briefing and arguing *Lewis*, I have worked with attorneys across the country on this issue. For instance, I consulted and shared arguments with defense counsel in *People v. Macabeo*, in which the California Supreme Court unanimously agreed with the position that an incident search is improper if it takes place prior to a decision to arrest. 1 Cal. 5th 1206 (Dec. 2016).

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Opposing Counsel
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Washington, D.C. 20530
(202) 353-4468

2. United States v. Guandique, No. 2009-CF1-9230 (D.C. Superior Court)

In this case, our client was convicted of murder based principally upon the testimony of a

prisoner-informant who claimed our client had confessed to him, although there was no physical evidence linking our client to the crime. I became involved at the post-conviction proceedings stage in December 2012, when the defense team learned that the informant had a long history of claiming to have information on other murders, including one in which he claimed to have participated, though his attempts to cooperate in those past cases had been rebuffed by prosecutors who found him to be a non-credible witness. We argued that this new information, contrary to the informant's testimony that he had never cooperated with the government in the past, was grounds for a new trial under *Brady v. Maryland*, *Napue v. Illinois*, and *Giglio v. United States*. In the post-trial proceedings I served as second-chair and primarily focused on discrete legal issues that arose during the post-trial proceedings; writing and arguing substantive motions before the D.C. Superior Court along with a motion for summary reversal directed to the D.C. Court of Appeals. The legal issues I spearheaded included opposing the trial court's decision to close the proceedings to the public and seeking sanctions for the government's failure to preserve its trial team's emails from the pertinent time period, despite a court order to do so. In addition to taking the lead on such legal issues, I assisted in researching and drafting our principal pleading seeking a new trial.

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Opposing Counsel
Alessio Evangelista
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Washington, D.C. 20005
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3. In re Air Cargo Shipping Servs. Antitrust Litig., 697 F.3d 154, 160 (2d Cir. 2012)

This case concerned an antitrust suit against a collection of foreign airlines that had allegedly engaged in a price fixing conspiracy in violation of various state laws; the suit sought damages in the billions of dollars. From 2011 to 2012, I was part of a team representing Asiana Airlines who acted as the lead Defendant-Appellee in an appeal to the Second Circuit. I co-authored the Appellee brief which was filed on behalf of roughly 30 airlines who were being sued. The case centered on a question of federal preemption as affected by a statutory interpretation question, namely, whether the Federal Aviation Act's preemption provision—which preempts state-law claims "related to a price, route, or service of an air carrier"—applied to lawsuits against foreign air carriers. The difficulty in answering that question stemmed from the FAA's definition of "air carrier" as a term pertaining only to domestic carriers, as opposed to the foreign air carriers we represented. We argued that the FAA's definitional term should not be given decisive effect because the FAA is replete with examples where the term "air carrier"

plainly incorporated both domestic and foreign carriers, so that the term's most natural meaning should prevail. The Second Circuit agreed with our position and held that the FAA preempted plaintiffs' state-law-based claims. In addition to the victory for our clients in a billion-plus-dollar lawsuit, the case is an important authority in statutory interpretation. *See, e.g.*, 3A Sutherland Statutory Construction § 71:1 (7th ed.) (citing *In re Air Cargo* favorably for the proposition that "[s]tatutory definitions may yield to context and the development of statutory wording over time.").

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Opposing Counsel
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4. Headspeth v. United States, 86 A.3d 559 (D.C. 2014)

I was the counsel of record in this case and author of the briefs that were filed in 2013. Our client was convicted of armed Aggravated Assault and Assault with Intent to Rob, among other charges, for a shooting that occurred in the midst of a suspected drug deal gone bad. The legal issue was whether the trial court erred in giving a "flight" instruction—telling jurors they could infer consciousness of guilt of the crimes charged from Mr. Headspeth's evading arrest—when that evasion took place weeks after the shooting and there were multiple other reasons for Mr. Headspeth's evasion. The D.C. Court of Appeals reversed Mr. Headspeth's convictions, agreeing with our position that the flight instruction was given in error in light of Mr. Headspeth's other evident motives for evading arrest. This ruling, in addition to reversing Mr. Headspeth's convictions, has effectively eliminated the once-routine flight instruction in D.C. Superior Court; the D.C. Model Jury Instructions were revised in 2016 to omit the flight instruction altogether, citing Headspeth's conclusion "that flight instructions should be used 'sparsely.'" *See* D.C. Jury Instruction 2.301 (citing *Headspeth*).

Co-Counsel
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(202) 824-2334

Opposing Counsel
Kristina L. Ament

United States Attorney's Office for the District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-6829

5. (Sanquan) Carter v. United States, No. 12-CF-1675 (Argued Nov. 16, 2016)

This pending appeal concerns the "South Capitol Murders," where a group of heavily armed young men shot and killed four people and wounded several others who were attending a memorial services. My client was, by all accounts, not involved in those murders in any capacity, but he was nonetheless tried alongside its perpetrators for his role in a shooting that occurred a week earlier, upon a theory that the two shootings were so related as to permit a joint trial of both offenses and all offenders. The government's theory was that my client was involved in an initial shooting, which led to a retaliatory shooting, which in turn sparked the murders committed at the memorial service. In *Carter*, I briefed and argued our position that trying my client alongside the perpetrators of one of the worst massacres in D.C.'s history was error and enormously prejudicial given his close familial connections to the perpetrators of that crime (my client's brother was one of the perpetrators). Specifically, I argued that my client's case was misjoined with co-appellants' cases, and that even if joinder were proper, severance was required because it was impossible for my client to receive a fair trial as to his role in an earlier shooting while grouped with the perpetrators of such unconscionable murders. While the appeal is still pending, I include it here because the propriety of jointly trying defendants for separate and distinct crimes is an issue that arises frequently in the D.C. courts and is of great importance.

Co-Counsel
James Klein
633 Indiana Avenue, N.W.
Washington, D.C. 20004
(202) 824-2389

Opposing Counsel
Stephen Rickard
United States Attorney's Office for the District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-6927

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

From 2010 to 2011, I was part of a small plaintiffs-side team at O'Melveny & Myers

representing AIGRS in a lawsuit against a collection of French banks, alleging that the banks had fraudulently acquired an insurance company that, but for their fraud, would have been awarded to AIG's affiliate in a bidding contest. I became involved in the case during the pre-trial motions stage. I authored close to 20 motions and responses in this case, including the responses to defendants' would-be dispositive motions for summary judgment. After successfully defeating those summary judgment motions, the then-six-year-old case settled within weeks for approximately $250 million.

In 2015, I co-authored an evidence textbook published by West Academic Publishing. The book, co-authored by Professor Richard D. Friedman, gives a complete history of each of the Federal Rules of Evidence, along with redlines of every historical draft so that readers, students, and practitioners can easily follow the progression of each rule. Many of the materials in the textbook, including the Reporter's first drafts and commentaries, had never before been published and were available only through the National Archives or a few incomplete private collections (I am aware of two such private collections). The textbook likewise sets forth the Reporter's initial comments to those earliest drafts along with subsequent Advisory Committee Notes, and other similar notes (such as the House Subcommittee on Criminal Justice's Notes and the House Judiciary Committee Reports) accompanying the pre-enactment drafts.

Additionally, I was counsel of record in *Millard v. United States* 967 A.2d 155 (D.C. 2009) in which the D.C. Court of Appeals reversed all of my client's convictions related to the possession of drugs and a gun. While the reversal of those convictions was significant for myself and my client, the court ruled against us on a significant and often recurring legal issue; whether so-called "Certificates of No Record," in which an out-of-court affiant attests to the absence of some record, violate the Sixth Amendment's Confrontation Clause when admitted absent the live testimony of the person who conducted the search. My briefs in *Millard* laid out extensive historical research detailing why such Certificates, absent live testimony, were inadmissible at common law and constituted testimony subject to the Sixth Amendment's guarantee of confrontation; the Court in *Millard* rejected those arguments. Months later, the Supreme Court decided *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009), in which the Court cited those same common-law sources in concluding that "Certificates of No Record" were in fact testimonial. *Id.* at 323. Weeks later, in light of *Melendez-Diaz*, the D.C. Court of Appeals overturned *Millard*'s adverse Confrontation Clause ruling in *Tabaka v. District of Columbia*, 976 A.2d 173 (D.C. 2009), a case in which I filed an amicus curiae brief reiterating the argument I made in *Millard*, which mirrored the Supreme Court's subsequent analysis of the issue in *Melendez-Diaz*.

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

No.

A. **List all court decisions you have made which were reversed or otherwise**

criticized on appeal.

Not applicable.

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

No.

21. **Political activities and affiliations.**

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

None.

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

None.

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

In 2012, I contributed $250 to Richard Carmona, a candidate for the United States Senate from Arizona

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

I have been arrested once and cited for a violation once; both charges arose and were dismissed more than a decade ago before I was barred in any court.

The arrest occurred around midnight on New Year's Eve, 2006, in Austin, TX, and the charge was public intoxication. The circumstances were that I was present as an intoxicated friend was being detained by police officers, for good reason, and I did not immediately comply with an officer's command to leave the area, prompting my arrest. My reason for remaining nearby despite the officer's order was that I believed my friend to be a danger to herself and others and did not want to leave her unattended (particularly in the event she was released at the scene). The charge was unfounded. I was offered a deferred disposition wherein the charge would be dismissed if I pled "nolo contendere," and I declined that offer and maintained my innocence. The charge was ultimately dismissed without plea.

The citation was for public urination in Ann Arbor, Michigan, in or around August 2005. That citation was well-founded, but in mitigation, I was in a grassy and secluded area that was not visible to anyone (an officer saw me exit the area, prompting an inquiry and, ultimately, a citation). The charge was dismissed after I admitted to the infraction and paid court costs under a policy permitting disposition of some minor municipal violations in that manner.

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

I was a complaining witness in a criminal case, *United States v. Nathaniel Warren*, 2015-CMD-17270 (D.C. Sup. Ct. 2015). I was walking with my young son along Maryland Avenue in Northeast, D.C., and an unknown individual threw a wood block from behind us and missed my son's head by inches. After reaching a safe distance, I called the police and trailed the individual half-a-block, where he assaulted two other individuals and, eventually, scuffled with officers before being placed under arrest. He was charged with a series of assaults, and my understanding is there was ultimately a deferred prosecution agreement in which the case was transferred to the Mental Health Court.

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

No.

II. POTENTIAL CONFLICTS OF INTEREST

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

   Yes.

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

   None.

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

   None.

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

   None.

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

   None.

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

   No.

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

   If the issue of a potential conflict of interest is raised by a litigant, I would resolve it on a case-by-case basis pursuant to the District of Columbia Code of Judicial Conduct and any other relevant canons and statutes.

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

   Yes.

III. 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

IV. DISTRICT OF COLUMBIA REQUIREMENTS

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

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

   Yes.

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

   Yes.

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

   Yes. I was admitted to the bar of the District of Columbia on September 10, 2007, and my membership has never lapsed.

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

   A. **Are you a professor of law in a law school in the District of Columbia?**
   B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
   C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
   D. **Upon what grounds is that eligibility based?**

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

   Yes.

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

   April 2014 – Present / March 2013 – May 2013
   [redacted]

   June 2013 – April 2014
   [redacted]

   REDACTED

   October 2010 – March 2013
   [redacted]

[redacted]

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

   No.

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

   No.

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

   See attached.

AFFIDAVIT

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

SUBSCRIBED and SWORN TO before me this 13th day of September 2017.

Glenetta M. Harris
Notary Public

GLENETTA HARRIS
NOTARY PUBLIC
MY COMMISSION EXPIRES 4/14/2022
DISTRICT OF COLUMBIA

Avis E. Buchanan
Director

Rudolph Acree, Jr.
Deputy Director

May 31, 2019

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
328 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Gary Peters
Ranking Member
Committee on Homeland Security
and Governmental Affairs
724 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson and Ranking Member Peters:

I have reviewed the questionnaire submitted to the Homeland Security and Governmental Affairs Committee in October 2017 in connection with my nomination to be an Associate Judge of the District of Columbia Court of Appeals. Incorporating the additional information listed below, I certify that the information contained in these documents is, to the best of my knowledge, true and accurate.

Question 6 (Biographical and Professional Information):

Since submitting my questionnaire, my children's ages have changed:

[redacted] REDACTED

Question 14 (Biographical and Professional Information):

Since submitting my questionnaire, I published the following article: Joshua Deahl, *Debunking Pre-Arrest Incident Searches*, 106 Cal. L. Rev. 1061 (2018).

Question 1 (Financial Data):

My updated net worth statement is attached.

Question 5 (Financial Data):

An updated chart reflecting sources of income to date is attached.

633 Indiana Avenue, NW, Washington, DC 20004
Tel (202) 628-1200/(800) 341-2582 | TTY (202) 824-2531 | Fax (202) 824-2784 | www.pdsdc.org

Question 7 (Financial Data)

Copies of my 2016, 2017 and 2018 Federal income tax returns are attached.

I thank the Committee for its consideration of my nomination.

Sincerely,

Joshua Deahl

Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Joshua A. Deahl

Nominations of Joshua A. Deahl to be an Associate Judge, District of Columbia Court of Appeals; Deborah J. Israel and Andrea L. Hertzfeld to be Associate Judges, Superior Court of the District of Columbia; and Robert A. Dixon to be United States Marshal for the Superior Court of the District of Columbia
Tuesday, October 22, 2019

Question for Joshua Deahl, nominee to be an Associate Judge of the District of Columbia Court of Appeals

1) If seated on the bench, you will decide matters that impact the freedom, livelihoods, and families of many of the individuals who come before you.
    a. How will you ensure that each person who comes before you has a meaningful opportunity to be heard – especially given the high volume and current backlog of cases at the D.C. Superior Court?

To ensure litigants have a meaningful opportunity to be heard, an appellate judge must show up to oral arguments prepared. That means the judge must have a deep familiarity with the record of the case and know the relevant texts and precedents inside and out. Given the enormous stakes of litigation—whether those stakes are freedoms, livelihoods, business interests, or justice for victims of crimes—a lack of front-end preparation is unacceptable. Hand-in-hand with that front-end preparation, and particularly in light of the Court's backlog of cases, a judge must decide cases without undue delay. Extensive delays convey to litigants that their cases are not being treated with the urgency they deserve. Finally, approaching each case with an open mind and with a strict adherence to the law contributes to litigants having a meaningful opportunity to be heard. Listening to the parties carefully and with respect—and treating their arguments with similar care and respect in opinion writing—helps ensure not only that litigants are heard but that they feel heard as well. Even if they ultimately lose the case, there is a great value in litigants seeing that their side was given a fair shake.

October 25, 2019

The Honorable James Lankford, *Chairman*
Committee on Homeland Security and Governmental Affairs
316 Hart Senate Office Building
Washington, DC 20510

The Honorable Kyrsten Sinema, *Ranking Member*
Committee on Homeland Security and Governmental Affairs
317 Hart Senate Office Building
Washington, DC 20510

Re: Nomination of Joshua Deahl as Associate Judge,
District of Columbia Court of Appeals

Dear Chairman Lankford and Ranking Member Sinema:

We write in support of Joshua Deahl's nomination to become an associate judge on the District of Columbia Court of Appeals. Each of us served as a law clerk at the Supreme Court of the United States alongside Josh during the October 2009 Term; every clerk from that Term has joined this letter. We do not necessarily all share the same legal views. But all of us have sincere respect for Josh and strong confidence in his ability to make an excellent judge.

From our time clerking with Josh, we know him to be smart, hard-working, and a gifted writer. But our appreciation for Josh is not limited to his legal abilities; it also extends to his character. Josh is a decent, thoughtful, and honest person. Although law clerks sometimes disagreed on the right outcome or approach in a case, Josh did not allow these disagreements to become personal or divisive. To the contrary, he was a model of collegiality and good humor, committed to an atmosphere of mutual respect.

For all of these reasons, we are confident that Josh has the intellect, temperament, and character necessary to excel as a judge on the DC Court of Appeals. We believe that, if confirmed, he would serve this country and the people of the District of Columbia with distinction.

Respectfully submitted, all of the October 2009 Term clerks:

Amit Agarwal
K. Winn Allen
Pamela Bookman
Elizabeth N. Dewar
Christopher C. Fonzone
Hyland Hunt
Allon Kedem
Steven Lehotsky
Jaynie Lilley
Jeremy C. Marwell
James McDonald
Brian Morrissey
Elizabeth Papez
Lindsey Powell
Elizabeth Prelogar
John Rappaport
Daniel Sullivan
Misha Tseytlin
Erik R. Zimmerman
Katherine Twomey Allen
Jonathan C. Bond
Andrew Manuel Crespo
Daniel Epps
Tyler Green
Adam Jed
Scott Keller
Vincent Levy
Roman Martinez
Merritt McAlister
Marah Stith McLeod
Jennifer Nou
Eloise Pasachoff
David Pozen
Thomas Pulham
Stephen E. Sachs
Lucas Townsend
Robert Yablon

Opening Statement of Deborah J. Israel
Nominee to be an Associate Judge of the District of Columbia Superior Court
October 22, 2019

Good morning. I would like to begin by expressing my gratitude to the Committee. Thank you, Chairman Lankford and Ranking Member Sinema, for holding this hearing and thank you to all of the Members of the Committee for your consideration. Finally, thank you to the Committee staff for their hard work preparing for this hearing and the courtesy they have shown me throughout this process. I am honored by the opportunity to appear before you today as a nominee to be an Associate Judge on the Superior Court of the District of Columbia.

I would like to thank the Judicial Nomination Commission and its chair, the Honorable Emmett G. Sullivan, for recommending me to the White House, and I thank the President for the honor of this nomination. Thank you to Congresswoman Norton for her introduction and support. I would like to recognize and thank the Chief Judges of our District of Columbia Courts who have joined us today including, Chief Judge Anna Blackburne Rigsby, of the District of Columbia Court of Appeals and Chief Judge Robert E. Morin of the Superior Court of the District of Columbia.

It is my privilege and joy to introduce my family members, some of whom join me here today. Here with me today are my mother, Alice Israel, who travelled from her home in Delaware, my partner, Laurie McMahon, of the District of Columbia, and my sister, Tiffany Israel, who joins us from Connecticut. My father, Gary Israel, was not able to travel here today, but is watching with great excitement by video, and back in Connecticut watching by video, are my brother-in-law, the Reverend Luk DeVolder and my 5-year old niece Audrey, as well as my brother Dean. In particular, I want to thank my parents and my family. My family has made sacrifices over the years so that I can be where I am today. Whatever is best in me that I have to offer in service, I owe to them.

I am also honored that a number of friends and colleagues have joined me here today. I wish to recognize and thank the Honorable Carol Dalton and Joanne Young for their support and guidance. I want to thank the attorneys and staff at Womble Bond Dickinson for sharing their brilliance and wisdom over the years, and, in particular, I want to thank the partners of my team who are here with me today, Louis Rouleau, Cathy Hinger and Mark Schamel. It has been my privilege and joy to work with such a disciplined, generous and exceptional team of professionals.

I have been a member of our legal community here in the District of Columbia for my entire professional career and I know firsthand the strong reputation our courts have earned as fair and hardworking, with well qualified and smart judges. I come before you today with deep experience in the private sector and if I am fortunate enough to be confirmed, it would be an honor and a privilege to bring my skillset and experience to the mix of talents on our bench and serve alongside the District's exceptional judges. I am deeply humbled by this opportunity and I look forward to answering the Committee's questions.

REDACTED

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

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Deborah Jean Israel

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

   I am a citizen of the United States of America.

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

   Womble Carlyle Sandridge & Rice, LLP
   1200 Nineteenth Street, NW, Suite 500
   Washington, DC 20036
   (202) 857-4466

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

   November 10, 1964; Atlantic City, New Jersey

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

   Single

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

   None

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

   Rutgers Law School, 1987 – 1990; Juris Doctor awarded May 1990

   Rutgers University (Douglass College), 1982 – 1986; Bachelor of Arts with Honors in Political Science awarded May 1986

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

Summer 1987, 1988
Margate City Yacht Club
412 Vendonne Avenue
Margate City, NJ 08402
Sailing Instructor

Summer 1987 and 1987 – 1990
Showboat Casino Hotel (defunct)
801 Boardwalk
Atlantic City, NJ 08401
Bartender

1986 – 1987
The Honorable Peter W. Rodino. Jr.
U.S. House of Representatives
Washington, DC 20515
Intern

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

Fellow, The Litigation Counsel of America (2013 – Present)

Best Lawyers in America (2008 – Present)

Washington, DC Super Lawyer (2009 – Present)

Most Powerful & Influential Woman Award, Pennsylvania Diversity Council (2015)

Best of Washington for Employment Law, *Washingtonian Magazine* (2005)

Black Creek Site Preservation Effort, Historic Preservation Award, State of New Jersey (2002)

Martindale-Hubbell AV Preeminent Peer Review Rated (approx. 2003 – Present)

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

Womble Carlyle Sandridge & Rice, LLP
Partner (2004 – Present)

Piper Rudnick LLP (now DLA Piper)
Partner (1998 – 2004)

Silverstein and Mullens (now Buchanan Ingersoll & Rooney)
Partner (1997 – 1998)

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

American Inns of Court
Charles Fahy Chapter
Barrister (2001)

District of Columbia Bar
Member (1991 – Present)

District of Columbia Bar Association
Lawyers Assistance Committee (2013 – Present)
Nominations Committee (2000 – 2001)

Litigation Counsel of America
Fellow (2013 – Present)

Maryland State Bar Association, Inc.
Member (1990 – Present)

National Association of Women Judges ("NAWJ")
Co-Chair of the Host Committee for the NAWJ Midyear Meeting and Leadership Conference (2010)
Co-Chair of the Host Committee for the NAWJ 25th Anniversary Gala (2003)
Resource Board (approx. 2003 – 2010)
Friends Committee (approx. 2003 – 2010)

New Jersey State Bar Association
Member (1990 – Present)

Virginia State Bar Association
Member (1991 – Present)

Women's Bar Association of the District of Columbia
President (2001 – 2002)
President-Elect (2000 – 2001)
Chair, Community Projects Committee (1991 – 1995)
Sustaining Member (2010 – Present)

Women's Bar Association Foundation
President (1996 – 1998)
Vice President (1995 – 1996)
Board of Directors (1992 – 1998)

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

Human Rights Campaign
Member (approx. 2000 – Present)

Gamma Phi Beta – International Sorority
President, Delta Mu Chapter, Rutgers University (1985 – 1986)
Vice President, Delta Mu Chapter, Rutgers University (1984 – 1985)

Metro TeenAIDS
Board of Directors (approx. 1998 – 2000)

Neither the Human Rights Campaign nor Metro TeenAIDS formerly discriminated or currently discriminates based on race, sex or religion. Gamma Phi Beta is an international sorority and one of the 10 oldest women's organizations in America and, as such, membership may be restricted to women.

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

U.S. Court of Appeals for the Third Circuit, admitted May 1, 2006
U.S. District Court for the Southern District of New York, admitted July 27, 2004
U.S. Court of Appeals for the District of Columbia Circuit, admitted June 29, 2001
U.S. Supreme Court, admitted June 5, 2000
U.S. District Court for the District of Connecticut, admitted May 4, 1998

U.S. Court of Appeals for the Fourth Circuit, admitted September 13, 1996
U.S. Court of Federal Claims, admitted February 4, 1993
U.S. District Court for the Eastern District of Virginia, admitted December 18, 1992
U.S. District Court for the District of Columbia, admitted May 4, 1992
U.S. Bankruptcy Court for the District of Columbia, admitted May 4, 1992
U.S. District Court for the District of Maryland, admitted March 22, 1991
District of Columbia Court of Appeals, admitted November 20, 1991
U.S. Bankruptcy Court for the Eastern District of Virginia, admitted June 4, 1991
Supreme Court of Virginia, admitted June 4, 1991
U.S. District Court for the District of New Jersey, admitted December 20, 1990
New Jersey Supreme Court, admitted December 20, 1990
Maryland Court of Appeals, admitted December 18, 1990

None of these memberships have lapsed.

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

Co-Author, *"Waters of the U.S." Rule Still Subject to Nationwide Stay, For Now*, Womble Carlyle Sandridge & Rice, LLP (March 9, 2016)

Co-Author, *Maryland Environmental Reporting Regulations on Hold For Now*, Womble Carlyle Sandridge & Rice, LLP (February 8, 2016)

Co-Author, *The Upswing Is in Lawsuits: As the Housing Market Slows, Buyers and Sellers Are Increasingly at Odds*, Legal Times (March 5, 2007)

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

I have not given any formal speeches in the last five years, but I have participated in various panels. I list those panels below.

May 2, 2017 (San Francisco, CA): Panelist, *Psychological Flexibility: How to Unhook from the Chatter of Your Mind and Achieve Values-Based Success*, American Bar Association Section of Litigation LGBT Forum. This was a CLE course for members of the American Bar Association in a question and answer format and I was providing the perspective from law firm management. I didn't prepare the PowerPoint. I have no notes, transcript, or recording.

April 20, 2017 (Aventura, FL): Moderator, *Fireside Chat* with Samuel Reeves and Gwen Marcus, Minority Corporate Counsel Association. This was a CLE course for in-house counsel discussing the career paths and professional experience of Samuel Reeves, Senior Vice President & General Counsel, Wal-Mart Stores, Inc. and

Gwen Marcus, Executive Vice President & General Counsel, Showtime Networks, Inc. I have no notes, transcript, or recording.

July 20, 2016 (McLean, VA): Panelist, *Successful Litigation Management – The Essential Guide for the Non-Litigator*, Association of Corporate Counsel Litigation Forum Conference. This panel addressed strategies for dispute management and was presented to in-house counsel who are not frequently involved in litigation. PowerPoint presentation supplied.

December 9, 2015 (Webinar): Panelist, *Who Needs a Lawyer Anyway?*, New York Law Journal. The webinar presentation explored the impact of technology on the practice of law, including, for example, the impact of IBM's Watson and artificial intelligence. PowerPoint presentation supplied.

October 22, 2015 (Montreal, Canada): Moderator, *Reel Justice*, ABA Section on International Law. This CLE course focused on differences in courtroom and litigation strategy and techniques comparing the U.S. and Canada. PowerPoint presentation supplied.

October 6, 2015 (San Diego, CA): Panelist, *Who Needs a Lawyer Anyway?*, Minority Corporate Counsel Association. This CLE panel explored the impact of technology on the practice of law, including, for example, the impact of IBM's Watson and artificial intelligence. PowerPoint presentation supplied.

March 6, 2013 (San Diego, CA): Panelist, *Effective Litigation Budgeting and Management*, Minority Corporate Counsel Association CLE Expo. This was a CLE course about current litigation management strategies and best practices. PowerPoint presentation supplied.

16. Legal career.

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

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

I have not served as a law clerk to a judge.

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

I have never practiced alone.

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

1989 – 1993
Melrod, Redman & Gartlan (no longer operational)
Washington, DC
Associate (1990 – 1993)
Summer Associate (Summer 1989)

1993 – 1995
Colton and Boykin (no longer operational)
Washington, DC
Associate

1995 – 1998
Silverstein & Mullens (now Buchanan Ingersoll & Rooney)
1700 K Street, NW, Suite 300
Washington, DC 20006
Partner (1997 – 1998)
Associate (1995 – 1997)

1998 – 2004
Piper Rudnick LLP (now DLA Piper)
500 Eighth Street, NW
Washington, DC 20004
Partner

2004 – Present
Womble Carlyle Sandridge & Rice, LLP
1200 Nineteenth Street, NW, Suite 500
Washington, DC 20036
Partner

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

From 1990 to 1993, as an associate in Melrod, Redman & Gartlan's litigation group, I handled everything from routine scheduling conferences to multiple day evidentiary hearings. The firm primarily served clients in the banking and real estate industries and my case load included commercial and bankruptcy matters representing real estate developers and owners, financial institutions, and creditors.

At Colton and Boykin, from 1993 to 1995, I was a mid-level associate in the firm's commercial litigation group. I worked on civil cases in the real estate, banking, and insurance industries.

From 1995 to 1998, I was affiliated with Silverstein & Mullens (now Buchanan Ingersoll & Rooney), working with former Melrod, Redman & Gartlan partner William Harvey, as well as then managing partner Ronald Abramson. Mr. Harvey and Mr. Abramson were both real estate and corporate transactional lawyers and I handled commercial litigation for their clients. While at Silverstein & Mullens, I successfully first-chaired my first federal appeal, as well as routine hearings, evidentiary hearings, and trials. My caseload consisted of complex commercial disputes and bankruptcy matters, many involving real estate assets. While at Silverstein & Mullens, I was promoted to salaried/non-equity partner, and ultimately left the firm when Mr. Harvey went in-house.

Prior to joining Womble Carlyle, I worked for Piper Rudnick LLP (now DLA Piper) from 1998 to 2004. I joined the firm as a partner in the litigation group and my practice consisted of a mix of serving my client portfolio and providing litigation services to firm clients. I first-chaired complex fraud and breach of fiduciary duty matters, as well as business and corporate cases. My clients included publicly traded real estate investment trusts, financial institutions, union pension funds, real estate developers and owners, and corporations.

In 2004, I joined Womble Carlyle Sandridge & Rice, LLP, and brought to the firm my litigation practice and my team of associates. I supervise a team of partners, associates, and paralegals on a wide variety of commercial litigation including real estate, employment, financial services, corporate, product liability, and construction cases. Our clients are drawn primarily from the banking, real estate, manufacturing, and publishing industries. My practice comprises federal and state court cases as well as arbitrations.

I have had the honor and privilege of serving my law firm in several key leadership roles and service positions. I served as the Chief Operating Partner of my firm and as Chair of the Operations Committee. Currently, I serve on the firm's Management Committee and served several years on the Executive Committee. All of these committees set policy and compensation. This year and last, I served on the Budget Committee, which is responsible for recommending the annual budget ($320 million) for the firm. I was the national Vice Chair for the Business Litigation Practice Group, the largest practice group in the firm, and Chair of Litigation in DC. I currently serve, and have served for many years, as the Attorney's Liability Assurance Society ("ALAS") partner for the firm's DC and Northern Virginia offices. In my role as ALAS partner, I counsel the firm's lawyers in the DC and Virginia offices on risk management and ethics issues. For several years, I served as the Chair of the Salaried Compensation Committee, responsible for recommending compensation for over 720 timekeepers. Recently, I served on the Nominations Committee consisting of five partners selected by, and

from, the equity partners to identify and recommend our new managing partner in our succession process and to assist with the smooth transition of leadership.

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

My client portfolio has been and continues to be primarily publicly traded real estate companies, private real estate developers, financial institutions, manufacturers, and corporations.

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

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

I appear in court a few times a month. Earlier in my career I appeared in court weekly because at that time all motions were heard at oral argument. In recent years, courts have shifted to deciding more motions on the papers.

(2) **What percentage of these appearances was in:**

(a) **Federal courts (including Federal courts in D.C.);**

40% of my appearances have been in federal courts.

(b) **State courts of record (excluding D.C. courts);**

10% of my appearances have been in state courts.

(c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**

30% of my appearances have been in D.C. courts.

(d) **other courts and administrative bodies.**

20% of my appearances have been in other courts and administrative bodies.

(3) **What percentage of your litigation has been:**

(a) **civil;**

100% of my practice has been in civil matters.

(b) **criminal.**

None of my practice has been in criminal matters.

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

I have handled dozens of cases over the last 25+ years. Over the last approximately 10 years, I have obtained summary judgment in 31 matters, disposition by trial or evidentiary hearing in 12, and resolved 51 cases by settlement prior to trial. In all cases, I was first-chair (lead) trial counsel.

(5) **What percentage of these trials was to**

(a) **a jury;**

30% were to a jury.

(b) **the court (include cases decided on motion but tabulate them separately).**

70% were to a court.

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

1. *Sheet Metal Workers' Nat'l Pension Fund v. David T. Chase*, No. 3:98CV471 (D. Conn. 1999) (Hon. Peter C. Dorsey); *Sheet Metal Workers' Nat'l Pension Fund v. Chase Family Ltd. P'ship, No. 9, et al.*, AAA Case No. 12 Y 180 0028799 (Michael S. Greco, Carl L. Taylor, and Jeffrey L. Williams); and *Sheet Metal Workers' Nat'l Pension Fund v. David T. Chase, et al.*, No. CV994318185 (Conn. Super. Ct. 1999) (Hon. Anthony V. DeMayo)

   I was lead counsel in the representation of Sheet Metal Workers' National Pension Fund (the "Fund") in connection with its multi-jurisdictional litigation to protect the Fund's interests and assert its claims for approximately $40 million of damages. The litigation consisted of three simultaneous proceedings: (1) arbitration proceedings administered by the American Arbitration Association ("AAA"); (2) federal court

proceedings in the U.S. District Court for the District of Connecticut; and (3) state court proceedings before the Superior Court of Connecticut, Judicial District of New Haven.

In exchange for a limited partnership interest, the Fund contributed $25 million toward the construction and development of a 26-story mixed-use office building. Under the terms of the partnership agreement, the Fund had the right, under specified circumstances, to require the managing general partners to repurchase the Fund's investment in the partnership, together with interest (the "Put Option"). In the AAA arbitration, the Fund sought to enforce the Put Option against the managing partner of the limited partnership. In the state court proceedings, the Fund sought an injunction enjoining the managing partners from dissipating the assets of the partnership, as well as for claims including, *inter alia*, breach of contract, breach of fiduciary duty, self-dealing, diversion of partnership assets, and indemnification. In the federal court suit, the Fund sought to enforce a side letter guaranty of the Put Option by the managing partner of the limited partnership and to compel arbitration.

Based on my team's litigation strategy, we uncovered fraud and self-dealing by the managing partners. After a full evidentiary hearing, Judge Anthony DeMayo granted the Fund's request for a temporary injunction against the managing partners. Judge DeMayo issued a decision in which the Court found that the managing partner of the limited partnership had violated his fiduciary duties to the Fund and breached the partnership agreement. He further found that the managing partners sought to strip the Fund of the value of its interest. Following compelled arbitration, the Fund obtained a permanent injunction and award from the AAA. In the wake of the state court injunctive relief and the AAA award in the Fund's favor, the partners entered into a global settlement of the matters, and the Fund received a $17.5 million all-cash settlement of all claims.

Local Counsel:
Frederick S. Gold
Shipman & Goodwin LLP
300 Atlantic Street, 3rd Floor
Stamford, CT 06901
(203) 324-8110

Opposing Counsel:
Richard P. Weinstein
Weinstein & Wisser
29 South Main Street, Suite 207
West Hartford, CT 06107
(866) 629-7736

2. *South Glebe Holdings, LLC v. Centex Homes, LLC*, Case No. 141000446 (JAMS 2007) (Hon. Rosemarie P. Annunziata)

   I was lead trial counsel, representing Centex Homes, LLC ("Centex"), in arbitration proceedings which arose from a purchase and sale agreement between South Glebe Holdings, LLC ("South Glebe") and Centex concerning real property. A dispute arose concerning the development of a midrise multi-family residential community on the property. South Glebe sought from Centex the purchase price of $19.6 million together with additional sums. Following a four-day trial before Judge Rosemarie P. Annunziata (Ret.), Judge Annunziata issued an award in favor of Centex and found, *inter alia*, that: (1) Centex properly terminated the purchase agreement, and (2) South Glebe materially breached the agreement by failing to provide Centex with a meaningful opportunity to review and approve certain site plan amendments. In addition to an award finding in favor of Centex on the $19.6 million, Judge Annunziata further awarded to Centex $2.9 million, the amount of earnest money deposit held in escrow. Opposing counsel was Rudolph F. Pierce of Goulston & Storrs, PC. Attorney Pierce served as a U.S. Magistrate Judge from 1976-1979 and as an Associate Justice of the Massachusetts Superior Court from 1979-1985.

   Opposing Counsel:
   Rudolph F. Pierce
   Goulston & Storrs, PC
   2001 K Street, NW, Suite 1100
   Washington, DC 20006
   (202) 721-1153

3. *J&J Snack Foods Corp. v. Ruiz Food Products, Inc.*, No. 15-7804, 2016 WL 781454 (D.N.J. Feb. 29, 2016) (Hon. Jerome B. Simandle)

   I was lead counsel representing Ruiz Food Products, Inc. ("Ruiz") in this litigation. J&J Snack Foods Corp. ("J&J") sued rival Ruiz, alleging that Ruiz failed to negotiate in good faith and wrongfully obtained and used J&J's trade secrets. The two companies had signed a letter of intent and a separate confidentiality agreement. In connection with the negotiations, J&J had shared with Ruiz certain confidential information including sales and earnings data, customer information, product formulas, and pricing information. Judge Jerome B. Simandle granted Ruiz's motion to dismiss holding that: (1) the letter of intent was not contractually binding; (2) there was no implied covenant of good faith and fair dealing under Delaware law; and (3) J&J failed to allege any bad faith on the part of Ruiz. In so holding, Judge Simandle reasoned that there were no allegations of any actions or inactions consisting of breach of the confidentiality agreement and no allegations that confidential information had been shared, or that such information had been used for competitive advantage. Following dismissal of the case, no appeal was taken.

Opposing Counsel:
Darren H. Goldstein
Flaster Greenberg PC
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002
(856) 382-2248

4. *Mantai L. Murray v. The Bureau of Nat'l Affairs, et al.*, Case No. 048324 (Super. Ct. of the Dist. of Columbia) (Hon. Frederick H. Weisberg)

   I was lead counsel, representing the Bureau of National Affairs ("BNA"), in this lawsuit by former employee, Mantai L. Murray. Ms. Murray filed a seven-count complaint alleging that she was denied rights under the District of Columbia Family Medical Leave Act ("DCFMLA"), and further that she was discriminated against in violation of the District of Columbia Human Rights Act ("DCHRA"). After discovery of BNA's records together with depositions, Judge Frederick H. Weisberg granted in part, and denied in part, BNA's motion for summary judgment resolving in favor of BNA on all counts as to Ms. Murray's claims regarding national origin and leaving only Ms. Murray's claim as to race discrimination for trial. This case stands out because DCFMLA and DCHRA cases are not easily resolved by summary judgment, as there are often factual disputes. Our careful development of the record and attention to detail laid the foundation for the result in this matter, particularly where, as here, Ms. Murray's job responsibilities were impacted by a planned reorganization of the company. With the case substantially narrowed, the parties were able to resolve the remaining claim by settlement and dismissal.

   Opposing Counsel:
   R. Scott Oswald
   The Employment Law Group, P.C.
   888 Seventeenth Street, NW, 9th Floor
   Washington, DC 20006
   (877) 588-9318

5. *Serdarevic, et al., v. Centex Homes, LLC*, 2012 WL 4054161 (S.D.N.Y. Sept. 5, 2012) (Hon. Peter Briccetti)

   I was lead trial counsel in this litigation on behalf of Centex Homes, LLC ("Centex"). Plaintiffs brought breach of contract claims against Centex on three separate agreements for the sale of real property and sought damages in excess of $98 million (the purchase price of the contracts).

   In 2005, the parties entered into contracts for the sale and development of three parcels of land in the town of Goshen, New York. One of the contracts, referred to as Parcel 3, was terminated during feasibility. The remaining two contracts contained, as

conditions precedent to performance, certain specific minimum density and zoning requirements, which Centex argued were not met and could not be met. The agreements included a "best efforts" provision which required that Centex use its "best efforts" to assist plaintiffs in the completion and satisfaction of all conditions precedent. Determinations regarding "best efforts" are almost always questions of fact and rarely decided by summary judgment. In this regard, we prepared the case as though it were going to trial. Pretrial discovery revealed that there had been a downzoning of the parcels, restricting the development potential of the property and drastically reducing the achievable density. Careful and thorough discovery and trial preparation produced an evidentiary record that ultimately supported summary judgment. Judge Peter Briccetti granted Centex's motion for summary judgment on the larger parcels, leaving a small question of fact on Parcel 3 with a claim value of $100,000. Judge Briccetti also awarded to Centex the return of its earnest money deposit in the amount of $2.4 million. The remaining claim was settled.

Opposing Counsel:
Russell Marc Yankwitt
Yankwitt LLP
140 Grand Street, Suite 501
White Plains, NY 10601
(914) 686-1500

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

In 2002, I received the New Jersey State Historic Preservation Award for the Black Creek Site Preservation Effort. It is my understanding that this was the first time in New Jersey history that the award was presented to members of the legal profession. This award was received for my legal team's pro bono representation of the Lenape Tribe in connection with litigation to protect what is now known as the Black Creek Site. The site was identified by scientists in the early 1990's during a bridge replacement effort in Vernon Township, New Jersey. Artifacts from the site confirmed that it was in recurrent use for over 10,000 years. I was the senior partner for the legal team with two associates on a pro bono legal effort to protect the 40-acre site from development as a sports complex. We obtained an injunction to stop bulldozers from destroying the site. Our legal team partnered with the Lenni Lenape Indians of New Jersey to preserve our collective human heritage and the history of New Jersey's indigenous people. The 40-acre site is now protected as a state park.

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

No, I have never held judicial office.

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

None.

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

No.

21. **Political activities and affiliations.**

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

None.

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

None.

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

2016: $500 to Roy Cooper for North Carolina gubernatorial campaign.

2016: $500 to the Hillary Clinton presidential campaign.

2016: $1,000 to the Hillary Clinton presidential campaign.

2012: $500 to the Obama/Biden presidential campaign.

2011: $200 PAC contribution as a partner of Womble Carlyle Sandridge & Rice, LLP.

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

Yes, I was arrested on or about May 8, 1999, in the District of Columbia, and charged with DWI (Intox-per se). The case was dismissed on the Government's motion and resolved by dismissal *nolle-prosequi*. The District of Columbia Superior Court case number is 1999CTF2758.

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

A search of the District of Columbia Superior Court's online case directory identified a civil case against my former firm, Piper Rudnick, listing, it appears, all partners as defendants. I was never served with the summons or complaint. I was not aware that the case existed until I searched the Court records in connection with my application to the Judicial Nomination Committee. It did not involve a matter that I worked on or for which I was responsible. The case was captioned, *The Bank of New York as Trustee, et al. v. Piper Marbury & Rudnick & Wolfe, et al.*, No. 2001CA008625 (Super. Ct. of the Dist. of Columbia 2002). It appears that the case was filed on November 23, 2001, and closed on August 7, 2002.

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

No.

II. POTENTIAL CONFLICTS OF INTEREST

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

   Yes.

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

   Currently, I am fully engaged in private practice with my law firm. If confirmed, I would have no continuing financial arrangements with my firm.

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

   None.

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

   None.

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

   None.

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

   No.

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

   I would abide by the ethical canons included in the Code of Judicial Conduct to ensure impartiality and fairness. Should any possible conflicts of interest arise, I would apply the ethical canons and recusal standards.

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

Yes.

III. 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

IV. DISTRICT OF COLUMBIA REQUIREMENTS

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

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

   Yes.

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

   Yes.

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

   Yes. I was admitted to the District of Columbia Bar on November 20, 1991.

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

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

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

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

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

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

   Yes.

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

   Yes. Since March 2010, I have resided at [redacted]

REDACTED

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

   No.

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

   No.

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

   See attached.

AFFIDAVIT

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

SUBSCRIBED and SWORN TO before me this 14th day of September 2017.

Notary Public

MARY BETH CASWELL
NOTARY PUBLIC
District of Columbia
My Commission Expires Apr. 30, 2018

MARY BETH CASWELL
MY COMMISSION EXPIRES
NOTARY PUBLIC
APR. 30, 2018
DISTRICT OF COLUMBIA

womblebonddickinson.com

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BOND
DICKINSON

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Deborah J. Israel
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Direct Fax: 202-261-0034
E-mail:Deborah.Israel@wbd-us.com

June 17, 2019

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
& Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the questionnaire submitted to the Senate Committee on Homeland Security & Governmental Affairs on September 14, 2017, in connection with my nomination to be an Associate Judge of the Superior Court of the District of Columbia. Incorporating the additional information listed below, I hereby certify that the information contained in these documents is, to the best of my knowledge, true and accurate.

Question 3 (Biographical and Professional Information):

My law firm, Womble Carlyle Sandridge & Rice, LLP combined with the U.K. firm Bond Dickinson on November 1, 2017, to create Womble Bond Dickinson. Womble Bond Dickinson (US) LLP is the successor to Womble Carlyle Sandridge & Rice, LLP. My current office address and telephone number have not changed since the filing of my questionnaire in 2017.

Question 10 (Biographical and Professional Information):

Womble Bond Dickinson (US) LLP is the successor to Womble Carlyle Sandridge & Rice, LLP. I continue to serve as a partner at the law firm.

Question 16A(3) (Biographical and Professional Information):

Womble Bond Dickinson (US) LLP is the successor to Womble Carlyle Sandridge & Rice, LLP.

Question 23 (Biographical and Professional Information):

On or about October 11, 2017, a lawsuit was filed against the firm and several attorneys (including me) by a former client alleging, among other things, a billing dispute. Shortly

Womble Bond Dickinson (US) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practice law. Please see www.womblebonddickinson.com/us/legal-notice for further details.

[redacted]
The Honorable Ron Johnson
Chairman
Committee on Homeland Security
& Governmental Affairs
United States Senate
June 17, 2019
Page 2

thereafter, and prior to service of process, on or about November 1, 2017, a Notice of Voluntary Dismissal was filed and the case was dismissed as to all defendants. See *DC Healthcare Systems, Inc. v. Womble Caryle Sandridge & Rice, LLP, et al.*, Civ. No.: 2017 CA 00686M in the Superior Court of the District of Columbia.

Question 1 (Financial Data):

My updated net worth statement is enclosed.

Question 6 (Financial Data):

I have no source of income, or other items of value, other than my compensation as a partner at the law firm of Womble Bond Dickinson (US) LLP. In 2018, my gross annual income (compensation) was [redacted]; and in 2017, my gross annual income (compensation) was [redacted]

REDACTED

Question 7 (Financial Data):

Copies of my 2017 and 2018 Federal income tax returns are enclosed.

I thank the Committee for its consideration of my nomination.

Sincerely,

Deborah J. Israel

Enclosures

cc: The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security
& Governmental Affairs
United States Senate

Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Deborah J. Israel

Nominations of Joshua A. Deahl to be an Associate Judge, District of Columbia Court of Appeals; Deborah J. Israel and Andrea L. Hertzfeld to be Associate Judges, Superior Court of the District of Columbia; and Robert A. Dixon to be United States Marshal for the Superior Court of the District of Columbia
Tuesday, October 22, 2019

Questions for Deborah Israel, nominee to be an Associate Judge of the Superior Court of the District of Columbia

1) If seated on the bench, you will decide matters that impact the freedom, livelihoods, and families of many of the individuals who come before you.
   a. How will you ensure that each person who comes before you has a meaningful opportunity to be heard – especially given the high volume and current backlog of cases at the D.C. Superior Court?

      Response: It is a fundamental principle of our judicial system that all parties that come before the Court have the right to be heard. The District of Columbia Courts Strategic Plan (2018-2022) notes research confirming that people feel more confidence in the judicial system and the outcomes of their cases if they feel they have been fairly treated and, specifically, that the court processes and procedures are fair. A few things I can do to contribute to the parties' sense of fairness and opportunity to be heard include: (1) making sure all parties' arguments are carefully and thoughtfully considered; (2) coming prepared so that the parties can have confidence that the court knows the particulars of their case; and (3) setting a good tone. The judge often sets the tone in the courtroom. The process can be intimidating for individuals. The judge has the ability to help put people at ease by demonstrating an open-minded approach to the cases which in turn allows parties to more fully participate.

2) The Superior Court handles a broad range of trial matters and unfortunately an increasing backlog of cases. Currently there are six vacancies at the D.C. Superior Court, with three additional retirements announced for later this year.
   a. Given these vacancies, what challenges do you foresee as a new judge entering into an already strained court, and what steps will you take to ensure you are effectively managing your docket of cases?

      Response: Our Superior Court is well run with a hardworking, collegial bench and staff. That said, delay, and staffing of calendars, in the face of strained resources is a concern. Examples of steps I would take to ensure efficient docket management include:

         (1) Training. The Superior Court has a robust training program for new judges including areas of substantive law as well as courtroom, chambers, and caseload/calendar management. I have a great deal of confidence in our processes for training and will be fully engaged. From my many years of practice, I also bring deep experience with our court rules and some of the practical aspects of courtroom management;

(2) Preparation. As a litigator with over 20 years of experience in our courtrooms, I know firsthand that well run courtrooms start with well prepared judges. I will be prepared for matters to reinforce confidence in the process and to efficiently manage;

(3) Recognize Not All Cases Are Identical. Some cases are more complex and require a different timeline than others which might be less complex. Identifying matters and issues that are ready for decision is an important part of managing the docket;

(4) Make Decisions. I can ensure efficient docket management by timely deciding issues and matters that are ripe and ready for decision. I have served in several leadership roles in my firm, in my litigation group, and in the greater legal community that have prepared me to manage large and fast-moving caseloads.

LINDSEY O. GRAHAM
SOUTH CAROLINA

290 Russell Senate Office Building
Washington, DC 20510
(202) 224-5972

UNITED STATES SENATE

October 1, 2019

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable James Lankford
Chairman
Subcommittee on Regulatory Affairs and Federal Management
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Kyrsten Sinema
Ranking Member
Subcommittee on Regulatory Affairs and Federal Management
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Johnson, Chairman Lankford, Ranking Member Peters, and Ranking Member Sinema:

I write today in support of the nomination of Deborah J. Israel to serve on the District of Columbia Superior Court.

Deborah is an accomplished trial lawyer with extensive knowledge of the law and court procedure. She is a partner at the national law firm Womble Bond Dickinson (US) LLP where she has served as Chief Operating Partner and in other senior management positions throughout her career. Her leadership roles, both in her law firm and in various bar associations, reflect the trust and esteem that the legal community has for her.

I appreciate the opportunity to contact you on behalf of Deborah. If I may provide additional information or be of any assistance to you, please do not hesitate to contact me.

Sincerely,

Lindsey O. Graham
United States Senator

508 Hampton Street
Suite 202
Columbia, SC 29201
(803) 933-0112

401 West Evans Street
Suite 111
Florence, SC 29501
(843) 669-1505

130 South Main Street
Suite 700
Greenville, SC 29601
(864) 250-1417

530 Johnnie Dodds Boulevard
Suite 202
Mount Pleasant, SC 29464
(843) 849-3887

235 East Main Street
Suite 100
Rock Hill, SC 29730
(803) 366-2828

124 Exchange Street
Suite A
Pendleton, SC 29670
(864) 646-4090

Republican
National
Committee

José E. V. Cunningham
State Chairman for District of Columbia
1609 16th Street, NW
Washington, DC 20009
Cell: (202) 236-0717

The Honorable Ron Johnson
Chairman
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Washington, D.C. 20510

The Honorable Kyrsten Sinema
Ranking Member
Subcommittee on Regulatory Affairs and
Federal Management
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Deborah J. Israel
District of Columbia Superior Court

Dear Senators Johnson, Peters, Lankford and Sinema:

I am writing to express my support for Deborah Israel who has been nominated for appointment to the District of Columbia Superior Court.

Ms. Israel is a longtime resident of the District and has worked her entire career in our city. She is a successful and experienced trial lawyer in a big firm private practice with extensive knowledge of the law and court procedure. She is a well-regarded and highly respected leader in the community having served as president of local legal and bar organizations.

Paid for by the Republican National Committee.
310 First Street, SE • Washington, DC 20003 • www.gop.com
Not authorized by any candidate or any candidate's committee.

Ms. Israel has held many leadership positions in her profession and served as Chief Operating Partner of her law firm, Womble Bond Dickinson (US) LLP, which further demonstrates the confidence her peers have in her ability and judgment. She has demonstrated commitment to the community and to service having supported many of our local foundations and charities.

I recommend Deborah Israel to you without reservation.

Most respectfully,

José E.V. Cunningham
Chairman
District of Columbia Republican Party

cc: Lola A. Kingo
Senior Nominations Counsel
Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue
Washington, D.C. 20530-0001

REPUBLICAN NATIONAL LAWYERS ASSOCIATION

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Founding Chair

Michael B. Thielen
Executive Director

P.O. Box 18965
Washington, D.C. 20036

Phone: (202) 802-0137
Fax: (202) 747-2873

www.RNLA.org

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
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Chairman
Subcommittee on Regulatory Affairs and Federal Management
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Kyrsten Sinema
Ranking Member
Subcommittee on Regulatory Affairs and Federal Management
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Deborah J. Israel
District of Columbia Superior Court

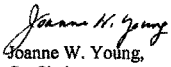
September 19, 2019

Dear Senators Johnson, Peters, Lankford and Sinema:

I am writing to convey our strong support for the nomination of Deborah J. Israel to the District of Columbia Superior Court.

Attached is our earlier correspondence of April 30, 2018 in support of Ms. Israel's nomination. We respectfully request that this letter be included in Ms. Israel's file. Thank you for your consideration of this truly exceptional candidate.

Sincerely,



Joanne W. Young,
Co-Chair
jyoung@yklaw.com
(202) 331-3348

cc:
Ms. Lola A. Kingo,
Senior Nominations Counsel
Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue
Washington, D.C. 20530-0001

REPUBLICAN NATIONAL LAWYERS ASSOCIATION

John Ryder
Chair

Elliot Berke
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Vice President, Communications

David Warrington
Vice President, Election Education

Marc Ellinger
Vice President, Finance

Eric Lycan
Vice President, Judicial Affairs

Audrey Perry Martin
Vice President, Membership

Thomas Wheeler
Vice President, Programming

Claudia Hrvatin
Vice President, Washington Operations

Robert J. Horn
Founding Chair

Michael B. Thielen
Executive Director

P.O. Box 18965
Washington, D.C. 20036

Phone: (202) 802-0437
Fax: (202) 747-2873

www.RNLA.org

April 30, 2018

The Honorable James Lankford
Chairman
Subcommittee on Regulatory Affairs and Federal Management
United States Senate
SH-601 Hart Senate Office Building
Washington, DC 20510

Re: Deborah J. Israel, District of Columbia Superior Court

Dear Senator Lankford:

We write to highly recommend Deborah Israel as a judge for the District of Columbia Superior Court. She has a proven record as a seasoned trial lawyer, having earned these credentials through years of litigation experience at a large national law firm. Her strong qualifications and track record make her an excellent candidate for this important position.

Ms. Israel is not only a highly respected lawyer, but a significant contributor to the community. She was elected both President of the Woman's Bar Association and also of its charitable Foundation. Her history of commitment to public service goes well beyond the Women's Bar to include the D.C. Bar Lawyers Assistance Committee, the National Association of Woman Judges, and historic preservation efforts in the State of New Jersey.

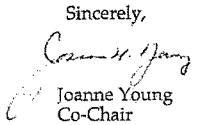
Deborah Israel is currently a Partner in the nationally recognized Womble Bond Dickinson law firm. She has over 20 years of experience as a litigation attorney and is admitted to practice in Maryland, Virginia, New Jersey, and the District of Columbia. She has successfully litigated all type of cases, including ones involving national and global companies. She is recognized as a leader in her field, and was named a Fellow of the Litigation Counsel of America – Trial Lawyer Honor Society, a designation given to less than one percent of all lawyers.

Importantly, Ms. Israel has the proper temperament and experience to be an outstanding judge. Because of her extensive litigation background, her knowledge of the law and the rules of procedure is deep. Not only does her intelligence shine through in all she does, but her integrity, sound judgment, winning personality and the decisive, confident ability she has to lead as well. She is a champion of diversity, and treats everyone she encounters with respect and dignity. A friendly, upbeat individual, Ms. Israel has the ability to put people at ease in the most stressful of circumstances, an important quality for a judge. Her demonstrated commitment to ethics and justice would ensure that all decisions she rendered as a judge would be equitable to all parties involved.

Despite her great success in the private sector – success which has included election by her partners as Chief Operating Partner – Ms. Israel's devotion to public service has persuaded her to leave behind her tenure as a leader in "Big Law" to serve on the bench. For this reason and the many set forth above, we recommend Deborah Israel to you without reservation.

Thank you for your consideration of this exceptional candidate.

Sincerely,



Joanne Young
Co-Chair

Sent via fax.

cc:
Ms. Gabrielle D'Adamo Singer, Chief Counsel, Senate Committee on Homeland Security & Government Affairs (sent via email)
Mr. John Cuaderes, Staff Director and Senior Policy Advisor, Senate Committee on Homeland Security & Government Affairs (sent via email)

Opening Statement of Andrea L. Hertzfeld
Nominee to be an Associate Judge of the District of Columbia Superior Court
October 22, 2019

Mr. Chairman and members of the Committee, it is an honor and privilege to be here today. I am grateful for the opportunity to appear before you as you consider my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I extend my thanks to each of you, and to the Committee staff for all of the hard work that has gone into considering my nomination. There are many other people to thank as I sit here today. I extend my deep appreciation to the Chair of the Judicial Nomination Commission, Judge Emmet Sullivan, who has provided great support and encouragement throughout this process, and to the Commission's dedicated members for recommending me to the White House. I extend my humble thank you to the President for nominating me to serve the people of the District of Columbia in this capacity, and to Congresswoman Norton for her support as I appear before you today.

I can only try to express my appreciation for the support of my colleagues, family, and friends, especially those who are present here today. In particular, I want to recognize my current boss, the United States Attorney for the District of Columbia, Jessie Liu, who has wholeheartedly supported and encouraged me as I have traveled this path. I thank the many colleagues from the United States Attorney's Office present here who have served with me in the pursuit of justice for the past nine years. It has been my great opportunity and privilege to work with all of you. The Honorable Kelly Higashi, my former chief at the United States Attorney's Office is here today, and I cannot thank her enough for her support, guidance and friendship throughout the years. Also here are several members of the law-enforcement community from the FBI and the Metropolitan Police Department. It has been an extraordinary and humbling opportunity to work alongside these brave men and women in their tireless efforts to protect our community and especially children who are the victims of sexual exploitation and human trafficking. These colleagues have served as a tremendous source of inspiration every day I have walked into the courthouse.

I reserve special thanks for the people in my life who are here because they love and support me in my home and community. My husband, Charles Tompkins, is here today, as he has been every day of our lives together, to support my pursuit of a career in public service. He has sacrificed much, including our time together, and has been without complaint about the around-the-clock demands that are often made in a job where emergencies are frequent and every case merits answering the phone in the middle of the night. He has made these sacrifices with incredible grace and patience.

My parents, Don and Linda Hertzfeld are also here today. They traveled here from my hometown in rural Ohio to once again extend the unwavering support they have provided me throughout my entire life. Without that support, I have no doubt I would not be sitting here before you today. My parents raised five children, including me and my beloved twin sister, Anne Henderson, who has, with the same unfailing support, taken time away from her husband and three wonderful children to travel from Ohio to support me as I appear here before you. My parents also raised my three younger siblings, who are triplets. I am so fortunate to have parents who, in the chaos of raising five children under atypical circumstances, managed to teach me through their words and actions

the non-negotiable values of integrity, fairness, and hard work. If confirmed, it is these values that will serve as my guide posts each and every day I sit on the bench.

I moved to the District of Columbia immediately after graduating from Harvard Law School with the intention of pursuing a career in public service. I was drawn to Washington, D.C. by its vibrancy, diversity, and sense of community. After spending six years practicing complex civil litigation at two major law firms, I had the opportunity to fulfill my dream of becoming an Assistant United States Attorney. For the last nine years, I have had the distinct privilege of serving the citizens of this City in both the Superior Court and the United States District Court.

Throughout my legal career, I have sought to be fair-minded to each and every person whose life I have impacted, whether that person was a victim of crime, a supporting family member or friend, or a defendant whose future my prosecutorial decisions would impact. I have sought to uphold the law and the values of fairness and justice. If given the opportunity, I will commit to continuing to adhere to those principles in adjudicating any controversy that comes before me. Thank you again for considering my nomination, and I look forward to answering any questions you might have.

REDACTED

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

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Andrea Lynn Hertzfeld
   Andrea Lynn Hertzfeld Fulop

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

   I am a United States citizen.

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

   United States Attorney's Office for the District of Columbia
   555 Fourth Street, N.W.
   Room 4832
   Washington, D.C. 20001
   (202) 252-7808

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

   July 27, 1979; Toledo, Ohio.

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

   I am married to Charles Edgar Tompkins, IV. He is an attorney with Williams, Montgomery & John, Ltd., 1200 Eighteenth Street, N.W., Suite 325, Washington, D.C. 20036.

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

   [redacted] REDACTED

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

   Harvard Law School, Cambridge, Massachusetts; 2001 – 2004; Juris Doctor awarded

May 2004.

Bowling Green State University, Bowling Green, Ohio; 1997 – 2000; B.A. in Economics and Sociology awarded *summa cum laude* December 2000.

Anthony Wayne High School, Whitehouse, Ohio; 1993 – 1997; High School Diploma awarded June 1997.

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

May – August 2003
Cohen Milstein Hausfeld & Toll, PLLC
1100 New York Avenue, N.W., Suite 500
Washington, D.C. 20005
Summer Associate

May – August 2002
United States Attorney's Office for the District of Massachusetts
John Joseph Moakley United States Federal Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
Legal Intern

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

Assistant United States Attorney's Association John Evans & Victor Caputy Award for Outstanding Advocacy (2018)

Federal Bureau of Investigation, Service Award (2018)

Federal Bureau of Investigation, Service Award (2017)

United States Attorney's Office, Special Achievement Award (2018, 2017, 2016, 2015, 2013, 2012)

Attorney General's Distinguished Service Award (2016)

Federal Bureau of Investigation, Service Award (2016)

U.S. Attorney's Office, Honor Roll (May 2016; July 2015)

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

None.

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

United States District Court for the District of Columbia Bar
Member (2014 – present)

District of Columbia Bar
Member (2005 – present)

Supreme Court of Ohio
Member (2004 – present)

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

None.

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

United States District Court for the District of Columbia, 2014 – present

Ohio Supreme Court, 2004 – 2009 (inactive as of November 19, 2000)

My membership in the United States District Court for the District of Columbia once lapsed in 2018 because I missed a renewal deadline of which I was unaware. Once I realize the error, I immediately renewed the membership.

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

Author, *A Victim's Culture*, European Business Law Review, Vol. 18, No. 6, 1209 – 1229 (2007).

Author, *Private Recovery Actions in the United States: Reducing – and Recouping – the 'Cartel Tax,'* Global Competition Review, Antitrust Review of the Americas (2008).

Editor, *Women's Law Journal* (2002 – 2003).

Editor, *Civil Rights Civil Liberties Law Review* (2001 – 2002).

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

None.

16. Legal career.

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

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

No.

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

No.

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

September 2004 – November 2008
Cohen Milstein Hausfeld & Toll, PLLC
1100 New York Avenue, N.W., Suite 500
Washington, D.C. 20005
Associate

November 2008 – June 2009
Hausfeld, LLP
1700 K Street, N.W., Suite 650
Washington, D.C. 20006
Associate

June 2009 – February 2010

Cohen Milstein Sellers & Toll, PLLC
1100 New York Avenue, N.W., Suite 500
Washington, D.C. 20005
Associate

February 2010 – December 2010
Quinn Emmanuel Urquhart & Sullivan, LLP
865 Figueroa Street, 10th Floor
Los Angeles, CA 90017
Associate

December 2010 – present
United States Attorney's Office for the District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20001
Assistant United States Attorney (December 2010 – present)
Senior Litigation Counsel (June 2017 – present)

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

I began my legal career in 2004 at Cohen, Milstein, Hausfeld & Toll, PLLC, in Washington, D.C. as an associate specializing in complex commercial multidistrict litigation. I worked on matters ranging from class action litigation against the tobacco industry to *pro bono* human rights litigation, but the majority of my practice involved multidistrict antitrust litigation. The firm's partnership split in the fall of 2008, forming two separate firms, Hausfeld, LLP, and Cohen, Milstein, Sellers, & Toll, PLLC. Following the split, I worked as an associate at each firm for approximately six months each before relocating to Los Angeles to work as an associate at Quinn Emmanuel, Urquhart & Sullivan, LLP ("Quinn") in 2010.

At Quinn, I continued to focus on complex commercial litigation. I spent the vast majority of my time working on a civil litigation matter alleging fraud claims against the tobacco industry. That matter was set for trial and as a lead on the trial team, I spent nearly all of my time preparing for trial, including taking and defending expert depositions, preparing and responding to pre-trial motions, drafting the trial plan and other pre-trial documents, and preparing exhibits.

In December 2010, I joined the United States Attorney's Office in D.C. to serve as an Assistant United States Attorney. After completing a required rotation through the Appellate Division, I worked in the Superior Court Division as a member of the Sex Offense and Domestic Violence Unit. For nearly four years in the Superior Court Division, I progressed through the Misdemeanor Domestic Violence, Specialized Child Victim, Felony Major Crimes, Felony Domestic Violence and Felony Sex Offense Units. In October 2014, I began serving as the

Project Safe Childhood Coordinator, and since then have led the Child Exploitation and Human Trafficking Unit, prosecuting federal crimes involving online exploitation of children, sexual abuse of children, and human trafficking. In June 2017, I began serving as Senior Litigation Counsel. In this role I am responsible for supervising and mentoring junior AUSAs, and conducting training.

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

In private practice the majority of my cases were multidistrict litigations on behalf of plaintiffs, primarily small companies and individuals, alleging antitrust violations. In addition, I represented individuals who had been defrauded by various tobacco manufacturers and my *pro bono* work involved representing human trafficking victims.

As an Assistant United States Attorney I represent the United States and the citizens of Washington, D.C. I have spent the vast majority of my career prosecuting sex crimes against children and other child exploitation crimes. As a Senior Assistant United States Attorney on the sex offense caseload, I prosecuted a variety of cases in Superior Court involving vulnerable sexual assault victims, but specialized in cases involving child victims.

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

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

While in private practice (2004 – 2010), all of my litigation was civil. I appeared in court occasionally, generally as associate counsel.

During my nine years in serving the public as an Assistant United States Attorney (2010 – present), I have appeared in court almost daily. From December 2010 to July 2011, I appeared in court occasionally while in the Appellate Division of the United States Attorney's Office, exclusively before the Court of Appeals for the District of Columbia. When I served as a Senior AUSA in the Superior Court Division in the Sex Offense Unit and in various trial units, I appeared virtually daily in the Superior Court for the District of Columbia. During the most recent five years, from October 2014 to the present, I have served in my current role, prosecuting child exploitation and human trafficking matters in U.S. District Court for the District of Columbia, where I appear in court daily.

(2) What percentage of these appearances was in:

(a) **Federal courts (including Federal courts in D.C.);**

95%

(b) **State courts of record (excluding D.C. courts);**

5%

(c) **other courts and administrative bodies.**

0%

(3) **What percentage of your litigation has been:**

(a) **civil;**

30%

(b) **criminal.**

70%

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

I tried approximately 50 cases in D.C. Superior Court, approximately 35 of which were bench trials and 15 of which were jury trials. I was sole counsel in all of them except for approximately three, where I was chief counsel.

I have tried 5 cases, all of which were jury trials, in United States District Court for the District of Columbia to verdict and was lead counsel in each.

(5) **What percentage of these trials was to**

(a) **a jury;**

50%

(b) **the court (include cases decided on motion but tabulate them separately).**

50%

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

1. *United States v. Charles Morgan*, 16-CR-196 (ESH) (before the Honorable Ellen Segal Huvelle)

I served as lead trial counsel in this criminal jury trial in the United States District Court for the District of Columbia in which the defendant, a convicted sex offender, was charged with federal child exploitation offenses stemming from his sexual assault of a 15-year-old girl.

The evidence at trial proved that, in May, 2016, the victim left home after dark to catch a bus to a friend's house. The defendant saw the victim, pulled his car over near the bus stop, and offered the victim a ride. The defendant showed her a business card and a D.C. government identification badge to reassure her of his identity. Given the late hour and the bus delay, the victim, whose cellular phone was dead, accepted the ride. The defendant sexually assaulted the victim in his car, then drove her to his basement apartment in Capitol Heights, Maryland, and sodomized her. The victim immediately reported the assault. Within days, an undercover officer assumed the victim's identity and engaged in a text conversation with the defendant. The defendant insisted that he was going to pick up the victim to assault her again, and demanded that the victim take naked photos of her genitals and send them to him. During the course of the litigation defendant admitted to sexual assaulting nearly two dozen women before he was convicted of a prior armed rape, for which he served a nearly 20-year prison term. He also admitted to sexually assaulting at least three other minors. Defendant was found guilty by jury of all counts and sentenced to 40 years incarceration, followed by lifetime supervised release and sex offender registration.

As lead trial counsel, I was responsible for all aspects of trial preparation and presentation. I litigated the pre-trial motions in this matter, drafted the trial documents, including preliminary and final jury instructions, voir dire, and the verdict form. I prepared all witnesses to testify at trial, including the child victim—who was very reluctant to testify, and was confronting a number of psychological issues as a result of the assault—and the civilian, expert and law enforcement witnesses. I acted as lead counsel at trial and handled the sentencing.

Co-Counsel:
Jason Park, Assistant United States Attorney for the District of Columbia
555 4th Street, N.W.
Washington, DC 20001

(202) 252-7202

Opposing Counsel:
Michelle Peterson, Principal Assistant Federal Defender
Federal Public Defender for the District of Columbia
625 Indiana Ave NW #550
Washington DC 20004
(202) 208-7500

Loui Itoh, Assistant Federal Defender
Federal Public Defender for the District of Columbia
625 Indiana Ave NW #550
Washington DC 20004
(202) 208-7500

2. *United States v. Orlando Roberts*, 2014 CFI 12196 (before the Honorable Jennifer Anderson)

The defendant used Javon Henson, a mentally disabled nineteen-year-old child he mentored, to lure a 14-year-old girl into his home, where he sexually assaulted her. The defendant had only months before been released from prison for forcibly raping a 13-year-old minor. When the defendant returned home from prison, he established afather-figure relationship with Javon, who had himself been a foster child and otherwise had no family of his own. Javon met the victim, also a foster child, online. The defendant encouraged Javon to invite the girl on a date, then drove Javon and the victim to his house, sexually assaulted the victim, and encouraged Javon to sexually assault her as well. The victim reported the assault to relatives, who called the police.

I served as lead trial counsel and handled this case from its inception, through Grand Jury investigation, trial and sentencing. The case was challenging to try because of the usual challenges associated with presenting the testimony of a traumatized child victim and because Javon, who was initially charged as a co- defendant, cooperated with the United States and testified at trial. The defendant had also sexually abused Javon, and Javon was afraid of both physical and emotional retaliation by the defendant. Javon had life-long mental health issues, including severe cognitive delays, which required significant accommodation in crafting his direct examination and preparing him for cross-examination. Defendant was found guilty by jury of all counts and sentenced to 37.5 years incarceration and lifetime sex offender registration.

Co-Counsel:
Jason Park, Assistant United States Attorney for the District of Columbia
555 4th Street, N.W.
Washington, DC 20001
(202) 252-7202

Opposing Counsel:
David Maxted (formerly Supervising Attorney for the Public Defender Service for the District of

Columbia)
Haddon, Morgan and Foreman
150 E 10th Avenue
Denver, CO 80203
303-831-7364

3. *United States v. Franklin Torres*, 15-CR-135 (ESH) (before the Honorable Ellen Segal Huvelle)

I served as lead trial counsel in the prosecution of Franklin Torres, a 33-year-old illegal immigrant from Guatemala, on child pornography and sexual abuse charges resulting from defendant's victimization of a teenage boy who had recently legally immigrated to the United States from El Salvador. Shortly after the victim arrived in the U.S., the defendant, a friend of the victim's step-mother, sexually assaulted the victim and took pornographic images of him, one of which the defendant posted online. The defendant was found guilty by a jury in the U.S. District Court for the District of Columbia of production, distribution, and possession of child pornography, as well as first-degree sexual abuse of a minor.

This trial presented a significant legal issue that has been among the most contested legal issues surrounding the application 18 U.S.C. 2251(a), the federal Production of Child Pornography statute. The defense challenged the jury instruction offered regarding one of the elements of the offense–that the government must show that a child was used "for the purpose of" creating a depiction of child pornography. The same issue has been litigated in a number of other Circuits and has generated conflicting law. It was an issue of first impression in this jurisdiction. The government prevailed at trial regarding the jury instruction on this element, but the issue was appealed after defendant was found guilty by jury of all counts and sentenced to 21 years' incarceration, and lifetime supervised release and sex offender registration. I was involved in the appellate briefing and appeared at the oral argument. The United States Court of Appeals for the District of Columbia Circuit affirmed the conviction and upheld the trial court's ruling on the jury instruction. The opinion will have lasting effect on production of child pornography cases already brought and yet to be prosecuted in this jurisdiction.

Co-Counsel:
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(202) 252-7284

Opposing Counsel:
Carlos Vanegas, Assistant Federal Public Defender
Federal Public Defender for the District of Columbia
625 Indiana Ave NW #550
Washington DC 20004
(202) 208-7500

4. *United States v. Robert Kelsey*, 16-CR-55 (RBW) (before the Honorable Reggie B. Walton)

Robert Kelsey, a 28-year-old convicted felon, met victim, an 11-year-old girl, on Instagram during the summer of 2014. When he first contacted her, Kelsey concealed his true identity, posing as a 19-year-old and using a fictitious name. Kelsey flirted with the child for several days. He arranged to pick up the girl from her summer camp, which was held at an elementary school in Bowie, Maryland. Kelsey told the camp staff that he was the child's cousin so that he could take her from camp early that day. Kelsey then drove the victim to his house in Washington, D.C., where he sexually assaulted her. The victim's father arrived to pick up his daughter, learned that she had been taken by an unknown man, and summoned police.

I was lead trial counsel in this case and investigated it from its inception. The defendant in this case had a serious criminal history. He previously had been convicted in Superior Court in D.C. for his participation in a conspiracy to commit murder and was known as a violent offender. He was initially linked to the crime because the DNA sample obtained from the victim during a sexual assault examination was submitted for comparison to the Combined DNA Index System (CODIS), a database of DNA samples that allows DNA laboratories to exchange and compare DNA profiles to link serial violent crimes to each other and to prior felony offenders who have been required to submit such samples as part of prior sentence. The case required presentation of technical DNA evidence by several expert witnesses as well as expert testimony by a forensic nurse examiner. Kelsey was found guilty by a jury of Transportation of a Minor with Intent to Engage in Criminal Sexual Activity and Aggravated Sexual Abuse of a Child following a trial in the U.S. District Court for the District of Columbia. He was also convicted of a D.C. Code offense, First Degree Child Sexual Abuse with Aggravating Circumstances. He was sentenced to 50 years' incarceration, to be followed by lifetime supervised release and sex offender registration.

Co-Counsel:
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555 4th Street, N.W.
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(202) 252-7059

Opposing Counsel:
Christopher Davis, Esq.
Davis & Davis
1350 Connecticut Avenue, NW
Suite 202
Washington, DC 20036
(202) 234-7300

5. *Earl Williams v. United States*, 09-CF-1023 (before Chief Judge Washington, Judge Blackburne-Rigsby, Senior Judge Ferren)

Defendant, Earl Williams, appealed his conviction before the Superior Court for the District of

Columbia on several counts of first degree child sexual abuse. Williams was convicted at a jury trial for sexually abusing his 10-year-old granddaughter and the 11-year-old daughter of his then live-in girlfriend. The trial judge allowed the United States to admit evidence of prior bad acts and statements under the "unusual sexual preference" exception to the prohibition against the admission of propensity evidence. The court also denied a motion to sever the charges relating to each victim. Finally, the defendant appealed the trial court's decision not to sanction the government under the Jencks Act for failure to preserve and produce the notes of a detective who had been involved in the early stages of the investigation.

I handled the appeal in its entirety, including drafting the brief on behalf of the United States as Appellee, and arguing the matter before the District of Columbia Court of Appeals. The Court of Appeals issued a Memorandum Opinion and Judgment on April 4, 2012, affirming the defendant's conviction. The Court found no abuse of discretion by the trial court in allowing admission of evidence of prior acts and statements by the defendant toward young, prepubescent children, introduced to show that the defendant had an unusual sexual proclivity towards young girls. The Court also found that evidence relating to the sexual abuse of each victim would have been mutually admissible in the trial of the other victim because both such offenses demonstrated the unusual sexual preference of the defendant, and therefore defendant was not prejudiced by the denial of his motion to sever. Finally, the Court found that the trial court did not abuse its discretion in failing to sanction the government for the loss by a detective of his notes, as there was no bad faith and no prejudice to the defendant given other contemporaneous recordings of the contents of the notes. Accordingly, the Court of Appeals affirmed the convictions.

Co-Counsel:
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(202) 252-7283

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

While in private practice, the most significant cases I pursued involved allegations of fraud against the tobacco industry. I litigated one matter in the Eastern District of New York and wrote the Second Circuit appellate briefs when the most significant legal issue in the case was appealed. I also worked the corollary case in state court in Missouri, where I argued major motions, including summary judgment, and lead the trial

preparation efforts, including taking dozens of expert and fact depositions. The case was tried in Missouri after I had left private practice for the United States Attorney's Office.

I also worked a number of significant antitrust cases, including cases against the airline industries alleging global price fixing conspiracies. In those cases, I drafted all of the major briefs and argued discovery motions in federal court.

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

I have never held judicial office.

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

I have never held judicial office.

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

No.

21. **Political activities and affiliations.**

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

None.

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

None.

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

None.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal**

law, other than for a minor traffic offense? If so, please provide details.

No.

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

No.

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

I have never been disciplined or cited for a breach of ethics or unprofessional conduct, but I was the subject of an unfounded complaint by defense counsel to a Court for an alleged violation of discovery disclosure obligations pursuant to *Brady v. Maryland.* This occurred in the matter of *United States v. David Travers*, 2012 CF2 17439, a case that I tried in March of 2013. In the litigation leading up to retrial in 2018, in which I was not involved, the new defense counsel asserted that I had committed alleged discovery violations preceding the first trial. While the trial court declined to impose sanctions for any discovery violations, the trial court did make some comments critical of me in that case, which I immediately self-reported to the Office of Professional Responsibility ("OPR") in February 2018. OPR conducted a full inquiry into the Court's findings and the defense counsel's allegations in September 2018, including a review of the complete record of the original trial court and of the re-trial court. OPR found no professional misconduct. Accordingly, the inquiry was closed on October 5, 2018.

II. POTENTIAL CONFLICTS OF INTEREST

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

   Yes.

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

   None.

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

   None.

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

   None.

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

   None.

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

   No.

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

   I would resolve any potential conflicts of interest pursuant to the District of Columbia Code of Judicial Conduct.

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

   Yes.

III. 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

IV. DISTRICT OF COLUMBIA REQUIREMENTS

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

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

   Yes.

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

   Yes.

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

   Yes, I was admitted September 9, 2005.

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

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

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

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

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

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

   Yes.

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

   Yes. Since 2004, I have lived at [redacted] REDACTED

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

   No.

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

No.

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

Four copies of my Judicial Nomination commission questionnaire are attached.

AFFIDAVIT

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

SUBSCRIBED and SWORN TO before me this 22th day of July, 2019.

Notary Public

JESSICA MCCORMICK
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires December 14, 2021

JESSICA MCCORMICK NOTARY PUBLIC EXP 12-14-21 DISTRICT OF COLUMBIA

Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Andrea L. Hertzfeld

Nominations of Joshua A. Deahl to be an Associate Judge, District of Columbia Court of Appeals; Deborah J. Israel and Andrea L. Hertzfeld to be Associate Judges, Superior Court of the District of Columbia; and Robert A. Dixon to be United States Marshal for the Superior Court of the District of Columbia
Tuesday, October 22, 2019

Questions for Andrea Hertzfeld, nominee to be an Associate Judge of the Superior Court of the District of Columbia

1) If seated on the bench, you will decide matters that impact the freedom, livelihoods, and families of many of the individuals who come before you.
    a. How will you ensure that each person who comes before you has a meaningful opportunity to be heard – especially given the high volume and current backlog of cases at the D.C. Superior Court?

    If confirmed, I will make it my top priority to ensure that each litigant who comes before me has a full and fair opportunity to be heard. To do so, I will come to the bench prepared each day, having read any submissions and considered in advance what issues the litigants will need to address in order to assist me in deciding the matter expeditiously. Being prepared will help ensure that I use the time with the litigants to ask the most pertinent questions and am in a position to direct the parties to address the most relevant and determinative issues. I will treat each litigant respectfully and will listen attentively to the arguments made. I will provide litigants not only rulings, but also the rationales for those rulings so that they can be assured that the court has considered their positions fully and fairly.

2) The Superior Court handles a broad range of trial matters and unfortunately an increasing backlog of cases. Currently there are six vacancies at the D.C. Superior Court, with three additional retirements announced for later this year.
    a. Given these vacancies, what challenges do you foresee as a new judge entering into an already strained court, and what steps will you take to ensure you are effectively managing your docket of cases?

    I expect that two related challenges that I will face if confirmed to be a new judge on the Superior Court will be the high volume of cases each judge is currently handling in light of the many vacancies on the Court, and the need to quickly familiarize myself with areas of the law in which I have not previously practiced. In order to manage a large docket, I intend to rely on two of the same strengths that have allowed me to manage a very demanding, high-volume caseload at the United States Attorney's Office: efficiency and industriousness. I have spent the last 9 years managing an intense and fast-paced caseload by working long hours as needed to marshal the facts of my cases, learn new law when required, and press cases forward to resolution. Similarly, if confirmed, I expect to work hard and to put in extra hours as necessary to manage the press of business in the court. I would also draw upon the collective knowledge of my colleagues and seek direction to resolve issues efficiently. I intend to set and adhere strictly to deadlines imposed on litigants and to make and advise parties of decisions promptly.

Opening Statement of Robert Anthony Dixon
Nominee to be United States Marshal of the Superior Court of the District of Columbia
October 22, 2019

Thank you, Chairman Lankford, for hosting me today. I would also like to thank Chairman Johnson, Ranking Member Peters, and other distinguished members of the committee for the opportunity to appear before you today. I am grateful for this honor and appreciative of your consideration of my nomination to be the United States Marshal for the Superior Court of the District of Columbia. I would like to thank the National Organization of Black Law Enforcement Executives (NOBLE) for recommending me to the White House, as well as those who have supported my nomination with their endorsement of my qualifications. I would also like to thank President Donald Trump for nominating me and the Senate Committee staff for their professionalism throughout this process.

I am blessed and delighted to have family, friends and colleagues with me here today. I would like to recognize and express my sincere gratitude to my wife, Lou Dixon; father, Reverend Bobby Dixon; sisters, Pamela Taylor and Cynthia Grier; and my brother, Jeffrey Dixon, who could not be here. I would also like to acknowledge and thank my mother, Louise Dixon; grandmother, Louise Dews; and other special relatives: Margaret Elliot and Rebecca Davis, all who have passed on, but are forever with me. The wisdom, support, encouragement, and unconditional love they poured into my life is what makes my consideration for the Marshal position even a possibility. Finally, I would like to thank all other family members, friends, mentors, and colleagues for their guidance and support during this process.

I am honored to have served our Nation for more than 35 years in law enforcement. I began my career with the United States Department of Labor in 1980 as an investigator in the Office of Labor Management Standards, and remained in that role until 1999. Thereafter, I transferred to the Office of the Inspector General where I served until my retirement in 2016. During that time, I assumed increasing levels of responsibility including Senior Special Agent, Deputy Director of the Program Fraud Division, Director of the Labor Racketeering Division and, lastly, the Director of the Investigations Division. During my extensive career, I demonstrated my commitment to honorably and effectively serve the American public and our country. As the oldest federal law enforcement agency in the country, there would be no greater honor for me than to continue my career in public service with the prestigious United States Marshals Service.

If I am fortunate enough to be confirmed for this position, I will commit to utilizing my knowledge and practical skills acquired over the course of my law enforcement career to lead this critical office with honor and integrity. Thank you for your consideration of my nomination and I look forward to answering your questions.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

Position to Which You Have Been Nominated	
Name of Position	**Date of Nomination**
United States Marshal for the District of Columbia Superior Court	August 28, 2019

Current Legal Name			
First Name	**Middle Name**	**Last Name**	**Suffix**
Robert	Anthony	Dixon	

Addresses					
Residential Address (do not include street address)			**Office Address** (include street address)		
[redacted]			**Street:** N/A		
City: Alexandria	**State:** VA	**Zip:** 22314	**City:** N/A	**State:** N/A	**Zip:** N/A

Other Names Used						
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)
N/A	N/A	N/A			Est ☐	Est ☐
					Est ☐	Est ☐

Birth Year and Place	
Year of Birth (Do not include month and day.)	**Place of Birth**
1959	Trenton, NJ

Marital Status					
Check All That Describe Your Current Situation:					
Never Married	**Married**	**Separated**	**Annulled**	**Divorced**	**Widowed**
☐	X	☐	☐	☐	☐

Spouse's Name (current spouse only)			
Spouse's First Name	**Spouse's Middle Name**	**Spouse's Last Name**	**Spouse's Suffix**
Lou	Ella	Dixon	

Spouse's Other Names Used (current spouse only)						
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)
N/A	N/A	N/A			Est ☐	Est ☐
					Est ☐	Est ☐

Children's Names (if over 18)			
First Name	**Middle Name**	**Last Name**	**Suffix**
N/A	N/A	N/A	N/A

2. Education

List all post-secondary schools attended.

Name of School	**Type of School** (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	**Date Began School** (month/year) (check box if estimate)	**Date Ended School** (month/year) (check box if estimate) (check "present" box if still in school)	**Degree**	**Date Awarded**
Morehouse College	College	9/1977 Est ☐	12/1981 Est ☐ Present ☐	Bachel or of Arts	12/1981
		Est ☐	Est ☐ Present ☐		
		Est ☐	Est ☐ Present ☐		
		Est ☐	Est ☐ Present ☐		

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.

Type of Employment (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	Name of Your Employer/ Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Federal Employment	U.S. Department of Labor, Office of Inspector General	Director, Division of Investigations	Washington, D.C.	May 2014 Est ☐	January 2016 Est ☐
Federal Employment	U.S. Department of Labor, Office of Inspector General	Director, Division of Labor Racketeering	Washington, D.C.	May 2013 Est ☐	May 2014 Est ☐
Federal Employment	U.S. Department of Labor, Office of Inspector General	Director, Division of Program Fraud	Washington, D.C.	May 2008 Est ☐	April 2013 Est ☐
Federal Employment	U.S. Department of Labor, Office of Inspector General	Deputy Director, Division of Program Fraud	Washington, D.C.	October 2004 Est ☐	May 2008 Est ☐
Federal Employment	U.S. Department of Labor, Office of Inspector General	Senior Special Agent	Atlanta, GA	February 1999 Est ☐	October 2004 Est ☐
Federal Employment	U.S. Department of Labor, Office of Labor Management Standards	Investigator	Atlanta, GA	September 1980 Est ☐	February 1999 Est ☐

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

Name of Government Entity	Name of Position	Date Service Began (month/year) (check box if estimate)	Date Service Ended (month/year) (check box if estimate) (check "present" box if still serving)

N/A	N/A	Est ☐	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. 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.

2014 – Exceptional Service Impact Award, U.S. Secretary of Labor
2011 – Distinguished Career Service Award, U.S. Secretary of Labor
2011 – Class Commencement Speaker, Federal Executive Institute
2010 – Exceptional Achievement Award for Implementation and Oversight of the American Recovery and Reinvestment Act, U.S. Secretary of Labor
2010 – Community Service Award, NOBLE Washington Metropolitan Chapter
2009 – Exceptional Volunteer Service Award, U.S. Secretary of Labor
2008 – Exceptional Achievement Award for Efforts to Combat FECA and Foreign Labor Certification Fraud, U.S. Secretary of Labor
2004 – Accommodation for Workers Compensation Task Force, U.S. Marines at Cherry Point, NC
2000 – William R. Barton Award, OIG Academy, FLETC
2000-2014 – Performance Awards, U.S. Department of Labor, Office of Inspector General 1999 – Special Recognition Award for Development of Electronic Subpoena Process, U.S. Department of Labor, Office of Inspector General

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).

Name of Organization	Dates of Your Membership (You may approximate.)	Position(s) Held
The Alliance for Safe Traffic Stops	April 2019 – Present	Board of Directors
National Organization of Black Law Enforcement Executives (NOBLE)	June 2006 – Present	D.C. Chapter President (2016 – Present) Community Outreach Chairman (2010 – 2016)
International Association of Chiefs of Police (IACP)	July 2017 – Present	Member
Potomac Greens Homeowners Association, Alexandria, VA	December 2015 – December 2016	Director/Vice President
Colecroft Community Homeowners Association, Alexandria, VA	December 2006 – December 2008	Director/Treasurer (2008)
Federal Law Enforcement Officers Association (FLEOA)	October 2006 – September 2007	Member
Alpha Phi Alpha Fraternity	October 1978 – Present	Member

7. Political Activity

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

Name of Office	Elected/Appointed/ Candidate Only	Year(s) Election Held or	Term of Service (if applicable)

		Appointment Made	
N/A	N/A	N/A	N/A

(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.

Name of Party/Election Committee	Office/Services Rendered	Responsibilities	Dates of Service
N/A	N/A	N/A	N/A

(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
N/A	N/A	N/A

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.

Title	Publisher	Date(s) of Publication

President's Letter	NOBLE Washington, DC Annual Scholarship Awards Journal	2019
President's Letter	NOBLE Washington, DC Annual Scholarship Awards Journal	2018
President's Letter	NOBLE Washington, DC Annual Scholarship Awards Journal	2017
Endorsement for "Operation Longevity, A Mindful Approach to Wellness and Resilience for Law Enforcement Professional in the 21st Century"	Kileen-Lyden Associates, LLC	2017

(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.

Title/Topic	Place/Audience	Date(s) of Speech

"Why Are African Americans Disproportionately Arrested in D.C. and Elsewhere, and Does Unconscious Bias Have Anything to Do with It"	Panelist at Journal-isms Roundtable	June 18, 2019
"Shots Fired" Television Mini-Series at The Newseum	Opening remarks during Washington, DC Premier at the Newseum	March 7, 2017
Remarks during commemoration of Rev. Dr. Martin Luther King's Assassination	Martin Luther King Memorial, Washington, DC	April 2017
Commencement Speech	Federal Executive Institute Class, Charlottesville, VA	May 2011

(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.

Title	Place/Audience	Date(s) of Speech
Lecture	Department of Labor, Office of Inspector General, New Agent Training at the National Conference Center. Host address	2014

	is 18980 Upper Belmont Place, Leesburg, VA 20176.	
Lecture	Department of Labor, Employment Training Administration –Unemployment Insurance Fraud/Integrity Conference	2008-2016

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): N/A

B) Description of the specific nature of the offense: N/A

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** N/A
   2) Firearms or explosives: **Yes / No**
      N/A
   3) Alcohol or drugs: **Yes / No**
      N/A

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

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** N/A

   1) Name of the law enforcement agency that arrested/cited/summoned you: N/A

   2) Location of the law enforcement agency (city, county, state, zip code, country): N/A

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** N/A

   1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country): N/A

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: N/A

3) If no, provide explanation: N/A

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

H) Provide a description of the sentence: N/A

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

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

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

L) If conviction resulted in probation or parole, provide the dates of probation or parole: N/A

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No** N/A

N) Provide explanation: N/A

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.

Date Claim/Suit Was Filed or Legislative Proceedings Began	Court Name	Name(s) of Principal Parties Involved in Action/Proceeding	Nature of Action/Proceeding	Results of Action/Proceeding
N/A	N/A	N/A	N/A	N/A

(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.

Date Claim/Suit Was Filed	Court Name	Name(s) of Principal Parties Involved in Action/Proceeding	Nature of Action/Proceeding	Results of Action/Proceeding
N/A	N/A	N/A	N/A	N/A

(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.

Name of Agency/Association/ Committee/Group	Date Citation/Disciplinary Action/Complaint Issued/Initiated	Describe Citation/Disciplinary Action/Complaint	Results of Disciplinary Action/Complaint
N/A	N/A	N/A	N/A

(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?

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.)
N/A

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.

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

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

16. Additional Financial Data

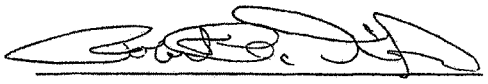
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

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 2nd **day of** Oct **, 20** 19

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

October 15, 2019

The Honorable Ron Johnson
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 Robert A. Dixon, who has been nominated by President Trump for the position of United States Marshal for the District of Columbia Superior Court, Department of Justice.

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,

DAVID APOL Digitally signed by DAVID APOL Date: 2019.10.15 12:12:35 -04'00'

David J. Apol
General Counsel

Enclosures REDACTED

U.S. Department of Justice

Washington, D.C. 20530

OCT 10 2019

Emory Rounds, III
Director
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3919

Dear Mr. Rounds:

In accordance with the provisions of Title I of the Ethics in Government Act of 1978 as amended, I am forwarding the financial disclosure report of Mr. Robert A. Dixon. President Trump has nominated Mr. Dixon to serve as the United States Marshal for the District of Columbia Superior Court. We have conducted a thorough review of the nominee's report and have counseled him on the government ethics rules.

As required by 18 U.S.C. § 208(a), Mr. Dixon will not participate personally and substantially in any particular matter in which he knows that he has a financial interest directly and predictably affected by the matter, or in which he knows that a person whose interests are imputed to him has a financial interest directly and predictably affected by the matter, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). He understands that the interests of the following persons are imputed to him: his spouse; minor children; any general partner of a partnership in which he is a limited or general partner; any organization in which he serves as officer, director, trustee, general partner or employee; and any person or organization with which he is negotiating or has an arrangement concerning prospective employment.

Upon confirmation, Mr. Dixon will resign from his positions with the National Organization of Black Law Enforcement Executives (NOBLE) and the Alliance for Safe Traffic Stops. For a period of one year after his resignation from each of these entities, he will not participate personally and substantially in any particular matter involving specific parties in which he knows that entity is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

If Mr. Dixon has a managed account or otherwise uses the services of an investment professional during his appointment, he will ensure that the account manager or investment professional obtains his prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), or obligations of the United States.

Mr. Dixon has 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 ethics agreements of other Presidential nominees who file public financial disclosure reports.

Mr. Dixon will meet live with United States Marshals Service ethics officials in connection with his appointment to the position of United States Marshal for the District of Columbia Superior Court during the timeframe established by 5 C.F.R. § 2638.305(b) in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of his confirmation, he will document his compliance with this ethics agreement by notifying United States Marshals Service ethics officials in writing when he has completed the steps described in this ethics agreement.

Finally, Mr. Dixon understands that as an appointee he will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that he will be bound by the requirements and restrictions therein in addition to the commitments he has made in this ethics agreement.

Based on the above agreements and counseling, I am satisfied that the enclosed report presents no conflicts of interest under applicable laws and regulations and that you may so certify to the Senate Judiciary Committee.

Sincerely,

Lee J. Lofthus
Assistant Attorney General
for Administration and
Designated Agency Ethics Official

Enclosure

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Robert Anthony Dixon to be
U.S. Marshal for the Superior Court of the District of Columbia

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to be the next United States (U.S.) Marshal for the Superior Court of the District of Columbia (D.C.)? **No**

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain. **No**

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as U.S. Marshal for the Superior Court of D.C.? If so, what are they, and to whom were the commitments made? **No**

4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal. **No**

II. Background of the Nominee

5. What specific background, experience, and attributes qualify you to be a U.S. Marshal?

   As of January 2016, I had served more than 30 years in law enforcement as a criminal investigator, Federal Special Agent, or manager. During that period, I investigated, oversaw, or helped manage a multitude of criminal and civil issues, including, but not limited to, matters of organized crime, illegal immigration, identity theft and fraud, health care fraud, human trafficking, and witness protection. I was responsible for ensuring the successful conduct of said efforts by being knowledgeable of the respective laws, regulations and policies that directed the effective and legal conduct of the investigations and the behavior of personnel carrying them out. To that end I was responsible for collaboratively managing personnel that included criminal investigators/agents, administrative support staff, and other managers, all who played vital roles in the success of the various efforts. This included effectively managing the personnel, equipment and financial resources critical to secure successful outcomes. Additionally, I successfully and diplomatically interacted with other agencies, organizations, and stakeholders in respectfully coordinating the efforts of the respective agencies for the common good of the mission. This interaction included the administrative heads of various governmental and non-governmental organizations or departments, local and national political figures, witnesses, and other law enforcement colleagues across the spectrum.

During my extensive career, I demonstrated my commitment for honorably and effectively serving the American public and our country. I have continued that commitment in my retirement, largely as a member of the National Organization of Black Law Enforcement Officers (NOBLE). I believe public service is an honorable profession and necessary charge. I believe that my work ethic, experience and integrity make me qualified for the role of U.S. Marshal for the Superior Court of D.C.

6. Why do you want to serve as U.S. Marshal for the Superior Court of D.C.?

   Being nominated for the position of U.S. Marshal for the Superior Court of D.C. (USMSC) is an honor of which I am truly grateful.

   I have lived my life as a public servant. The Marshals Service is the oldest law enforcement agency in the country and there could be no greater honor than to lend my service to such a prestigious institution. The position came to my attention through NOBLE, of which I am a member and for which I currently serve as the organization's Washington Metropolitan Chapter President. NOBLE's motto is justice by action. We are committed to ensuring equity in the administration of justice through public service to all communities. I believe serving as the USMSC would be an extension of that service and afford me the opportunity to serve my community on a more meaningful level.

7. Please describe your familiarity with the structure and operations of the Superior Court of D.C.

   My familiarity with the structure and operations of the U.S. Marshal for the Superior Court of D.C office is based largely on what I have been able to gather from research and information provided me by others familiar with the U.S. Marshal's Office. That said, I understand the office of the U.S. Marshal for the Superior Court of D.C has a hierarchal organizational structure comprised of various offices with respective duties subject to the direction of the current Director of the U.S. Marshals Service, Donald W. Washington.

8. Please describe:

   a. Your leadership and management style.

      I have long believed that effective management inherently rests in having competent and accountable personnel, authorized to make decisions and take actions within their respective roles of responsibility. An effective operation relies on multiple parts functioning collectively and effectively under capable and decisive leadership. I believe it is the duty of every person responsible for leading an effort, irrespective of its nature, to develop that effort by collaborating with all personnel involved in it. This is made possible when employees are provided the training, tools, direction and opportunity to carry

out their tasks. That said, each person or component must realize, accept, and conduct its functions satisfactorily with an awareness of the importance of their role and the confidence of their leadership. Not only does this help to ensure successful outcomes by identifying operational strengths and weaknesses, but it also helps develop the leadership skills and confidence of employees throughout the organization.

b. Your experience managing personnel.

Successful management is rooted in the ability to secure the confidence of others, motivate others to action, and bring about positive results. Throughout my career I have had much success in mentoring and helping advance the careers of subordinates and colleagues, while establishing a productive and respectful legacy of success. As a federal senior manager, I was responsible for directing and drafting the agency's oversight, investigative policies, and investigations concerning a multitude of U.S. Department of Labor (DOL) programs. It was my practice to delegate leadership roles to appropriate team members along with the authority to make decisions to accomplish particular tasks. To the extent possible, this decision making was left to the discretion of the respective team member, with the requirement that it was properly made and consistent with the agreed objective. After clearly discussing and communicating the objectives, I encouraged members to confidently embrace their role in representing our agency and its mission. Those under my supervision were encouraged to share their thoughts and ideas on any issue and were recognized for their positive performance and contributions. Conversely, while it was rare, those employees who failed to perform as expected or were impediments to the mission were rated or disciplined accordingly.

c. What is the largest number of people that have worked under you?

I have directly managed the day to day work of up to approximately ten (10) managerial and technical support personnel, but was responsible for providing technical oversight and investigative instruction/guidance to as many as 200 employees. These employees included headquarters and field Supervisory Agents in Charge, Assistant Special Agents in Charge, Special Agents, and technical support and administrative personnel throughout the country. My responsibilities included evaluating the performance of said personnel, as well as reviewing, critiquing, and sanctioning their evaluations of employees in their line of supervision and providing disciplinary guidance as warranted.

9. During your career, has your conduct as a government employee ever been subject to an investigation or audit by an inspector general, Council of the Inspectors General on Integrity and Efficiency, Office of Special Counsel, Department of Justice, or any other federal investigative entity? If so, please describe the nature of the allegations/conduct and the outcome of the investigation(s) or audit(s). **No.**

III. Role of the U.S. Marshal for the Superior Court of the District of Columbia

10. Please describe your view of the role of the U.S. Marshal for the Superior Court of D.C.

    To serve as the face, advocate, representative and principle decision maker for the USMSC, its employees, and stakeholders, while championing their concerns and ensuring the office's effective operation and progress.

11. The U.S. Marshals Service (USMS) is responsible for protecting judicial personnel, conducting fugitive investigations, witness security, prisoner services, asset forfeiture, service of court processes, and special operations and programs. If confirmed, how will you work to balance and prioritize the responsibilities of the multi-faceted mission of the USMS?

    With the possible exception of issues that require my immediate attention and decision, if confirmed, I will largely depend on the input and insight of my staff when prioritizing the urgencies of the USMSC. As necessary and possible, I will confer with the USMS's leadership to ensure that I have current and relevant information to best discuss and decide matters of importance. To the extent possible, I will refrain from making any absolute decisions without being assured that I have all the relevant facts and known concerns to be considered in making said decision. Once I have received the requisite information and input and am better versed in the circumstances of issues, I will decide those issues accordingly, including prioritizing the responsibilities of the USMS' multi-faceted mission.

12. In your opinion, how do the responsibilities of the U.S. Marshal for the Superior Court of D.C. differ from the responsibilities of other U.S. Marshals? If confirmed, how will you approach these distinct responsibilities?

    My research indicates that the duties of the USMSC differ from other U.S. Marshal positions in that it calls on one to function in a high profile setting that is subject to both federal and municipal oversight and interest. While, in my opinion, there is little difference in the responsibility of Marshals to enforce the law, the high volume of activity in the D.C., the possible political impact caused by USMS activities, and the need to regularly interact with and be sensitive to local and federal law enforcement agencies with competing goals and conflicting perspectives present unique responsibilities. To address these responsibilities, I would strive to promote what has or is currently working, while remaining receptive to innovative and productive ideas.

IV. Policy Questions

General

13. What do you believe are the most pressing internal and external challenges currently facing the U.S. Marshal's Office for the Superior Court of D.C.?

Work demands, career advancement, and cost of living concerns seem to be the most pressing internal and external challenges currently facing the USMSC. My experience is that staffing, retention of employees, and maintaining positive employee morale are some of the greatest challenges facing any organization, and certainly those situated in the District of Columbia, Maryland, and Virginia (DMV) area. High cost of living coupled with the high volume of work associated with many government offices uniquely located in the DMV, including the USMSC, can create a challenge in promoting workplace morale. Additionally, the magnified political visibility may negatively impact the office's ability to recruit and maintain qualified and dedicated employees.

Which challenges will you prioritize and what do you plan to do to address each of those challenges?

Inasmuch as every operation is reliant on its workforce, my first priority would be to ensure that Marshal employees know that they will have my full support as long as they do their best and make their best effort to responsibly and legally perform their duties. That said, I will do my best to attain the appropriate personnel, resources and training opportunities to permit them to safely perform their duties and fulfill the mission.

14. In your view, what are the highest priorities in both urgency and importance for the U.S. Marshal's Office for the Superior Court of D.C.?

I have and continue to believe that employees and their morale are the most important and urgent priorities in any organization. As an outsider, I can only offer my opinion as to the highest and most urgent priorities of the USMSC. The operational priorities of the Marshal's Office are judicial security, fugitive apprehension, asset forfeiture, prisoner operations and transport, sex offender investigations, missing child program, and tactical operations. If confirmed I will evaluate every situation based on the facts and circumstances to determine the office's prevailing and most urgent priority.

Why?

Law Enforcement and management are both fluid areas of concern. Circumstances involving investigative importance, budgetary concerns, operational immediacies, etc., can impact and influence decision making. Consequently, while we can set priorities and develop plans of operation based on the best data, insight, and with the best of intentions, such efforts may be met by the unexpected. That said, the unforeseen urgency of any of the previously identified matters could elevate them to the forefront of concerns. As planning and prioritizing is of the utmost importance in effective management, one of my first courses of action would be to canvass the managers and workforce and request their insight into the operations of the organization.

15. What measurements would you use to determine whether your office is successful?

If confirmed, success will be determined based on statistical accomplishments, goals targeted and reached during the rating period, successful operations accomplished within budget, return on investment dollars, and positive employee morale levels.

Workforce and Accountability

16. What do you consider to be the principal challenges in the area of human capital management at the U.S. Marshal's Office for the Superior Court of D.C.?

The principal challenges in the area of human capital management appear to be dealing with the retention and morale of deputies and support personnel, and grievances filed regarding promotions.

17. How would you handle employee disciplinary issues within the U.S. Marshal's Office for the Superior Court of D.C.?

For the sake of consistency, uniformity, credibility, and to not undermine employee morale, unless and until such a disciplinary matter properly rose to my level of concern, I would defer to the appropriate manager's oversight of the matter. I believe that following this process demonstrates leadership's confidence in the respective manager's capabilities, as well as the expectation that he/she will properly, fairly and effectively handle the matter. However, to ensure disciplinary matters are properly addressed, I would make certain that each employee, irrespective of their position, has been provided details on how to handle, file, and appeal disciplinary issues. This might also include utilizing a review board to ensure that disciplinary matters are properly and thoroughly handled. Lastly, in instances where an employee has exhausted all of the preliminary/internal measures afforded to address their personnel concerns, I would, to the extent necessary and practical, permit an open-door policy whereby employees could discuss outstanding issues directly with me. If issues arise under my direct chain of authority, I will determine whether the respective employee complied or failed to comply with the requisite rules as well as the reason why. Any employee violation of rules, even if documented and verifiable, may have extenuating circumstances. In these instances I will strongly consider the importance of respecting and abiding by relevant rules, while also intelligently considering those extenuating circumstances in a way that might prove beneficial to the overall operation and employee morale.

a. How would you respond to underperforming employees within the U.S. Marshal's Office for the Superior Court of D.C.?

If an employee's performance is of concern, I would identify and access their performance shortcomings collaboratively with input from the employee his or herself and from their respective manager(s). I would communicate to the

employee what is expected of them according to their job description/assignment and ensure that he or she has the same understanding. Then, I would develop and implement a performance improvement plan - inclusive of mentoring and training. If efforts prove to be unsuccessful, I would work with human resources to effect removal.

b. Please explain your views on putting an employee on paid administrative leave pending an investigation or disciplinary action. Under what circumstances, if any, do you believe that might be appropriate?

If an event or activity has occurred that appears to place other employees, the organization, or the public at risk, paid administrative leave may be appropriate. If there is concern about the safety or well-being of staff or if the reputation or the integrity of the organization could be impacted if prompt action is not taken, it may be appropriate under specific circumstances.

18. Protecting whistleblower confidentiality is of the utmost importance to this Committee.

a. During your career with the Office of the Inspector General at the U.S. Department of Labor, how did you address whistleblower complaints?

During my career with the Office of the Inspector General at the U.S. Department of Labor, Whistleblower complaints were addressed with and under the direction of our Office of Legal Counsel. The Whistleblower's identity was protected with strict confidence and only shared on a need-to-know basis with select agency managers, agents responsible for conducting the respective investigation, and others supporting the investigation.

b. How do you plan to implement policies within the office of the U.S. Marshal for the Superior Court of D.C. to encourage employees to bring constructive suggestions forward without the fear of reprisal?

The Whistleblower Act of 1989, as amended (The Act), was developed to protect federal government employees who report activity or the possible existence of activities that violate laws, rules, and regulations. It also protects those reporting wastefulness of government funds and assets, government mismanagement, and abuses of authority or dangers to public health and safety. My experience is that Whistleblower information is often invaluable in helping to uncover and successfully investigate matters of wrongdoing. As law enforcement officers are duly sworn to protect and serve, which includes enforcing existing laws and protecting those subject to them, I would do all in my legal authority to ensure Whistleblowers receive all protections under the Act. I would make it a priority to educate the entire workforce in my purview of the specifics of the Act, including what constitutes a valid complaint, how to file a complaint, the process for addressing a complaint, the protection afforded to Whistleblowers under The Act, and, lastly, the possible rewards provided. I would also reinforce to the

workforce its importance as part of the organizational structure and its responsibility as leaders/parts of the organization to bring valid violations or concerns forward. Noting their obligation, I would emphasize that our mission is made possible by each of us doing our part, which includes calling out and reporting fraud, waste, abuse, mismanagement, etc. and to do less is an abdication of oath and responsibility. I would also ensure that measures exist and are readily available for anyone unsure about or concerned with how to address/handle Whistleblower concerns, or potential violations of any sort.

c. Do you commit without reservation to work to ensure that any whistleblower within the U.S. Marshals Service for the Superior Court of D.C. does not face retaliation? **Yes.**

d. Do you commit without reservation to take all appropriate action if notified about potential whistleblower retaliation? **Yes.**

19. What is your view of the role of the Department of Justice Inspector General as it relates to the USMS?

The role of the Department of Justice Inspector General as it relates to the USMS is like that of any other Inspector General in the federal sector: to guard against waste, fraud, and abuse in government affairs and operations.

a. If confirmed, what kind of relationship do you anticipate having with the Department of Justice Inspector General?

One of mutual respect and appropriate collaboration. If confirmed, my office will fully cooperate with the Department of Justice Inspector General on any investigative matter.

20. In October 2017, the Government Accountability Office (GAO) published a study entitled, "U.S. Marshals Service: Additional Actions Needed to Improve Oversight of Merit Promotion Process and Address Employee Perceptions of Favoritism."[1] GAO cited the results of a 2016 Office of Personnel Management Federal Employee Viewpoint Survey that indicated that 41 percent of USMS respondents "strongly disagreed or disagreed" that promotions were merit-based.

a. If confirmed, how will you ensure promotions are made on the basis of merit?

Promotions would be based on a totality of circumstances that include but are not limited to experience, proficiency of conduct, statistical accomplishments,

[1] United States Government Accountability Office, *Report to the Chairman, Committee on the Judiciary, U.S. Senate, U.S. Marshals Service Additional Actions Needed to Improve Oversight of Merit Promotion Process and Address Employee Perceptions of Favoritism*, October 2017, available at: https://www.gao.gov/assets/690/687759.pdf

familiarity with and advancement of the mission, managerial input, ability to interact and work with others, and self-motivation.

b. If confirmed, how will you address perceptions that promotions are not occurring on the basis of merit?

The simplest way to address perceptions that promotions are not occurring on the basis of merit is to ensure that they are occurring on the basis of merit. If confirmed, I will establish procedures for promotions with input from both supervisory and non-supervisory personnel. In addition, relevant training, career mentoring, and procedures for ensuring legitimate and fair opportunities for employees to demonstrate their skill sets and proficiencies will be implemented and encouraged. The resulting information will be periodically reviewed with employees to help them understand their progress, or lack thereof, and how they can realistically compete for advancement.

21. In June 2017, the Department of Justice (DOJ) Office of the Inspector General (OIG) recommended procedural changes for the USMS for the Superior Court of D.C related to prisoner supervision.[2] The report noted that while USMS policy directives existed concerning the frequency of safety and wellness checks, no policies existed specifying responsibility ensuring their completion. The report also noted that no USMS policy existed concerning the documentation of these checks.

a. Do you concur with the recommendations of the OIG? If so, how will you work to ensure that the policy directives are updated and abided by for the USMS for the Superior Court of D.C.?

Based on the OIG findings as indicated in the referenced report, the recommendations seem reasonable and appropriate. However, my limited familiarity with the situation investigated leaves me at a disadvantage as to whether they most completely address the problems identified. To better confirm the prudency of the recommendations, I would query the USMSC personnel to determine whether the recommendations effectively address the problems caused by the lack of policies and procedures. I would be sure to ask them for additional suggestions and observations to further improve prisoner supervision and oversight. Capitalizing on the experience and insight of personnel interacting with and overseeing prisoner supervision, I would implement or ensure procedures for addressing problems and keeping oversight activities current. To encourage employee compliance, I would consider incentives and rewards for effectively and properly abiding by the policy directives. To further address concerns, I would also consider options for garnering information from inmates relating to oversight issues or concerns that might be helpful in addressing the same.

[2] U.S. Department of Justice, Office of the Inspector General, *Procedural Reform Recommendation for the U.S. Marshals Service, Superior Court of the District of Columbia*, June 2017, available at: https://oig.justice.gov/reports/2017/i17001881.pdf.

Interagency and Stakeholder Collaboration

22. The law enforcement and judicial system for D.C. uniquely involves multiple federal, local, and private entities. If confirmed, how would you work to collaborate and coordinate with relevant agencies in multi-agency local task forces and initiatives, fugitive investigations, and the integration of information technology systems?

    As has been the case throughout my career, I would collaborate with relevant agencies in multi-agency local task forces and initiatives, fugitive investigations, and the integration of information technology systems, as warranted and appropriate. To the extent possible I would respect the authority of relevant stakeholders and interested parties; however, I would not compromise the values or mission of the U.S. Marshal's Office to do so. With the understanding that the mission of the Marshal's Office often intercedes with and is at times dependent on support from other agencies, I would seek to respectfully interact with such entities, based on the insight of my workforce and information that I acquired independently. I would be responsive to valid concerns brought to my attention and when possible, strive to identify and remove procedural impediments that prevent or impede effective law enforcement. I have often considered interactive information sharing an essential goal of expeditious law enforcement. However, as a member of various collaborative information sharing task forces and efforts, I am familiar with the legal concerns, impediments, and firewalls that make such sharing difficult. Still, when necessary and legally possible, I would strive to ensure that each relevant organization partnering with the Marshal's office had timely access to information necessary to advance its efforts, while requiring the same in return.

V. Relations with Congress

23. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed? **Yes, consistent with the Department of Justice's law enforcement, national security, and litigation responsibilities.**

24. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed? **If confirmed, I will work to accommodate Congress's informational needs consistent with the Department of Justice's law enforcement, national security, and litigation responsibilities.**

25. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed? **Yes, consistent with the Department of Justice's law enforcement, national security, and litigation responsibilities.**

VI. Assistance

26. Are these answers your own? **Yes.**

    Have you consulted with the Department of Justice or any other interested parties? **Yes**

    If so, please indicate which entities.

    I have spoken with Former U.S. Marshal for the Superior Court of the District of Columbia Michael Hughes, Acting U.S. Marshal for the Superior Court of the District of Columbia Robert Brandt; former U.S. Marshal Bennie Williams. Additionally I have consulted with the U.S. Marshal Service's Office of Congressional Affairs and the U.S. Department of Justice's Office of Legislative Affairs.

I, **Robert A. Dixon**, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

_____
(Signature)

This_____day of _____, 2019

VI. Assistance

26. Are these answers your own? **Yes.**

Have you consulted with the Department of Justice or any other interested parties? **Yes**

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I have spoken with Former U.S. Marshal for the Superior Court of the District of Columbia Michael Hughes, Acting U.S. Marshal for the Superior Court of the District of Columbia Robert Brandt; former U.S. Marshal Bennie Williams. Additionally I have consulted with the U.S. Marshal Service's Office of Congressional Affairs and the U.S. Department of Justice's Office of Legislative Affairs.

I, **Robert A. Dixon**, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

(Signature)

This 16 day of October, 2019

Senator Kyrsten Sinema
Post-Hearing Questions for the Record
Submitted to Robert A. Dixon

Nominations of Joshua A. Deahl to be an Associate Judge, District of Columbia Court of Appeals; Deborah J. Israel and Andrea L. Hertzfeld to be Associate Judges, Superior Court of the District of Columbia; and Robert A. Dixon to be United States Marshal for the Superior Court of the District of Columbia
Tuesday, October 22, 2019

Questions for Robert Dixon, nominee to be U.S. Marshal for the Superior Court of the District of Columbia

1) If you are confirmed, how will you measure your success in your new role?

   RESPONSE: Success can be measured in a variety of ways. It is my understanding that the U.S. Marshals Service (USMS) regularly audits district offices to ensure compliance with USMS and DOJ policies. As warranted, I will look to these audits to help me understand and determine areas of success for the U.S. Marshal Office for the Superior Court of D.C. (USMSC), and areas where improvements are needed. My priorities will include, but not be limited to:

   - **Ensuring the safe and efficient operation of the D.C. Superior Court's judicial process;**
   - **Timely achieving goals relevant to its mission and various responsibilities;**
   - **Promoting and maintaining positive employee morale;**
   - **Helping employees identify, develop, and attain personal career objectives.**

2) How will you ensure that the D.C. Marshal's Service treats all individuals with fairness and respect?

   RESPONSE: I believe that all individuals should be treated with respect. First, I will evaluate the office's current operations and ensure that any and all existing successful policies and practices continue, and that any unsuccessful policies or practices are adapted appropriately. Next, I will ensure the existence of clear, decisive protocols for humanely and fairly treating those in the custody of the USMSC, those for which it is responsible, and those with whom it interacts. I will also emphasize to USMSC employees their significance and obligations as civil servants, which includes ensuring that they are treated fairly and understand the critical importance of treating others fairly. Additionally, I will provide the attention necessary to address or resolve relevant issues and concerns identified by USMSC employees, regardless of their position, as well as non-USMSC personnel. Finally, I will hold employees accountable for effectively and fairly carrying out their responsibilities and, when appropriate, reward those who perform above expectations while disciplining those who underperform without justification.

3) The U.S. Marshal for the Superior Court of D.C. has unique responsibilities in terms of coordinating with municipal law enforcement entities.

   a. What experience do you have with such law enforcement collaboration and what steps will you take to ensure effective collaboration?

RESPONSE: In addition to working with a multitude of federal law enforcement agents and officials, I have successfully worked with professionals from various state and local law enforcement municipalities. These have included police departments and Sheriffs' offices with whom I have served subpoenas, executed search and arrest warrants, and conducted surveillance operations. I have also partnered with state and local law enforcement agencies in conducting high-level VIP protection operations, both foreign and domestic, that entailed the safe, efficient, and timely movements of three U.S. Department of Labor Secretaries, two U.S. Presidents, one U.S. Vice President, and one U.S. Presidential Candidate. These collaborative relationships enhanced my respect for the diverse missions and varied expertise of others and my empathy for perspectives that might be different from my own.

Through my work with the National Organization of Black Law Enforcement Officers (NOBLE), I regularly meet with local law enforcement and community stakeholders to understand their concerns and to obtain insight on how to best address issues of crime and perceptions of disparate treatment in their communities. I have assisted law enforcement and community leaders in determining the best way to address a variety of issues specific to their local community. As a presenter of NOBLE's *The Law & Your Community*, which is promoted as a "conversation to avoid conflict" between law enforcement and the public, I engage the two groups in discussions highlighting the positive and negative behaviors of each. With the combined group's assistance, I respectfully discuss issues relating to police behavior and citizens' rights, while encouraging each group to be forthcoming about their role in that relationship. This is the perspective I will bring to DC Superior Court to ensure effective collaboration with the USMSC's federal and local law enforcement partners.

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