

**QUESTIONS FOR THE RECORD**  
**MR. JOHN BRENNAN**

**QUESTIONS FROM THE CHAIRMAN**

**Interagency Review of Drone Strikes**

With regard to targeted strikes, you stated during an April 30, 2012, speech at the Woodrow Wilson Center that: “[w]e listen to departments and agencies across our national security team. We don’t just hear out differing views, we ask for them and encourage them. We discuss. We debate. We disagree. We consider the advantages and disadvantages of taking action. We also carefully consider the costs of inaction and whether a decision not to carry out a strike could allow a terrorist attack to proceed and potentially kill scores of innocents.”

- *To what extent should there be a formal inter-agency review process prior to each strike? Which government entities should participate?*

There should be an interagency review process when making policy decisions associated with such strikes, including the criteria that governs the circumstances under which a targeted strike can be carried out. Such a process should include analysts, operators, and policymakers with roles and responsibilities bearing on intelligence, military, diplomatic, law enforcement, and homeland security, as well as lawyers from appropriate departments and agencies.

As I stated in my speech at the Wilson Center, the individuals who participate in this process consider, in a deliberate and responsible manner, the information available, including the most up-to-date intelligence. These reviews oftentimes generate requests to clarify existing information or spur requests for new information to provide the best available intelligence and analysis to inform their decision. I believe this process should continue, and should be refined and strengthened over time, while maintaining the President’s ability to direct action as necessary to defend the Nation against attack.

**Following Up on Reports of Civilian Casualties**

In your responses to Committee pre-hearing questions, you wrote that, “In the wake of every one of these [lethal] operations, we harness our relevant intelligence capabilities to assess whether, despite our best efforts, any collateral casualties

occurred. This includes analysis from any relevant military or IC component, media reports, and a myriad of other sources of information.” During your confirmation hearing, you stated that, when civilian deaths occur, “We need to acknowledge it publicly.”

- ***How should the U.S. government investigate allegations of collateral deaths with regard to strikes outside of declared war zones?***

The United States Government takes seriously all credible reports of civilian deaths. When civilian deaths are alleged, analysts draw on a large body of information – human intelligence, signals intelligence, media reports, and surveillance footage – to help us make an informed determination about whether civilians were in fact killed or injured. In those rare instances in which civilians have been killed, after-action reviews have been conducted to identify corrective actions and to minimize the risk of innocents being killed or injured in the future. Where possible, we also work with local governments to gather facts and, if appropriate, provide condolence payments to families of those killed.

- ***Should the U.S. government make details, to include the overall numbers, of collateral deaths public?***

In public speeches in September 2011 at Harvard Law School and in April 2012 at the Woodrow Wilson International Center for Scholars, I emphasized that this Administration has attempted to share as much information as possible with the American people, and that this degree of openness was an important step in establishing the credibility of our counterterrorism efforts. Consistent with these views, I believe that, to the extent that U.S. national security interests can be protected, the U.S. Government should make public the overall numbers of civilian deaths resulting from U.S. strikes targeting al-Qa’ida.

### **Targeted Killing of Individuals Who Pose “Imminent Threats”**

In the recently released, unclassified white paper, DOJ writes that “the condition that an operational leader presents an ‘imminent’ threat of violent attack against the United States does not require the United States to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future.” The unclassified white paper also mentions a “limited window of opportunity” to take a strike.

- **The Committee has previously discussed the “imminence” standard with the Executive Branch. As it has come under significant public question, can you elaborate on what “imminent” means in this case?**
- **Can you provide, for the public’s benefit, a general description of why, in the Executive Branch’s opinion, you cannot wait for a terrorist to be actually attempting to carry out an attack before exercising lethal force to eliminate that threat?**

The white paper discusses at some length the meaning of “imminence” in the context of the subject matter of the paper, as did the Attorney General in his March 5, 2012 speech at Northwestern Law School. In addition, in May 2011, the Committee was given access to the classified Office of Legal Counsel advice related to the subject of the white paper. I would defer to these works prepared by the Department of Justice for any further elaboration of the meaning of “imminence” in the context of these legal analyses.

With respect to the broader question of when the Executive Branch must take action to eliminate terrorist threats, as I described in a September 16, 2011 speech at Harvard Law School, terrorists, such as al-Qa’ida, do not wear uniforms or carry arms openly or signal that they are about to strike by, for example, massing at the border of the nation they plan to attack. Rather, they take extraordinary measures to hide their plans to strike and cause significant casualties with little warning.

In light of this, and given the Government’s responsibility to protect the nation and its citizens from attack, direct action must be taken when it is necessary to do so to protect against actual ongoing threats – to stop plots, prevent future attacks, and save American lives. Determinations about when targeted strikes are necessary and appropriate are made on a case-by-case basis, drawing upon intelligence, military, diplomatic, homeland security, and law enforcement professionals, as necessary, as well as input from lawyers from appropriate departments and agencies.

### **Limitations on Drone Strikes**

In the recently released, unclassified white paper, DOJ writes that "the United States retains its authority to use force against al-Qa'ida and associated forces outside of the area of active hostilities when it targets a senior operational leader of the enemy forces who is activity engaged in planning operations to kill Americans."

- **Could the Administration carry out drone strikes inside the United States?**

This Administration has not carried out drone strikes inside the United States and has no intention of doing so.

- **Could you describe the geographical limits on the Administration's conduct drone strikes?**

As I noted in my speech at Harvard Law School in September 2011, and as the Attorney General stated publicly in March, we do not view our authority to use military force against al-Qa'ida and associated forces as being limited to "hot" battlefields like Afghanistan. Al-Qa'ida and its associates have in the recent past directed several attacks against us from countries other than Afghanistan. The Government has a responsibility to protect its citizens from these attacks, and, thus, as the Attorney General has noted, "neither Congress nor our federal courts has limited the geographic scope of our ability to use force to the current conflict in Afghanistan."

This does not mean, however, that we use military force whenever or wherever we want. International legal principles, such as respect for another nation's sovereignty, constrain our ability to act unilaterally. Using force in another country is consistent with these international legal principles if conducted, for example, with the consent of the relevant nation – or if or when other governments are unwilling or unable to deal effectively with a threat to the United States.

- **How do we ensure that our country's use of drone strikes to target al-Qa'ida is not used as justification for other countries to assassinate political opponents by labeling them leaders of "terrorist" organizations?**

Numerous senior U.S. officials – including myself, Attorney General Eric Holder, former State Department Legal Adviser Harold Hongju Koh, and former Department of Defense General Counsel Jeh Johnson – have spoken openly and repeatedly about the legal and policy foundations of our counterterrorism actions, including the use of remotely piloted aircraft. We have made clear the commitment of the United States to conduct these actions in accordance with all applicable law, including the laws of war, and not one of our public statements has even remotely suggested that it would be acceptable to use drone strikes as a

means of targeting political opponents. In the future, the Administration will continue to be as open and transparent as possible about its use of targeted strikes necessary to prevent terrorist attacks against U.S. persons, and it will make clear that it takes such actions in a lawful, judicious, proportional, just, and ethical manner.

### **Who Makes Targeted Killing Decisions?**

In the recently released, unclassified white paper, DOJ says that drone strikes must be approved by an "informed, high-level official of the U.S. government;" however, the paper says little else about the process the Administration uses to review and approve such strikes.

- **Who within the Administration makes the ultimate determination of whether an American is a "senior operational leader of al Qa'ida" who poses an "imminent threat of violent attack"?**

An operation using lethal force in a foreign country outside an area of active hostilities, targeted against a U.S. citizen who is a senior operational leader of al-Qa'ida or associated forces, and who is actively engaged in planning to kill Americans, would be lawful, as the Attorney General indicated in his speech in March of last year, at least in the following circumstances: First, after the U.S. Government has determined, after a thorough and careful review, that the individual poses an imminent threat of violent attack against U.S. persons; second, capture is not feasible; and third, the operation is conducted in a manner consistent with applicable law of war principles.

Given the stakes involved and the consequence of the decision to conduct a strike, the evaluation of whether an individual presents an "imminent threat" would be made after considering the information available, carefully and responsibly – drawing on the most up-to-date intelligence and the full range of our intelligence capabilities. The process of deciding to take such an extraordinary action would involve legal review by the Department of Justice, as well as a discussion among the departments and agencies across our national security team, including the relevant National Security Council Principals and the President.

### **Reducing Contractors at the CIA**

This Committee has long been very concerned about the IC's heavy dependence on contractors. Past DNIs and agency heads have generally agreed that there is an

over-reliance on contractors in the IC that risks putting inherently governmental work in the hands of the private sector and increasing costs.

- ***What is your view of the proper role for contractors in the CIA?***

Contractors play a vital role in supporting the CIA's mission. Contractors provide the Agency with flexibility and unique expertise to respond to fast-breaking and dynamic intelligence missions. The significant growth in the contractor workforce came from the CIA's greatly expanded operational tempo after 9/11. For the past several years, the agency has reduced its reliance on contractors. If confirmed, I will carefully monitor the size of the contractor workforce and make adjustments accordingly. I also will ensure that all contractors work under the authority of a U.S. Government employee who oversees and manages the contractors.

- ***How will you ensure that CIA contractors are not in a position to manage government workers, set policy, or otherwise make inherently governmental decisions?***

CIA policies and regulations prohibit contracting for services that are inherently governmental and putting contractors in position to set policy or allowing contractors to manage government employees. All Agency contracts are reviewed to ensure that those policies and regulations are adhered to, and I am committed to aggressively ensuring that they are followed, utilizing the capabilities of the Inspector General as appropriate.

- Contractors tend to be more expensive on an annual basis than government workers. ***How do you plan to manage the cost of contractors versus government employees at the CIA?***

I understand that the Agency has taken concrete steps, especially over the past year or so, to ensure that it is receiving the best value for its contracting dollars through contract consolidation, aggressive contract negotiations, and the implementation of standardized contracting pricing policies. I will assertively continue those efforts.

### **Keeping Chiefs of Mission Informed of All Intelligence Activities**

In your responses to the Committee's pre-hearing questions, you wrote that Chiefs of Mission must be kept fully and currently informed of the activities of U.S. government agencies in their countries, consistent with the provisions of 22 USC 3927. That statute also requires that U.S. Ambassadors "shall have full

responsibility for the direction, coordination, and supervision of all United States Government officers and employees in that country,” and that “any department or agency having officers or employees in a country shall... comply fully with all applicable directives of the Ambassador.”

- ***Is it your understanding that intelligence activities are subject to the approval of the Chief of Mission?***

Yes. Pursuant to the President’s instruction, codified in a 1977 agreement between the Department of State and the CIA, the Chief of Mission has a responsibility to express a judgment on all CIA activities in his or her country of accreditation in light of U.S. objectives in the host country and in the surrounding areas and to provide assessments on those activities to Washington. Further, if the Chief of Mission believes a CIA activity might impair U.S. relations with the host country, the Chief of Mission may suspend a CIA or other intelligence activity. If disputes arise between the Chief of Mission and the Chief of Station that cannot be resolved locally, they are referred to Washington for adjudication by Principals. In order to enable the Chief of Mission to meet these responsibilities, the Chief of Station must keep the Chief of Mission fully and currently informed of CIA activities in the host country (unless the President or Secretary of State has directed otherwise.)

## **QUESTIONS FROM THE VICE CHAIRMAN**

### ***Interrogation Study***

- **If a vote on your nomination does not occur before Friday, February 15, 2013, when the CIA's response on the Interrogation Study is due to the Committee, will you in any way seek to review or change the CIA's response?**

If I am not confirmed as the Director of the Central Intelligence Agency by the time CIA's response on the Interrogation Study is ready to be sent to the Committee, I will not seek to review or change the CIA's response in any way.

### ***Graham's Benghazi Questions***

During yesterday's hearing, you said that you thought Senator Graham's questions on Benghazi were not answered because the responses were "privileged." But Senator Graham's first question was whether Director Clapper was aware of the series of attacks in Benghazi in the summer of 2012. Clearly there is no issue of Presidential privilege in asking what Director Clapper knew.

- **Why did the National Security Staff (NSS) tell the ODNI not to respond to Senator Graham's questions?**
- **Did you play any role in the direction not to answer Senator Graham's questions?**

I am not aware of and played no role in any alleged attempt to direct Director Clapper not to answer Senator Graham's questions.

### ***Zero Dark Thirty***

There has been a lot of controversy about the Administration's cooperation with the movie *Zero Dark Thirty*.

- **Did you meet with the writer or director or have any discussions with them?**

- **Did you have any role in the Administration’s cooperation with the movie? If so, what was it?**

I, along with several other White House officials, engaged in a one hour, unclassified discussion with Mark Boal on June 30, 2011 on how White House officials viewed the opportunities and risks associated with a film about the raid that killed Bin Laden.

### ***Bogus Intelligence***

Media reports indicate that when you led the Terrorist Threat Integration Center (TTIC), you championed a program involving IT contractors in Nevada who claimed to intercept al-Qaida targeting information encrypted in the broadcasts of TV news network Al Jazeera. The media says, and documents we have reviewed show, that CIA officials derided the contractor’s information, but nonetheless, you passed it the White House and alert levels ended up being raised unnecessarily.

- **Did you have confidence in the information you provided? If not, why did you provide it?**

I never “championed” such a program. The Terrorism Threat Integration Center (TTIC) was the recipient of such information and data provided by the CIA and included it in analytic products as appropriate.

- **Why did you keep the program alive?**

I did not keep the program alive. I would refer you to the CIA, as it collected the data from the contractors and passed it along to TTIC, for the answer to your question.

- **What was the eventual outcome of the program?**

I do not know the outcome of the program, other than it was determined not to be a source of accurate information.

### ***DSOP***

I read your responses to the prehearing questions and with regard to NCTC’s Directorate of Strategic Operational Planning, you stated that NCTC “supports the NSS in helping to draft and coordinate some—not all” of the strategies. But the

National Security Act, as modified by IRTPA, requires NCTC to “provide strategic operational plans for counterterrorism operations conducted by the United States Government.” In other words, the law requires that NCTC prepare the plans, but you are saying in practice the White House prepares the plans.

- **Why isn't the Administration complying with the National Security Act?**
- **If NCTC is only helping the White House with the plans and not writing them as the law requires, why should Congress fund NCTC for this purpose?**

The National Security Staff (NSS), on behalf of the President, leads the interagency policy processes to develop and oversee implementation of key CT policies, strategies, and plans. Consistent with the IRTPA, DSOP plays an important role in the NSS-led process for CT issues, the bounds of which the NSS determines depending on the specific policy, strategy, or plan. It is important to keep in mind, for instance, that all CT efforts are inherently integrated into broader national security and foreign policy strategies and plans, which stretch beyond NCTC's CT mandate, requiring the NSS to play an important directive and integrative function from a more comprehensive perspective. Departments and agencies report to the President in executing their roles in these plans, and DSOP's role is to support the NSS by ensuring that departments and agencies are coordinating the effective execution of those plans. NSS provides the strategic oversight and interagency integration on behalf of the President. However, not all CT-related activities in the USG include the NSS or occur at its explicit direction. For example, DSOP runs CT exercises that test USG capabilities to prevent or mitigate a terrorism threat to law enforcement and state and local governments. For that reason, DSOP support to the NSS-led process does not represent the entirety of its production function outlined in the IRPTA, and therefore I encourage you to engage DSOP directly on those efforts it undertakes that are not NSS-led.

### ***High Value Targets***

In Thursday's hearing you stated that you would be glad to get the information about those high-value targets that had been captured with US intelligence support. But that was not my question.

- **Again, my question is: How many high-value targets have been arrested, detained, and interrogated by the United States government (not with US intelligence support) during your four years with the Administration?**

Over the last four years, the American criminal justice system has been used to arrest, detain, interrogate, and prosecute numerous suspected terrorists. Since January 2009, dozens of individuals have been arrested, detained, interrogated, and convicted of terrorism-related offenses in federal court. Individuals arrested here in the United States include David Headley, Mansoor Arbabsiar, Najibullah Zazi, Faisal Shahzad, and Umar Farouk Abdulmutallab. Individuals initially taken into U.S. custody overseas include Ahmed Ghailani, Jesse Curtis Morton, Mohamed Ibrahim Ahmed, and Betim Kaziu, and subsequently brought to the United States for interrogation and prosecution.

Please see the classified section for additional information from the Department of Defense.

## **QUESTIONS FROM SENATOR BURR**

1. Describe each specific instance in which you were authorized to disclose classified information to a reporter or media consultant, including the identity of the individual authorizing each disclosure and the reason for each such disclosure.

In exceptional circumstances, when classified information appears to have already been leaked to the media, it may be necessary to acknowledge classified information to a member of the media or to declassify information for the very purpose of limiting damage to national security by protecting sources and methods or stemming the flow of additional classified information. Such conversations involve only the most senior Agency officials or their designees and must be handled according to any applicable regulations. I have on occasion spoken to members of the media who appeared to already have classified information, in an effort to limit damage to national security; however, even in those circumstances I did not disclose classified information.

2. If any communications with reporters or media consultants were recorded, provide the transcripts of any recordings and any official written records.

During my hearing, I answered questions about a conference call on May 7, 2012 with former national security officials who were likely to comment on an Associated Press story that had run earlier in the day regarding a foiled bomb plot. In advance of my voluntary interview with the Department of Justice, my counsel received a transcript of this conference call from DOJ. Enclosed is a copy of what my counsel was provided.

3. Identify those specific individuals to whom you expressed concerns (regardless of medium – email, text, conversations, phone calls) about the effectiveness, or legality of the CIA's Enhanced Interrogation Techniques (EITs) program.

I had significant concerns and personal objections to many elements of the EIT program while it was underway. I voiced those objections privately with colleagues at the Agency. I expressed my personal objections to it, but I did not try to stop it because it was something being done in a different part of the Agency under the authority of others. When I left the Agency, I spoke publicly about those concerns. When I was named the President's CT advisor, I was put in a position to influence decisions related to EITs, such as how we handle interrogations, and I strongly support the President's ban on such techniques.

4. Have there been any authorized disclosures of national intelligence since January 13, 2013 (the date the FY13 Intelligence Authorization Act was signed into law)?

No, not to my knowledge, but I do not have visibility into the entire Executive Branch to which Section 504 of the Intelligence Authorization Act for Fiscal Year 2013 would apply. So, as it relates to my current office, I am not aware of any authorized disclosures of national intelligence since January 13, 2013, that would trigger the notification requirements of Section 504.

5. Have there been any crimes reports filed with DOJ for unauthorized disclosures of national intelligence (or are there any reports in process) since January 13, 2013 (the date the FY13 Intelligence Authorization Act was signed into law)?

I must defer to the Department of Justice on this question, as my answer could have implications for open or pending law enforcement investigations about which I would not necessarily have knowledge.

6. As the Director of the CIA, you will be responsible for ensuring the successful collection and analysis of national intelligence, including intelligence about the Global Jihadist Network. One of the best sources of such intelligence comes from the interrogation of captured terrorists. But the Administration's past policies have undercut the gathering of this intelligence by either killing jihadists overseas or mirandizing them when they attack here at home, such as underwear bomber Umar Farouk Abdulmatallab. Both tactics undercut the gathering of intelligence, which will be your job as CIA director. How will you fix this problem?

The United States has acknowledged that it uses lethal force, when appropriate and consistent with applicable law, to prevent terrorist attacks on the United States and to save American lives, but I reject any suggestion that the Administration somehow prefers killing terrorists to capturing them. As I and other senior officials have stated on numerous occasions, our unqualified preference is to capture an individual rather than use lethal force, in part because we recognize that one of the best sources of intelligence comes from the interrogation of captured terrorists. We only undertake lethal force when we determine that capture is not feasible.

Moreover, I also reject the suggestion that Miranda warnings undermine intelligence collection. As an initial matter, our overriding responsibility is to protect the nation and the American people against terrorist attacks, and Miranda

does not restrict our ability to ask an arrestee any and all questions that are prompted by an immediate concern for the public safety without administering Miranda warnings. Beyond this, while some terrorism suspects have refused to provide information in the criminal justice system, so have many held in military custody. What is undeniable is that many individuals in the criminal justice system have provided a great deal of information and intelligence even after receiving Miranda warnings. Indeed, as I have stated publicly in the past, in some circumstances Miranda warnings have been essential to our ability to keep terrorists off the streets, as post-Miranda admissions have led to successful prosecutions and long-term prison sentences.

7. In 2008 you wrote, “A critical step toward improved U.S.-Iranian relations would be for U.S. officials to cease public Iran-bashing, a tactic that may have served short-term domestic political interests but that has heretofore been wholly counterproductive to U.S. strategic interests.” Please identify the U.S. officials who engaged such “Iran-bashing” and explain how their comments were counterproductive. How is criticism of Iran, whose policy is the destruction of Israel and the United States, “wholly counterproductive” to U.S. strategic interests? Can you define that level of criticism of Iran you would permit U.S. officials in interagency meetings, internal CIA analysis, or the conduct of this body?

In this 2008 article, I discouraged the use of terms such as “axis of evil,” which emboldened and energized Iranian radicals and were counterproductive to past efforts to achieve a diplomatic resolution to our concerns about Iran’s nuclear program. I also acknowledged the importance of not implying tolerance for Iran’s egregious policies and actions, about which this Administration has consistently expressed its deep concern – specifically Iran’s continuing failure to comply with its international nuclear obligations, its support for terrorism and other destabilizing activities throughout the region, and its persistent abuse of the rights of its people. It is important to recognize both the opportunities and risks in engaging with this regime. If confirmed, I will do everything I can to provide thorough, timely, unbiased, and accurate intelligence and analysis to support policy-makers as they deal with this national security priority.

8. In 2008 you wrote: “Not coincidentally, the evolution of Hezbollah into a fully vested player in the Lebanese political system has been accompanied by a marked reduction in terrorist attacks carried out by the organization. The best hope for maintaining this trend and for reducing the influence of violent extremists within the organization--as well as the influence of extremist Iranian officials who view Hezbollah primarily as a pawn of Tehran--is to increase Hezbollah's stake in

Lebanon's struggling democratic processes." What did you mean by "increase Hezbollah's stake in Lebanon" – more Hezbollah representatives and fewer non-Hezbollah representatives? An alternate assessment was provided in 2009 by Hizballah chief Hasan Nasrallah's deputy, Naim Qassem, told the Los Angeles Times in 2009 that the organization's political arm and terrorist arm were led by the same people: "The same leadership that directs the parliamentary and government work also leads jihad actions." When terrorists are put in charge of governing a state, will this risk creating a terrorist state?

While in 2008 I expressed the hope that involvement in Lebanese politics would constrain Hizballah's use of violence and terrorism, it is clear that the group remains committed to destabilizing pursuits, both in the region and internationally. Bulgaria's recent investigation exposes Hizballah for what it is – a terrorist group that is willing to recklessly attack innocent men, women, and children, and that poses a real and growing threat not only to Europe, but to the rest of the world. Hizballah's dangerous and destabilizing activities – from attacking tourists in foreign countries to leader Hassan Nasrallah's active support of Bashar al-Asad's violent campaign against the Syrian people – threaten the safety and security of nations and citizens around the world and stand as further proof that this organization has no intention of evolving beyond its militant and terrorism roots. During my time as the Assistant to the President for Homeland Security and Counterterrorism, this Administration has been focused on actively countering Hizballah terrorism.

9. Do you believe that more Taliban in the government of Afghanistan will improve the democratic process? Do you believe that more Hamas in the government of the Palestinians will improve the democratic process? Can you cite an Islamic country where this approach of empowering a terrorist organization by giving them governing powers has accomplished anything other than the creation of a terrorist state?

The Taliban is unlikely to participate in the current government because it does not accept the legitimacy of the Karzai regime. We have few indicators to date that the Taliban are sincere about reconciliation. One of the key outcomes for reconciliation would entail credible Taliban commitments to abide by the Afghan constitution, including its protections for the rights of all Afghan men, women, and children.

Although HAMAS's victory in Palestinian Legislative Council elections in 2006 demonstrated the group was capable of participating in elections, its takeover of

the Gaza Strip in 2007 showed it prioritizes its own interests over democratic principles. The United States has been clear about the principles that must guide a Palestinian government in order for it to play a constructive role in achieving peace and building an independent, democratic state. Any Palestinian government must unambiguously and explicitly commit to nonviolence, recognition of the State of Israel, and acceptance of previous agreements and obligations between the parties, including the Roadmap.

Prior to its decision to renounce violence and recognize Israel in 1988, the PLO was an organization whose members in the 1960s, 1970s, and 1980s carried out terrorist attacks. The PLO's renunciation of violence and recognition of Israel in 1988 opened the door for the Oslo Accords in 1993 and the establishment of the Palestinian Authority in 1994. Many senior PLO members subsequently took leadership positions in the newly-created Palestinian Authority, which so far continues to be committed to a peaceful solution to the Israeli-Palestinian dispute.

10. When the President said, "The future must not belong to those who slander the Prophet of Islam" at the United Nations on September 25, 2012, after the attack on the U.S. facility in Libya, what were the meaning of those words? As his Chief Counterterrorism Adviser, you must have recommended or assented to the use of this phrase. What did you mean for US citizens to understand regarding any criticism of Islam?

It is important to remember that in addition to the attacks on the U.S. facility in Benghazi, there were widespread protests taking place at U.S. diplomatic facilities around the world in the lead-up to the President's speech. These protests were rooted in a variety of factors, including the film, "The Innocence of Muslims." I did not draft any portion of the President's speech, though I strongly support the central ideas in his speech: that the United States stands for freedom of speech, that no speech justifies the use of violence, that violent extremists have sought to fan the flames of hatred to advance their cause, and that speech slandering Islam – or any religion – does not represent the spirit of tolerance and respect for religious freedom that is at the heart of the American story. My belief is that Americans should be proud of both their commitment to freedom of speech, and their remarkable achievement of building a nation in which people of all faiths are welcome.

I would point you to several passages in the President's speech that make these points: "Americans have fought and died around the globe to protect the right of all people to express their views, even views that we profoundly disagree with. We

do not do so because we support hateful speech, but because our founders understood that without such protections, the capacity of each individual to express their own views and practice their own faith may be threatened. We do so because in a diverse society, efforts to restrict speech can quickly become a tool to silence critics and oppress minorities. We do so because given the power of faith in our lives, and the passion that religious differences can inflame, the strongest weapon against hateful speech is not repression; it is more speech – the voices of tolerance that rally against bigotry and blasphemy, and lift up the values of understanding and mutual respect....There is no speech that justifies mindless violence. There are no words that excuse the killing of innocents. There's no video that justifies an attack on an embassy. There's no slander that provides an excuse for people to burn a restaurant in Lebanon, or destroy a school in Tunis, or cause death and destruction in Pakistan....It is time to marginalize those who – even when not directly resorting to violence – use hatred of America, or the West, or Israel, as the central organizing principle of politics. For that only gives cover, and sometimes makes an excuse, for those who do resort to violence. That brand of politics – one that pits East against West, and South against North, Muslims against Christians and Hindu and Jews – can't deliver on the promise of freedom. To the youth, it offers only false hope. Burning an American flag does nothing to provide a child an education. Smashing apart a restaurant does not fill an empty stomach. Attacking an embassy won't create a single job. That brand of politics only makes it harder to achieve what we must do together: educating our children, and creating the opportunities that they deserve; protecting human rights, and extending democracy's promise.”

## QUESTIONS FROM SENATOR RISCH

1. Could you please provide a list of all individuals present on the May 7, 2012, conference call we discussed at your hearing and described in the Reuters article entitled "Did White House 'spin' tip a covert op?"

The May 7, 2012 conference call included the following participants in addition to myself:

Nick Rasmussen  
Caitlin Hayden  
Erin Pelton  
Nick Shapiro  
Roger Cressey  
Juan Zarate  
Fran Townsend  
Richard Clarke

2. During your confirmation hearing you mentioned that there were notes and a transcript of the May 7, 2012, conference call. Could you please provide all notes and transcripts of this call to the Committee.

During my hearing, I answered questions about a conference call on May 7, 2012 with former national security officials who were likely to comment on an Associated Press story that had run earlier in the day regarding a foiled bomb plot. In advance of my voluntary interview with the Department of Justice, my counsel received a transcript of this conference call from DOJ. Enclosed is a copy of what my counsel was provided. I am not aware of any notes of the conference call.

3. On the night of May 7, 2012 Richard Clarke made the following statement on ABC's Nightline, "The U.S. government is saying it never came close because they had insider information, insider control, which implies that they had somebody on the inside who wasn't going to let it happen." I have not been able to find any stories indicating "inside control" or "inside information" before your interview on May 7, 2012. Additionally, there are no articles mentioning double agents, undercover operatives, or spies before that interview. How do you account for this?

The irresponsible and damaging leak of classified information was made several days – and possibly even a week – earlier when someone informed the Associated Press that the U.S. Government had intercepted an IED that was supposed to be used in an attack and that the U.S. Government currently had that IED in its possession and was analyzing it. Various reporters were asking questions of our press people that raised alarm bells. In an effort to minimize the damage to national security from this unauthorized and dangerous disclosure of classified information, and to ensure that the American public appropriately understood the current threat environment, I briefed the national security professionals in the May 7 call, as they were preparing to comment publicly on the situation.

The U.S. Attorney's Office for the District of Columbia is conducting a criminal investigation of these leaks, and I participated in a voluntary interview with those conducting the investigation. My counsel has been advised by representatives of the United States Attorney's Office that I am only a witness in their investigation (that is I am not a subject or target) and that they do not have any plans to speak with me again at this time.

4. In retrospect, if you could go back and change what you said in that interview would you, and If so, how? Why was it insufficient to simply say that the U.S. government successfully interdicted or disrupted an al-Qaeda plot?

No. Once someone leaked information about interdiction of the IED and that the IED was actually in our possession, it was imperative to inform the American people consistent with Government policy that there was never any danger to the American people associated with this al-Qa'ida plot.

5. Who instructed you to conduct the call and how were the participants selected?

The White House press office asked me to conduct the call to ensure the American people appropriately understood the current threat environment. The White House press office selected the participants.

6. Why was it important that the participants on the call have a counterterrorism background?

The participants on the call were all former national security officials who were being interviewed by the press about the Associated Press story, and it was important to make sure they understood the current threat environment. I also believed that given their backgrounds they would have an appropriate

understanding about the operational sensitivities and thus avoid dangerous questions and speculation.

7. In your testimony, you described the teleconference as a “routine engagement with the press.” How many times during your tenure as the President’s deputy national security advisor did you conduct a teleconference with members of the TV media? And how many of your engagements followed a successful disruption of an al-Qaeda plot?

I have conducted teleconferences with members of the TV media numerous times at the request of the White House press office during my tenure as the President’s counterterrorism advisor. And, I have spoken publicly on a number of occasions about the President’s national security strategy and various terrorist threats, in speeches, television appearances, and press conferences as we have tried to be as transparent as possible about the U.S. Government’s counterterrorism actions.

8. In your testimony, you said “we had said publicly there was no active plot at the time of the bin Laden anniversary.” You also said the purpose of the call was to make sure “the American people were aware of the threat environment and what we’re doing on the counterterrorism front.” Did you conduct the teleconference to explain why the administration previously used the phrase “no active plot?”

No. Once someone leaked information about the IED it was imperative to ensure the American people appropriately understood the current threat environment.

9. Could you please describe the importance of ensuring the safe return of SGT Bowe Bergdahl?

I met SGT Bergdahl’s parents in late May 2012, and as I told them then, the safe return of their son is of paramount importance. SGT Bergdahl's return is vital both from the perspective of our absolute commitment as a nation to return to safety any service member captured or otherwise isolated during operations overseas and based on our longstanding policy to work diligently to free U.S. citizens held hostage abroad, unharmed.

10. Could you please describe what steps the CIA is taking with its interagency partners such as the Departments of State, Defense and other IC components to bring SGT Bergdahl home to his family?

The CIA, along with the Departments of State and Defense, other IC components, and U.S. law enforcement are focused and collaborating on this case. Additionally, our allies and international partners are key contributors. For example, the CIA has embedded U.S. military personnel both at CIA headquarters and in the field to ensure we are collaboratively working all leads related to SGT Bergdahl.

11. Has Russia fully implemented all of its Presidential Nuclear Initiative (PNI) commitments?

I would refer you to the Department of State for this question.

12. One of the lessons from the Benghazi terrorist attacks of 9/11/12 is that the U.S. government should not over rely on local security forces and locally employed staff for security in high threat environments. Do you agree with this statement and do you agree that the same lessons should be applied to environments where there is a high CI threat?

The CIA relies on host governments around the world to support its security needs and to provide assistance and enhance its own response to any emergency situation. Local resources are a valuable part of the Agency's security posture. We have to strike the right balance between host nation support, which requires an appropriate investment in local security forces, locally employed staff, and U.S. resources. I know that the lessons from Benghazi are currently being applied to U.S. official presence abroad, especially in high-threat areas, and if confirmed, I would continue to make sure that process continues.

## QUESTIONS FROM SENATOR COATS

1. As the President's deputy national security advisor for homeland security and counterterrorism, you were an advocate for the administration's cybersecurity legislation. In 2009, when you announced National Cybersecurity Awareness Month, you stated: "[C]yber security is a shared responsibility. This refers to the fact that government, industry, and the individual computer user must all play a role in securing our information networks and data." In April 2012, in a Washington Post op-ed, you wrote: "[B]efore the end of the next business day, companies in every sector of our economy will be subjected to another relentless barrage of cyber intrusion." In the same op-ed, you also wrote: "[T]here is no reason we cannot work together in the same way to protect the cyber systems of our critical infrastructure upon which so much of our economic well-being, our national security and our daily lives depend." And last August, when the U.S. Senate considered the Cybersecurity Act of 2012, you urged its passage because the "risks to our nation are real and immediate." I agree with your statements on the shared responsibility and urgency of improving cyber security. Do you still agree that cyber security is a shared responsibility that includes both the public and private sector? What is the role of the Information Technology (IT) sector in this shared responsibility and why did you support a carve out for the IT sector?

I continue to believe that cybersecurity is a shared responsibility that includes both the public and the private sectors. The private sector owns and operates the majority of the critical infrastructure upon which our nation depends, the communications backbones upon which cyberspace depends, and the businesses that are the target of economic espionage in cyberspace.

The government cannot defend the Nation against threats in cyberspace unless the private sector has the baseline cyber defenses to mitigate the most common threats and to make it difficult even for sophisticated actors to gain illegal access. We depend upon the private sector to secure their networks according to a framework of standards and best practices, share cybersecurity information with others in the private sector and with government, and develop innovative solutions to cyber risks.

However, the private sector alone cannot defend against all cyber threats. The government must incentivize critical infrastructure to secure their networks, ensure that privacy and civil liberties are protected, investigate and prosecute cyber crimes, work in international fora to protect the open and innovative nature of the Internet, share information – particularly information that originates from the

government's unique capabilities – and shape the behavior of nation states to deter them from malicious cyber activity.

Many of our efforts focus on the priority of protecting critical infrastructure, and IT products and consumer services do not currently fit the definition of critical infrastructure. On the other hand, our critical infrastructure and economy depend upon IT products and services. When those products and services are insecure, we all suffer. So while IT products and consumer services are not critical infrastructure, I believe the public and private sectors must find ways to work together to improve the security of those products and services. Furthermore, we must do so in a way that is consistent with our international trade obligations, that is technology neutral, that nurtures the innovation upon which our economy depends, and that helps ensure that firms can develop a single product or service and sell it internationally.

## QUESTIONS FROM SENATOR UDALL

1. Mr. Brennan, during the hearing we talked about the importance of working with the Committee to correct the public and internal record regarding the detention-interrogation program within 90 days. I want to repeat that request and clarify it. Will you commit to working with the committee to correct the public and internal record regarding the detention-interrogation program within 90 days of the CIA's completion of its review of the report (or within 90 days of your confirmation, whichever is later) – especially given your comment to the Committee that you believe the CIA must “immediately” correct the record if it becomes aware of inaccurate statements?

As I have previously stated, if confirmed, I will make reviewing further details of the SSCI Report, as well as the CIA response, a priority, and I will work with the Committee to set the record straight if and as necessary and appropriate.

2. Mr. Brennan, will you commit to work with the SSCI to declassify the Executive Summary and to ONLY redact sources and methods--- NOT information that is merely embarrassing to the U.S. and the CIA?

If confirmed, I look forward to engaging in a constructive way forward with the Committee on the substance of both the SSCI Report and the CIA response. Our dialogue on this important and complex issue will include discussion relating to what information can or should potentially be released to the public.

3. Mr. Brennan, will you commit to working with me and this Committee to provide proposed reforms for the Agency within 90 days of the completion of the CIA's review of the Committee's report (or within 90 days of your confirmation, whichever is later) on detention and interrogation that ensure the mistakes documented in the Committee's report are not repeated?

I believe a dialogue with the Committee on the subject matter of the SSCI Report is vitally important. If confirmed, I will move swiftly to more closely examine the issues raised by the Report and the Agency's response. I look forward to working with you on this matter.

4. In 2008, you stated that it was important that there be a public airing, including public congressional hearings, related to the predicate for the surveillance of U.S. persons. Do you believe there is more on this topic that could be declassified?

I have spoken publicly on multiple occasions on the importance of transparency. Indeed, at a speech in November 2011, I stated that our “democratic values include – and our national security demands – open and transparent government.” To that end, this Administration has attempted to share as much information as possible with the American people, including information related to the predicate for surveillance of U.S. persons. And while I am not aware of any particular information on this topic that could be declassified, I do believe any such information should be disclosed to the extent that such a disclosure could be done consistent with our national security.

5. In 2008, you stated, “I would argue the government needs to have access to only those nuggets of information that have some kind of predicate. That way the government can touch it and pull back only that which is related.” You also stated that the issue needed to be discussed, “not to the point of revealing sources and methods and giving the potential terrorists out there insights into our capability – but to make sure there is a general understanding and consensus that these initiatives, collections, capabilities, and techniques comport with American values and are appropriately adjusted to deal with the threat we face.” Do you believe the U.S. government currently has access to only nuggets of information that have some kind of predicate? Do you believe that the public has adequate information on this topic?

I believe your first question is referencing statements I made about the need to balance security, privacy, and civil liberty interests in connection with the then ongoing public debate over changes to the Foreign Intelligence Surveillance Act. With respect to FISA, this Administration has worked hard to ensure that any electronic surveillance that targets the American people is subject to judicial review through the Foreign Intelligence Surveillance Court to ensure, among other things, that such surveillance complies with the Constitution, and I strongly supported these efforts. I believe it is important that the Judicial Branch act as a check on the Executive Branch to ensure there is an adequate factual predicate to conduct lawful electronic surveillance that targets the American people. I have also supported – and will continue to support – the Administration’s efforts to ensure that Congress is kept informed of our surveillance practices and processes.

Moreover, the Act provides the process and procedures the Government must follow to undertake surveillance, as well as the role the Judicial Branch and the Congress play in that process. As I have stated publicly, I support as much transparency as possible on our counterterrorism efforts, consistent with our obligation to protect sources and methods. Thus, to the extent we could discuss

with the public some of the factual predicates that have been deemed by courts as sufficient to justify surveillance, I would support doing so. Indeed I do believe, as I said in my September 2011 speech at Harvard Law School that an “open and transparent government” is one of the values our democratic society expects and demands.

## **QUESTIONS FROM SENATOR RUBIO**

1. Regarding the capture of Ali Ani Harzi, a suspect in the September 11, 2012 attacks against the U.S. diplomatic and CIA facilities in Benghazi, did the U.S. Government ask the Government of Turkey for access to Harzi while he was in Turkish custody?

Yes. The United States made requests to the Government of Turkey (and later to the Government of Tunisia) that U.S. investigators be permitted to interview Harzi regarding his knowledge of the Benghazi attacks. Turkish authorities initially detained Harzi and, approximately one week later, deported him to Tunisia (his country of origin.)

2. Did the USG ask Turkey to turn Harzi over to U.S. custody?

Please see classified section.

3. Why was Harzi not taken into U.S. custody?

Please see classified section.

4. What intelligence did we have on Harzi at the time of his capture by the Turks, and what more did we know about him by the time of his release by the Tunisian Government?

Please see classified section.

5. Now that Harzi has been released, do we know where he is and are we monitoring his activities?

Please see classified section.

## QUESTIONS FROM SENATOR KING

1. During the hearing, I asked how the Administration would react to the creation of an independent process – similar to the Foreign Intelligence Surveillance Court – to provide an appropriate check on the executive branch’s procedure for determining whether using lethal force in a foreign country against a U.S. citizen would be lawful. You noted that the Administration has wrestled with the idea of a FISA-like court. Please describe the process you went through in deliberating this concept. Specifically, what options did you consider in terms of establishing a judicial review process for such decisions? What were the advantages and disadvantages of the options you considered?

The concept of a FISA-like court has been discussed by the interagency and while attractive in some respects, it would raise some novel, and potentially difficult, questions and furthermore would grant courts authority over decisions that have traditionally been exercised principally, if not exclusively, by the Executive Branch. Nevertheless, given the stakes involved and the consequence of such determinations, all options are worth considering and the details of any particular proposal will be especially important.

2. In an interview with PBS on March 8, 2006, you said “the Defense Department has tried to increase its role in the Intelligence Community and to chew away at CIA's traditional authorities and responsibilities.” Please provide your views on how the DOD-CIA relationship should function when DOD is conducting irregular or unconventional warfare (for counterterrorism, counterproliferation, and other purposes). What steps will you take, not only to prevent unnecessary overlap in their respective missions, but to ensure thorough coordination by USSOCOM?

I have seen first-hand over the past several years how much coordination has improved. The key to close coordination between CIA and DOD is regular communications between the agencies, starting with the leadership and working through to all levels. The key principles, in my view, that should govern the allocation of responsibilities are: (1) optimizing the accomplishment of U.S. national security objectives through the most effective use of CIA and DOD capabilities; (2) ensuring related DOD and CIA activities are well coordinated and designed to advance both the military and intelligence missions; (3) ensuring compliance with applicable statutes with respect to authorities and prohibitions; and, (4) keeping Congress appropriately notified of these activities, whether undertaken by CIA under Title 50 or by DOD under Title 10. If confirmed, I

would work closely with DOD to ensure that there is no unnecessary redundancy in CIA and DOD capabilities and missions.

3. In 2011, the National Counterintelligence Executive released an unclassified report finding that the governments of China and Russia “remain aggressive and capable collectors of sensitive U.S. economic information and technologies, particularly in cyberspace.” The Chinese government often requires foreign firms to transfer technology to their Chinese partners, and sometimes to set up research and development facilities in China, in exchange for access to China’s markets. Are you concerned that such requirements put U.S. economic information at risk? What role, if any, should the Intelligence Community play in reviewing such technology transfers?

Yes, I am very concerned about this. This is why the U.S. Government has a strategy in place to meet the challenge of foreign governments’ aggressive programs aimed at the collection of sensitive and emerging U.S. information and technologies. One element of that strategy is to build awareness and understanding of the threat these collection activities pose, both to the national security and economic interests of the United States. The Intelligence Community has a significant role to play in this and is an active partner with other U.S. Government organizations in existing formal processes. For example, concerning the national security review of technology transfers, the USG export control interagency relies heavily on the IC’s analysis and assessments regarding advanced technologies, end-users, and countries of concern. Our ability to deny these technologies to bad actors and their sponsors is a testament to the partnership and cooperation within the USG. This also extends to the IC’s ability to work in partnership with the private sector, which also strengthens the efforts of the U.S. Government to counter foreign intelligence and nontraditional collector threats.

4. The Committee on Foreign Investment in the United States (CFIUS) is empowered to investigate the effect of an investment transaction on national security. In your opinion, is the CFIUS process effective? Should the Intelligence Community play a larger role in informing CFIUS investigations?

I believe the CFIUS review process plays an important and effective role in mitigating risks to national security that could arise if a foreign person were to take control of a U.S. business. By statute, the Intelligence Community, through the Director of National Intelligence, participates in the CFIUS review process by providing its independent assessment of the national security threat posed by every transaction under CFIUS review. My understanding is that CFIUS decision-

makers carefully consider the Intelligence Community's assessments when deciding what, if any, actions should be taken with respect to a particular transaction. At this time, I do not have any reason to believe that the Intelligence Community should play a "larger" role in the CFIUS process. I would not want to take any action, however, that would compromise the Intelligence Community's ability to provide an objective, independent assessment of the national security threats posed by transactions under CFIUS review.

5. How much confidence do you have that the CIA is capable of achieving auditability by 2016? Will you set CIA auditability as one of your top priorities?

The CIA's unique mission sometimes requires equally unique business, financial, and property processes that don't always fit neatly into the auditability/accounting standards for other federal agencies. Nevertheless, my understanding is that CIA has made significant progress in recent years in trying to resolve challenging audit issues – and is, indeed, on track to achieving an unqualified audit opinion for its Fiscal Year 2016 financial statements. If confirmed, it will be one of my top priorities to see this effort through.