

June 3, 2020

The Honorable Marco Rubio, Acting Chairman
United States Senate Select Committee on Intelligence
211 Hart Senate Office Building
Washington, DC 20510

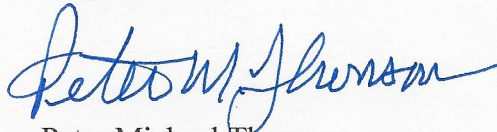
The Honorable Mark Warner, Vice Chairman
United States Senate Select Committee on Intelligence
211 Hart Senate Office Building
Washington, DC 20510

Dear Acting Chairman Rubio and Vice Chairman Warner:

Thank you for the Committee's letter dated May 26, 2020. As you requested, please find enclosed my answers to the Committee's additional prehearing unclassified questions.

With kind regards,

Respectfully,



Peter Michael Thomson

Enclosure

SELECT COMMITTEE ON
INTELLIGENCE

UNITED STATES SENATE



**Additional Prehearing Questions
for
Mr. Peter Michael Thomson
upon his nomination to be
the Inspector General of the
Central Intelligence Agency**

CIA IG Access to Information

QUESTION 1

By statute, the CIA IG “shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, [he] shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.”

a. What is your understanding of the reach of this provision?

Pursuant to the above provision, set forth in 50 U.S.C. §3517(e), “**Authorities of Inspector General**”, the CIA IG, while in the performance of his or her statutory responsibilities and duties, has the lawful authority to speak with, interview, depose and/or take testimony from any CIA (“Agency”) employee or contractor, wherever located. Thus, my understanding is that intended reach of this provision broadly extends to all Agency employees, including any and all persons working directly or indirectly by contract for the Agency. Likewise, the provision confers on the IG the authority to read, review, analyze, document and/or copy any and all documents, records, reports and any other tangible materials or items needed in the performance of the IG’s official duties and responsibilities.

To be clear, it is my understanding that the provision grants the CIA IG broad and unencumbered access to any and all CIA employees and contractors, as well as to any and all records, things or other Agency materials needed by the IG to perform and/or complete any of its statutory duties and responsibilities. Notably, the provision contains no limitations on the IG’s authority to access those persons and materials, with the exception set forth in Section 3517(b)(3), which grants the Director the authority to prohibit the IG from carrying out his or her duties when necessary to protect the vital national security interests of the United States.

b. Please describe how you would resolve, including what remedies you would pursue, a situation in which you were refused such access.

If a member of the IG’s staff, in the performance of his or her official duties, were refused access to an Agency employee or Agency contractor, or was refused access to any relevant documents or materials, I would first seek to determine the reason for the refusal. I then likely would ask the assigned IG staff member to advise the refusing party of the legal authorities granting the IG unrestricted access to the information requested. If necessary, either I or a supervisory member of the IG’s Office would speak directly with the refusing party’s supervisor. In the event these interventions failed to resolve the problem, I would personally inform the Office of the Director of the violation and request assistance in obtaining the access needed. In the unlikely event that the Director failed to provide help, and the IG’s Office was still being refused access to the employee or relevant information, I would inform the intelligence committees of the disagreement and request their assistance. In fact, 50 U.S.C. §3517(d)(2) and (3)(E) require that the IG inform the Director

of a significant problem or abuse and that the IG notify the intelligence committees when unable to obtain significant documentary information in the course of an audit, inspection or investigation, respectively.

In order to avoid such issues in the first place, it is important for the OIG and the CIA leadership team to work collaboratively in educating employees, particularly mid-level and senior managers, throughout the extended Agency enterprise of the IG's legal authorities in this regard.

c. What is your view of the appropriate use of subpoena authority?

Under 50 U.S.C. §3517(e)(5), the CIA OIG, in the performance of its official duties, has the lawful authority to issue subpoenas, enforceable in federal court, to persons and entities for the production of documents, records, reports or other tangible things needed in relation to an audit, inspection or investigation conducted pursuant to the IG's official duties and responsibilities. However, in the case of U.S. government agencies, which I understand to include the CIA, the IG must obtain the needed information not by subpoena, but through other procedures. Further, the IG is prohibited from using its subpoena power on behalf of any other CIA element or component.

d. What is your view of how the OIG balances independent confirmation of information, for example through document review, and accepting CIA representations to OIG personnel? To what extent should IG reports include caveats with regard to information the IG has not independently confirmed?

I understand that the work of the CIA OIG complies with the standards published by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), of which I understand the CIA OIG is a member. I further understand that published CIGIE standards address the subject of independent verification and types of evidence gathered during the course of a project. If confirmed, I would continue to be guided by CIGIE standards and best practices with regard to balancing independent verification of information against accepting CIA representations to OIG personnel and caveats regarding information not independently confirmed.

Sources of Complaints and Protection of Whistleblowers

QUESTION 2

By statute, the CIA IG “is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety.”

- a. If confirmed, what steps would you take to inform individuals, within or outside the U.S. Government, of their opportunity to provide such complaints or information to the CIA IG?**

I have not had the opportunity to examine and evaluate the procedures and policies currently in place to inform CIA employees and others, within and outside government, of the avenues available to them for filing complaints or otherwise providing information to the CIA IG. However, it is my understanding that the CIA and the IG’s Office currently employ a number of outreach methods and procedures to inform individuals of their opportunity to report information to the IG, including: 1) a whistleblower hotline through which employees, contractors, and others can report fraud, waste, abuse and mismanagement anonymously, confidentially or without regard to their identity; 2) briefings of new Agency employees and contractors on the laws, regulations and policies governing whistleblowers and the avenues available for the reporting of complaints and information to the IG’s Office; 3) an internal web-based system managed by the OIG for the reporting of complaints and information by CIA employees and contractors through closed Agency networks; 4) a public CIA website describing how to file a complaint and provide information to the IG; 5) placement of informative posters within CIA buildings located in the metropolitan Washington DC area; 6) training of CIA staff on how to report fraud, waste, abuse and mismanagement to the IG and the legal protections afforded to such whistleblowers; and 6) personal visits and presentations by OIG staff.

If confirmed, I will continue the above-described outreach procedures and training programs; take appropriate steps, if any, to improve their efficiency and effectiveness; and work to determine whether there exist any other steps that could be taken by the CIA IG to inform individuals, within and outside the U.S. Government, of the opportunity to file a complaint or provide information to the IG. Further, if confirmed, I will review and evaluate the procedures used to inform and educate employees with regard to the laws and regulations protecting them from retaliation.

- b. What formal policies and processes are in place to inform employees of their right to provide information to the CIA IG and to detect and protect against reprisal for making complaints or disclosing information to the CIA IG?**

While I am aware of the procedures and policies listed in my answer to Question 2(a), I have not had the opportunity to fully review and evaluate all of the formal policies and procedures currently in place to inform CIA employees and contractors of their right to

provide information to the CIA IG, and to detect and protect against reprisal for making complaints or disclosing information to the IG. However, I understand that CIA regulations designate the IG as the point of contact for employees to report allegations of reprisal for making lawful disclosures pursuant to whistleblower laws and regulations; and that the IG is tasked with reviewing and investigating such allegations pursuant to applicable law and regulations, including PPD-19 and ICD-120. Additionally, I understand that leadership in the Office of Congressional Affairs, along with the IG, serves as a channel through which employees and contractors of the Agency may communicate with members of Congress.

If confirmed, I will identify the other formal policies and processes currently in place to inform employees of their right to provide information to the IG and to detect and protect against reprisal in connection with the reporting of information to the IG.

c. Do you see any need for additional actions, policies, or processes to protect whistleblowers?

I have not had the opportunity to examine and evaluate the procedures, processes and policies currently in place at CIA to protect whistleblowers. Likewise, I have not had the opportunity to determine whether the existing procedures and policies are consistent with federal law, including but not limited to Presidential and IC Directives (PPD-19 and ICD-120, respectively), and Agency regulations and policies.

If confirmed, however, I will review and evaluate all of the relevant policies, programs and processes within the Agency designed to protect whistleblowers and, if warranted, take appropriate and necessary steps to correct and/or improve procedures or policies determined to be deficient. Further, if confirmed, I also will work to determine what additional protections for whistleblowers should be considered and implemented.

CIA IG Review of Covert Actions

QUESTION 3

Under an arrangement between the CIA IG and the congressional intelligence committees begun in 2001, the CIA IG conducts a detailed review on each authorized covert action program every three years, which has been extremely helpful for our congressional oversight.

a. Do you plan to continue this practice? If not, why not?

Yes, I intend to continue this practice. I believe it is important work which helps promote accountability and efficiency in regard to covert actions.

b. Are there other CIA programs that should have the same kind of regular, periodic oversight from the CIA IG's Office?

It is my understanding that the CIA IG, in addition to covert action reviews, also currently conducts the following regular and periodic oversight work:

1. Independent Audits of CIA financial statements;
2. Independent evaluations of CIA's Information Security Program and Practices required by the Federal Information Security Modernization Act;
3. Reviews of the CIA's compliance with the Improper Payments Elimination and Recovery Act;
4. Risk assessments of purchase and travel card programs; and
5. Independent Audits of the DNI's Financial Statements.

If confirmed, I look forward to reviewing the ongoing work associated with the above-described periodic oversight practices and reporting my findings and recommendations regarding same to the Director and this Committee. Generally, I believe that any CIA activity which has a high potential for abuse should be considered for regular, periodic oversight from the OIG in the same way as covert action programs.

Personnel and Budgetary Resources

QUESTION 4

By statute, the CIA IG has “final approval of . . . the selection of internal and external candidates for employment with the Office of Inspector General; and . . . all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of other Central Intelligence Agency offices.” In addition, the CIA IG “shall transmit a budget estimate and request through the Director to the Director of National Intelligence” specifying certain amounts requested for each fiscal year.

- a. **If confirmed, what changes (if any) would you consider or make in the present CIA OIG, with respect to organization, staff qualifications, training, budget, or other features relevant to the effective performance of the Office?**

It is my understanding that prior IG's have indicated that the CIA OIG's budget has been flat for many years and that it has not kept pace with the CIA's overall mission and corresponding budget allocations. If confirmed, I look forward to reviewing the OIG's budget needs and reporting my findings and recommendations to the intelligence oversight committees.

I have not had the opportunity to review and evaluate the OIG's current organizational structure, staffing, training, or other features relevant to the effective performance of the office. Thus, absent such sufficient experience with the relevant staffing and operations of the IG's Office, I am unable to identify what changes, if any, I would consider making within the OIG. However, if I am confirmed, I will certainly review and evaluate the organization and structure of the OIG, take any actions that I deem necessary to further the OIG's effectiveness and efficiency.

- b. **Under what circumstances, if any, do you believe that the use of contractors to perform such functions is appropriate?**

I do not have sufficient information at this time to form an opinion regarding the use of contractors within the IG's Office. However, generally speaking, the use of contractors might be appropriate where specialized skills are needed to accomplish certain OIG tasks and missions, particularly in critical support related positions that are difficult to fill. Further, it is my understanding that OIGs routinely use the services of contractors to conduct financial audits and to provide support functions related to IT and research.

Government Accountability Office (GAO)

QUESTION 5

Pursuant to Section 348 of the Intelligence Authorization Act for Fiscal Year 2010, the Director of National Intelligence has issued a directive on the access of the Comptroller General to information in the possession of an element of the Intelligence Community.

- a. **Please describe your understanding of the role of GAO in assisting Congress in oversight that relates to such information.**

On June 30, 2011, the ODNI issued ICD-114 relating to the access of intelligence community information by the Comptroller General, through the General Accountability Office (GAO). It is my understanding that pursuant to the policies and guidelines set forth in that Directive, together with relevant policies and guidelines issued by the CIA, predicated on a presumption of cooperation with the GAO, the CIA, to the fullest extent possible, provides the GAO access to intelligence information related to reviews, evaluations and audits conducted by the GAO on behalf of Congress. The process in which the CIA cooperates with and provides intelligence information to the GAO must be consistent with national security concerns and protect intelligence sources and methods.

Although I have not had the opportunity to participate in GAO reviews governed by the above Directive and CIA policies, it is my understanding that in conducting its reviews, the GAO interacts primarily and directly with non-OIG CIA management, which coordinates and facilitates GAO's requests with other CIA offices and components.

- b. **Please describe your views on what coordination between the CIA IG and GAO would be desirable to assure full coverage of oversight requirements while avoiding conflict or duplication, and while assuring the protection of classified information from inappropriate disclosure.**

When appropriate, the CIA IG should coordinate activities with the GAO to avoid conflicts and duplicative efforts. Otherwise please see my answer to Question 5(a).

- c. **Please describe any concerns you may have regarding the use of GAO to assist in the conduct of oversight of the IC.**

Beyond any concerns related to the duplication of efforts, or to the protection of national security information and intelligence sources and methods, I do not have sufficient experience with the operations of the CIA IG or with GAO reviews related to intelligence information to have identified any additional concerns in this regard.

CIA IG Work Plan

QUESTION 6

If confirmed, how will you determine the investigations and reports that are necessary or desirable to complete each year?

If confirmed, I will take all necessary and appropriate steps to ensure that all statutorily required reports (i.e., necessary reports) be prepared and submitted timely to the intelligence committees. With regard to “desirable” investigations and reports, if confirmed I will review and evaluate the OIG’s caseload and how new matters are selected and prioritized for IG attention. I also will consult with OIG staff, and possibly with IC Forum members, regarding the identification of new areas of interest, or common concern, respectively, for inclusion in the CIA OIG’s work plan.

QUESTION 7

Would you anticipate developing a work plan for each year in office? Do you plan to consult with the intelligence oversight committees in Congress in advance on your work plan? Why or why not?

Yes, I anticipate developing a work plan. I also anticipate consulting with the intelligence committees in advance of finalizing annual work plans. It is my belief that a strong line of communication should be maintained between the OIG and Congress, and that a trusted professional working relationship is of critical importance to the OIG mission.

Consultations about Reports

QUESTION 8

Under what circumstances, if any, do you believe it would be appropriate for the CIA IG to consult with officials in the CIA, or other officials of an IC element outside an office of an IG, before issuing a report, regarding the findings and recommendations in the report?

It is my understanding that it is the practice of the CIA IG to provide copies of draft reports of audits, inspections and certain reviews to appropriate Agency personnel prior to formal certification and issuance of those reports. I also understand that this practice, which is consistent with CIGIE standards, permits the OIG to review and, when appropriate, reflect

and/or incorporate comments and factual corrections, provided by the appropriate CIA element, into the report.

In my view, this process does not undermine the independence of the OIG. To the contrary, it helps assure that reports issued by the OIG are accurate, truthful and complete. Moreover, the OIG is solely responsible for every final report's conclusions, findings and recommendations.

QUESTION 9

To the extent that you believe such consultation is appropriate, what steps, if any, do you believe the IG should take to keep a record of the consultation and record the results in the text of the report?

Any comments, edits or revisions made by non-IG personnel to draft IG reports should be documented and noted within the reports, as appropriate, following CIGIE's best practices and standards.

QUESTION 10

Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the CIA IG not investigate or review a particular matter, as provided in 50 U.S.C. § 3517(b)(3)?

I do not have sufficient information or institutional knowledge of the OIG or Agency operations to have formed an opinion as to when such a request might be appropriate. However, if confirmed, I look forward to researching this issue and reviewing any OIG precedents in which such requests may have been made by CIA senior officials.

Although I need additional information to intelligently and properly assess and respond to the Committee's question, I nevertheless am aware of the legal provisions which relate directly to such an assessment. Hence, under 50 U.S.C. § 3517(b)(3), the CIA Director may prohibit the initiation, carrying out or completion of an OIG audit, inspection or investigation, if the Director determines that such prohibition is necessary to protect vital national security interests of the United States. Also, pursuant to the same statute, in the event this power is exercised, the statute also requires that the Director inform the congressional intelligence committees of the action. Accordingly, the lawful and just exercise of this power by the Director could be an appropriate circumstance in which a senior CIA official intervenes in an official OIG investigation or review.

QUESTION 11

Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the CIA IG *not* issue a report on a particular matter, as provided in 50 U.S.C. § 3517(b)(3)?

Consistent with my answer to Question 10, I can imagine there might be circumstances where a senior CIA official believes it would be appropriate to request that the OIG not issue a report where the official believes doing so would threaten the national security interests of the United States. Certainly, such a request would be appropriate if it met the standards set forth in 50 U.S.C. §3517(b)(3).

However, the OIG has legal obligations itself and, from my understanding, well established procedures, to protect classified information and intelligence sources and methods, including highly compartmented information. Hence, if confirmed as the CIA IG, I would consider any concerns raised by Agency officials with regard to the issuance and/or dissemination of a report, but I and the OIG staff alone would make the decision on an independent basis while taking all necessary and appropriate steps, in the case of national security concerns, to protect the information as required by law and CIA regulations.

QUESTION 12

Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the CIA IG change findings, recommendations, or other pertinent material in a report on a particular matter?

As I explained in my answer to Question 8, it is my understanding that CIA IG, consistent with CIGIE standards, routinely provides copies of draft reports of audits, inspections and certain reviews to appropriate Agency personnel so that they have ample opportunity to review the report and provide comments, including recommendations and factual corrections, prior to the report becoming final. Allowing such input by the Agency is a positive and constructive process which does not undermine the integrity of the report or the independence of the OIG, which appropriately takes the Agency's comments into account before exercising its independent authority and issuing the report in final form. To be clear, the CIA IG retains the ultimate authority to independently determine a report's final conclusions, findings, and recommendations.

QUESTION 13

Do you commit to working directly with the congressional intelligence committees and providing information directly to the committees, rather than through the CIA's Office of Congressional Affairs?

It is my understanding that this has been the practice of the CIA IG. It is my intent to continue this practice as long as it complies with federal law and regulations.

QUESTION 14

What is your position on the role of the CIA IG to monitor CIA adherence to congressional intent and direction?

The CIA IG provides internal oversight of the Agency's compliance with federal laws and regulations. More specifically, the OIG conducts audits, reviews, inspections and investigations to prevent and detect fraud, waste, abuse and other forms of misconduct within the CIA. The OIG thereby helps ensure that CIA conduct itself in compliance with Congressional intent and direction as expressed in federal statutes and regulations governing the Agency's programs, operations, funding and administration.

QUESTION 15

Do you commit to consult with the intelligence oversight committees in Congress to help determine CIA adherence to congressional intent and direction? Why or why not?

Yes. The CIA IG is an essential partner of Congress in the oversight process, which Congress is constitutionally and legally obligated to provide.

QUESTION 16

Please also describe your views on the appropriate relationship between the CIA IG and the CIA Office of General Counsel with regard to legal issues. Do you commit to independently analyzing legal issues related to the role, responsibilities, and functions of the OIG?

Yes. Pursuant to 50 U.S.C. §3517(e)(8)(A), the CIA IG must appoint his or her own counsel who shall report directly to the IG; or, alternatively, the IG may obtain the services of a counsel appointed by and directly reporting to another IG. Although I can envision there might be circumstances in which the CIA IG and OGC have to consult with one another, the CIA IG must be counseled and advised independently on OIG-related legal matters by attorneys who are answerable only to the IG.

Major Challenges, Problems, and Priorities

QUESTION 17

In your view, what are the major challenges, problems, and priorities facing the CIA IG's Office?

I can envision that one of the most significant and relentless challenges facing the CIA IG's Office is the preservation of its independence in the performance of its mission critical work. In my view, the OIG must be committed to rigorously defending its independence from both internal and external pressures. In addition to that, I can envision major challenges related to accessing Agency information and efforts to improve Agency culture surrounding whistleblowers, together with the access of whistleblowers to the IG's Office. Beyond that, if confirmed I will work to identify the CIA OIG's mission specific major

challenges and priorities; and, if requested, report my assessments to the Committee. If confirmed, I also would look forward to learning more about OIG's challenges from the Committee's perspective.

QUESTION 18

If confirmed, how do you plan to address those challenges, problems, and priorities?

As I explained in Question 17, once confirmed, after assessing the major challenges and problems facing the OIG, I look forward to working with the OIG leadership team to identify resolutions and action plans to properly address those challenges and problems.

Staffing

QUESTION 19

Please provide your introductory assessment of the staff levels and performance of the CIA IG staff.

Because of the classified nature of OIG's organizational structure and work, I have not been able to personally assess the office's staff levels or performance. If I am confirmed, I will perform these assessments as soon as possible and agree to report my findings to the intelligence oversight committees and the Director.

QUESTION 20

Do you have enough staff to accomplish your mission?

Please see my Answer to Question 19.

QUESTION 21

Are there areas in which you need additional support?

Please see my Answer to Question 19.

QUESTION 22

What policy changes do you anticipate needing, in order to strengthen the work of the CIA IG?

Please see my Answer to Question 19.

QUESTION 23

Do you have sufficiently cleared staff to conduct studies into sensitive and highly compartmented activities at the CIA? Are there mission areas in which the CIA IG does not have access, or has been denied access?

Please see my Answer to Question 19.

Whistleblower

QUESTION 24

To your knowledge, have you ever been the subject of a whistleblower complaint? If yes, please provide dates and content of each complaint of which you are aware.

No, not to my knowledge.

QUESTION 25

Please describe your view of the CIA IG's role with regard to whistleblowers. Please address each of the following and provide specifics on how you intend to address each of the following as CIA IG:

The CIA OIG performs a significant and critical role with regard to whistleblowers. Consistent with federal whistleblower laws and regulations, the IG must maintain a robust and effective whistleblower program, so that agency employees and contractors have a trusted means for bringing wrongdoing and other problems to light within the Agency, and to Congress. Through the whistleblower program, the OIG receives and develops information which helps the IG root out waste, fraud and abuse within the Agency, as well as violations of law, including criminal violations, all affecting or potentially affecting CIA programs, operations, personnel and/or administration. The OIG must also protect whistleblowers to the fullest extent of the law. Drawing from my experience as a federal prosecutor, the OIG should strive to protect the identities of whistleblowers who seek such protection with the same vigor and commitment as federal prosecutors and agents who protect confidential informants.

In furtherance of its obligations in this regard, the OIG must provide outreach and training programs to CIA employees and contractors with regard to the whistleblower process, provide confidential access to individuals who want to file complaints or otherwise provide information, respond timely and competently to such complaints and information, and provide protection to and uphold the confidentiality of whistleblowers. The CIA IG also is tasked with the vitally important mission of protecting whistleblowers from retaliation in the workplace and beyond. Therefore, the whistleblower program is one of the most important missions, if not the most important mission, of the CIA IG.

In addition to the above, pursuant to 50 U.S.C. §3517(d)(5), where the OIG finds flagrant or particularly serious problems, or “urgent concerns” as the term is legally defined, it is obligated to report them to the Director, and assure that the intelligence committees are notified as required by law. Further, a CIA employee or contractor, who intends to report to Congress a complaint or information with respect to an “urgent concern”, may report such complaint or information to the CIA IG. The IG, if it determines that the information is credible, must inform the Director of the complaint or information, and ultimately the intelligence committees. The IG also has the responsibility of notifying the reporting employee or contractor of every action taken by the Agency with regard to the complaint or information received.

- Outreach and training across the CIA with regard to whistleblower rights and access to the OIG;

I have not had the opportunity to review and evaluate the OIG’s current outreach and training programs relating to whistleblower rights and OIG accessibility. However, if confirmed, I will review the relevant programs, policies and processes, and look for ways to possibly improve them.

Generally, however, it is my understanding that Agency employees and contractors currently receive training with regard to whistleblower rights and complaint reporting procedures, including training on how to access the OIG.

- Timely and thorough investigations of whistleblower complaints;

All whistleblower complaints should be investigated timely and thoroughly in compliance with prevailing IG standards and consistent with the CIA OIG’s resources.

- Management of whistleblower caseloads within the OIG;

I do not have sufficient experience with the operation of the CIA IG to address with specificity the management of whistleblower caseloads within the office. If confirmed, however, I will review the current caseloads and how they are managed. I also will take any and all appropriate steps needed to improve the management, handling and prioritizing of whistleblower cases in the office. Further, if confirmed, I look forward to providing more specific information in this regard to the Committee.

- Whistleblower protections and responses to allegations of reprisals; and,

The CIA OIG is required to comply with applicable statutes, including 50 U.S.C. §3517, and PPD-19 and ICD-120 relating to IC whistleblower protection. Collectively, these require the OIG to protect the confidentiality of whistleblowers to the greatest extent permitted by law and, second, to enforce the protections afforded to whistleblowers under the law, including protections against reprisal actions (such as personnel or security clearance actions).

If confirmed, I will review and evaluate the protections, response procedures and protocols currently in place at the OIG and look for ways to possibly improve the OIG's approach to whistleblower protection and the office's response procedures to reprisal allegations.

- Notification to Congress regarding whistleblower complaints.

In addition to the CIA IG's notice obligations under the "urgent concern" provisions set forth in 50 U.S.C. §3517, the OIG must also notify the intelligence committees on a semi-annual basis of the status of all of its inspections, audits and investigations, including whistleblower complaints and retaliation cases.

QUESTION 26

What is your view of the role of the CIA IG in managing and investigating whistleblower complaints? How much of a priority will you make managing and investigating whistleblower complaints if confirmed as the CIA IG?

Please see my Answer to Question 25. Additionally, if confirmed, the management, investigation and timely response to whistleblower complaints will be a top priority of the CIA OIG, consistent with the office's caseload and available resources.

QUESTION 27

Will you seek to strengthen the CIA IG's role relative to whistleblower protections? If yes, how will you strengthen the whistleblower protection activities of the CIA IG?

Yes. Please see my Answers to Questions 2, 25 and 26. Additionally, if confirmed, I plan to review the OIG's whistleblower program, including current OIG policies and practices, in order to determine whether the strengthening of protections afforded to CIA employee and contractor whistleblowers is needed.

QUESTION 28

To proactively protect CIA employees and contractors from potential retaliation, do you support providing CIA employees with the same stay authority that is afforded almost every other federal employee?

If I am confirmed, I will examine this issue and determine whether, in my view, CIA employees should be afforded the same stay authority provided to other non-IC government employees.

Independence

QUESTION 29

In general, what would be your approach to ensuring the independence of the Office of the Inspector General of the CIA, if you are confirmed as the next CIA IG?

Independence is the cornerstone of any Inspector General. The CIA IG must conduct independent, impartial and unbiased inspections, reviews, evaluations, audits and investigations of the agency's programs and operations; and provide policy recommendations to the Director based on that work in order to promote effectiveness, economy and efficiency within the Agency. Further, an appropriately independent IG helps assure credibility to and strengthens the critical roles of both the OIG and Congress in the oversight process, while assuring that the CIA remains accountable to Congress and ultimately to the American people.

Therefore, if confirmed, my approach to ensuring the independence of the CIA OIG would be to approach and conduct all work within the IG's Office in an honest, impartial and unbiased manner, free of any individual or political agendas, influences or pressures, regardless of source or magnitude; and to always speak truth to power, whether that "power" be the Director, the White House, this Committee, or anyone else; and, consistent with the principles of Lady Justice, to always professionally and ethically follow the law and facts wherever they might lead.

Further, if confirmed, I would communicate the above values and principles and the need for independence to CIA OIG managers and employees, and take the necessary and appropriate steps to assure that new IG employees understand the above values and the importance of independence and impartiality in the performance of the IG's duties and responsibilities.

Duties of the Position

QUESTION 30

One of the key statutory responsibilities for the CIA IG is: "to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency..." Please explain how, as CIA IG, you plan to determine the agenda for the IG's inspections, investigations, and audits. How will you solicit and incorporate congressional concerns into your plans?

It is my understanding that the planning for audits and inspections by the OIG is based on 1) the office's prior year's reporting on the Agency's management performance challenges, 2) comments received from the Agency's leadership team and the intelligence oversight committees, 3) mandated annual and periodic work of the OIG, and 4) feedback from the OIG's staff based on their observations while performing work in the field. With regard to

the OIG's investigations, they are largely reactive in nature based on information received from a number of sources.

The above methodology appears to be a reasonable and appropriate approach to office planning. If confirmed, I will review and assess the OIG's specific agenda for its inspections, investigations, and audits, and look for areas where the plans might be improved or made more effective or productive. I also look forward to the opportunity of working closely with and considering the suggestions, ideas and concerns of the intelligence oversight committees as the OIG builds out its work plans.

QUESTION 31

What do you believe are the five most important prospective subjects for reports by the CIA IG, and how do you intend to prioritize these subjects as CIA IG?

I have reviewed CIGIE's 2018 report on the top management and performance challenges facing federal agencies, and I believe some of the subjects listed in that report are relevant to the CIA, such as information technology security and management, and performance management and accountability. I can also envision that artificial intelligence and facilities/personnel security might also be important prospective subjects for an OIG report. However, once I am confirmed and have become more familiar with the CIA's programs and operations, I will be able to accurately assess the most important subjects that should be addressed in OIG reports.

Relationship of CIA IG and IC IG

QUESTION 32

Please describe any potential overlap or conflict between the CIA IG and the ICIG that you anticipate, if confirmed, and how you intend to resolve same.

If confirmed, I look forward to reviewing the OIG's caseload for any potential overlap or conflict with matters being handled by the ICIG. Once I am familiar with the OIG's work and planned investigations, and discuss pending investigative matters of mutual interest or concern with the ICIG, I will be in position to properly assess what overlap or conflict might exist between the two IG offices. In doing so, I will be able to draw on my experience resolving agency jurisdictional conflicts in relation to the numerous multi-agency task force criminal investigations that I have supervised and coordinated during my career at the U.S. Department of Justice.

[From Vice Chairman Warner]

QUESTION 33

Do you have any planned enhancements for existing whistleblower programs? If yes, what enhancements to the existing activities, including outreach, will you implement?

If confirmed, I look forward to the opportunity, and the benefit, of reviewing the existing whistleblower programs and the efficacy of each of them. While recognizing the importance of all reporting channels available to whistleblowers, if confirmed I also look forward to analyzing the details of each of those programs and considering any and all possible improvements and enhancements.

QUESTION 34

Please provide the current set of performance measures used by the Office of the Inspector General to measure success, including measures to track the timeliness and quality of whistleblower investigations.

It is my understanding that the CIA OIG complies with CIGIE's quality standards and the U.S. Attorney General's guidelines with regard to timeliness and quality of whistleblower investigations.

QUESTION 35

Given that stay authority must be requested by a whistleblower to avoid a possible retaliatory act, how are you able to assess whether there has been a need for it? Do you believe a proactive stay authority could prevent retaliatory actions?

It is difficult for me to assess the need for stay authority within the CIA absent my review of the OIG's precedent and history with regard to whistleblower complaints and investigations involving threatened or actual retaliatory conduct. Thus, I do not have enough information concerning CIA OIG operations to have formed an opinion on this specific matter. If confirmed, however, after conducting the necessary reviews, and exploring the pros and cons of stay authority with OIG staff, and possibly with IC IG Forum members, I look forward to providing you and the intelligence oversight committees with my opinion and recommendations and to discussing your thoughts on this issue in greater detail.

QUESTION 36

In conversations with past CIA Inspectors General, they raised concerns that the lack of sufficient accesses by OIG staff could affect the OIG's ability to properly conduct audits and perform evaluations. Some audits and evaluations were in highly compartmented programs or offices. Please indicate what measures and programs you intend to implement to realize the full access to data, systems, and personnel that performing quality IG audits and evaluations necessitates.

If a properly cleared member of the IG's staff, in conducting an authorized audit or evaluation of a compartmented program or office, was refused access at some level, I would first seek to determine the reason. I likely would then ask the assigned IG staff member to advise the appropriate manager of the legal authorities granting the IG unrestricted access to the program or office. If necessary, either I or a supervisory member of the IG's Office would intervene and speak directly with the appropriate supervisor. In the event these interventions failed to resolve the problem, I would personally inform the Office of the Director of the violation and request assistance in obtaining the access needed. In the unlikely event that the Director failed to provide help, and the IG's Office was still being refused access, I would inform the intelligence oversight committees of the problem and request their assistance.

50 U.S.C. §3517(d)(3)(E) requires that the CIA IG immediately notify the intelligence oversight committees when the IG is unable to obtain significant documentary information in the course of an audit, inspection or investigation.

In order to avoid such issues in the first place, it is important for the OIG and the CIA leadership team to work collaboratively in educating employees, particularly mid-level and senior managers, throughout the extended Agency enterprise of the IG's legal authorities in this regard.