

February 19, 2021

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

Dear Chairman Warner and Vice Chairman Rubio:

Thank you for the Committee's letter dated February 17, 2021. As you have requested, I have completed the Committee's Additional Prehearing Questions, which are enclosed.

My responses to the Committee's classified prehearing questions are being submitted under separate cover. I look forward to appearing before the Committee on February 24th.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Burns", with a long horizontal flourish extending to the right.

William J. Burns

Enclosure

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE



Additional Prehearing Questions for

William J. Burns

Upon his nomination to be

Director of the Central Intelligence Agency

Role and Performance of the D/CIA in Senior National Security Leadership

QUESTION 1: Briefly describe how you see your role and responsibilities in relation to the Director of National Intelligence (DNI), the Secretary of State, and the President's National Security Advisor. What you would bring to these relationships, and how you would change your role to improve the effectiveness of these relationships, if confirmed?

(U) The DNI serves as the head of the Intelligence Community and acts as the principal adviser to the President, to the National Security Council (NSC), and the Homeland Security Council for intelligence matters related to the national security. The DNI is also responsible for budgeting, oversight, and intelligence coordination across the elements of the Intelligence Community, including establishing objectives, priorities, and guidance for the collection, processing, analysis, and dissemination of intelligence. If confirmed, I will work closely with the DNI, my longtime friend and colleague Avril Haines, to make sure the Agency's efforts complement her role as head and integrator of the Intelligence Community.

(U) The Secretary of State is a statutory member of the NSC. Under the direction of the President and through the Secretary of State, Chiefs of Mission advance the foreign policy and national security interests of the United States. CIA is required to keep Chiefs of Mission fully and currently informed with respect to all activities and operations in each country in which CIA has a presence. Through my time at the Department of State serving alongside CIA officers, I learned to deeply appreciate the vital role that the partnership between CIA and the Department plays in advancing those foreign policy and national security interests. If confirmed, I look forward to working with Secretary Blinken, with whom I have had the pleasure of working for many years, to strengthen that partnership.

(U) The NSC, through the Assistant to the President for National Security Affairs, acts as the highest-ranking executive branch entity that provides support to the President for review of, guidance for, and direction of the conduct of all foreign intelligence, counterintelligence, and covert action, and associated policies and programs. I served as a member of the NSC staff early in my career, and am intimately familiar with its critical role. NSA Sullivan and I have worked closely together in the past. If confirmed, I look forward to working with him again, and I will fully support the DNI's efforts to provide the best intelligence and advice to the NSC and the President – and to deliver it with honesty and integrity.

Post-Modernization and the Future of the CIA

QUESTION 2: The CIA underwent a major reorganization several years ago. Mission Centers were created to reinforce a “team approach” and put the focus on growing well-rounded Agency officers. Since then, how we collect intelligence has evolved. Do you believe that the CIA should remain focused on clandestine collection? Moreover, how will you maintain objective analysis as a central function of the CIA under this construct? How should the conduct of these activities be balanced and prioritized in the future at the CIA?

(U) Yes, I do believe CIA should remain focused on clandestine collection. What remains constant through technological advances is the need for human intelligence operations and the necessary clandestine global infrastructure to surface the truth and intent behind secrets. It is a fundamental and unique role of the CIA that has not changed since the enactment of the National Security Act of 1947 and issuance of Executive Order 12333. In principle, the CIA is designated the “collector of last resort,” though in practice it is widely considered the primary source across the wide range of intelligence requirements. The CIA should be focused on the most challenging requirements.

(U) The CIA, and the Directorate of Analysis (DA) specifically, remains central to providing timely, accurate, and objective all-source analysis. Ensuring the objectivity of CIA’s analytic product is at the core of the analytic mission and is deeply embedded in CIA culture. The DA’s credibility – and, by extension, the CIA’s credibility – depends in part on its ability to “call it like analysts see it” and not be influenced by, or biased toward, policy and operational goals. The reorganization undertaken several years ago was focused on improving integration across CIA. My sense is this integration of analysts and operators within Mission Centers provides national security decision advantage to our policymakers and faster collaboration on tough issues. Managers at all levels must continue to ensure that this integration strengthens analytic objectivity.

QUESTION 3: Since modernization in 2015, and now operating under limitations of COVID-19, there have been numerous efforts to improve the CIA’s management of the workforce. There have also been efforts to address training and care for officers and their families to improve the readiness of the organization. What areas of an officer's preparedness and readiness would you focus on as Director of the CIA?

(U) If confirmed, I will have no higher priority as Director than ensuring the health and wellbeing of officers and their families, through this pandemic and wherever and whenever they face harm or risk.

(U) I believe that CIA should continue to make data-driven decisions that promote the health and safety of its officers while achieving its mission, particularly given that the workforce cannot telework. It is my understanding that CIA continues to promote flexibility through additional programs and policies that further meet officers' needs during this pandemic, to include Professional Training from home and new flexible work schedules. If confirmed, I intend to further strengthen these programs and enhance policies that reinforce the resiliency and wellbeing of the workforce.

QUESTION 4: The CIA is operating in a growing number of environments subject to foreign adversary ubiquitous technical surveillance (UTS) measures. These measures threaten, and may jeopardize the clandestine nature of CIA operations. Please explain how you would address the very real and pressing challenges facing you as Director of the CIA.

(U) If confirmed, I plan to address UTS measures with a multi-pronged, integrated, comprehensive approach, leveraging all CIA elements to get ahead of the threat. I plan to engage my counterparts throughout the government, as well as our allies abroad, to share strategies and solutions for addressing how ubiquitous collection is exploited by our adversaries. This will require CIA to adapt its tradecraft, generate smarter technology, and properly leverages all available data.

HUMINT Role of the CIA

QUESTION 5: In your view, is it appropriate for the Director of the CIA to continue to be the National Human Intelligence (HUMINT) Manager?

(U) Yes, in fact it is more critical than ever for the DCIA to guide this functional community of clandestine and overt HUMINT collectors. The CIA is the only organization that is focused on HUMINT as a function and has developed a broad foundation of operational, technical, and analytic expertise on which to build and lead the HUMINT enterprise. The DCIA is well positioned to guide this functional community of clandestine and overt HUMINT collectors. The

evolving threats and opportunities that come with the ubiquitous technical surveillance environment and big data analytics require the HUMINT enterprise to come together as never before to integrate, deconflict, and evolve US efforts. The National HUMINT Enterprise is comprised of 13 different US government agencies and organizations all collecting intelligence to support the equities and informational needs of their respective organizations. The Director of CIA as the National HUMINT Manager ensures uniformity of tradecraft, collection standards, and operational activity for the US government by sharing best practices and techniques. The National HUMINT Manager also evaluates intelligence consumer satisfaction with the HUMINT Enterprise, so that if changes are needed it can be accomplished through all of the HUMINT executors. The DCIA continues to be in the best position to execute these functions successfully.

QUESTION 6: What do you consider to be the appropriate division of responsibilities for HUMINT between the CIA and the various components of the Department of Defense (DOD), the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS)? As the National HUMINT Manager, how would you improve sharing of HUMINT between elements within the Intelligence Community (IC), and how would you seek to benefit and enhance the collection of HUMINT within the IC?

(U) Responsibilities for each IC element are laid out in Executive Order 12333, and each have their own unique capabilities and authorities to bring to bear against the complex challenges facing our country; however, in the realm of HUMINT collection (both clandestine and overt), the actions of one HUMINT executor may impact the operations of another, making coordination of activity paramount. At the same time, the US government benefits from having appropriate redundancy in its collection capability. This overlap ensures the adversary cannot exploit any seams in the IC. To that end, it is critical for each to lean forward and share lessons learned and best practices in tradecraft and the use of technology. To do so will not only enhance the IC's capabilities as a whole, but will also enable the IC to focus the "best athlete" against the "right operation" with the most knowledge available to ensure success.

(U) As the Community HUMINT Manager, I will continue to promote greater collaboration and information sharing by IC members, create more opportunities for IC officers to serve in different IC agencies, and ensure technology advancements are agile and shared with IC partners.

QUESTION 7: As a former senior diplomat, you have been a high-volume consumer of the intelligence the CIA provides. In this regard, and with your exposure to the operational activities of the CIA, what are your views on the working relationships of the FBI, DHS, National Security Agency (NSA), and other elements of the DOD and the CIA? How could these relationships be improved at the working level, and how would you make this work as Director of the CIA?

(U) As I have known throughout my career, effective, cooperative interagency relationships are absolutely crucial, especially within the intelligence community – with each partner supporting the other. In keeping with the 9/11 Commission Report, it's essential that IC members work side-by-side, sharing usable information that benefits the US government as a whole. Now that the many of the organizational and cultural barriers to partnership and collaboration have been removed where appropriate, we must focus on improving the IT infrastructure and making other practical improvements which will continue to enhance more timely coordination and integrated efforts.

QUESTION 8: What role do you see for the CIA in paramilitary actions? How do you distinguish between the appropriate roles of the CIA and the United States Special Operations Forces in paramilitary actions?

(U) CIA necessarily must operate in hazardous and austere environments, whether to prosecute the United States' covert action mission, as directed by the President, or to collect foreign intelligence against hard targets. I would suggest that "paramilitary-style actions" should not be considered a separate category of operation, but a method by which these two broader missions may be accomplished, with increasing attention being paid to aligning more of CIA's collection capabilities against our most strategic and challenging targets.

(U) While there are some similarities between the CIA's paramilitary capabilities and the Department of Defense's Special Operations Forces (SOF), their legal authorities and objectives are different. DoD uses SOF to execute a military strategy where CIA uses its distinct authorities for its clandestine mission. Together, these activities are critical parts of supporting the President's National Security Strategy.

The CIA and Cybersecurity Posture

QUESTION 9: The issue of cybersecurity is a focus of this Committee. Public cybersecurity incidents have led to questions about the security of CIA systems writ large.

- A. How would you improve the cybersecurity posture of CIA systems?
- B. What are your top priorities for cybersecurity and technical counter- cyberespionage protections at the CIA in the near term?

(U) Like many organizations, CIA has been challenged by the relentless proliferation of advanced threats to its operations, information technology networks, and data. On a daily basis, Foreign Intelligence Services and cyber criminals employ sophisticated and technologically advanced capabilities and tactics in their non-stop efforts to steal the classified information collected, stored, and processed by CIA.

(U) If confirmed, I will ensure that CIA is consolidating the organizational gains made in recent years and continuing to invest in personnel, counterintelligence processes, cyber defense technology, and needed upgrades to information technology systems.

- Specifically, I will ensure CIA is making sustained investments in several key areas, such as:
 - Continued innovations in **Artificial Intelligence** technologies that help cyber defenders detect and repel the most sophisticated and difficult-to-detect attacks.
 - Emerging technologies and best practices aimed at securing the complex **supply chains** upon which CIA and other government agencies rely.
 - **Collective defense** frameworks and technologies to ensure CIA and other Intelligence Community organizations are learning and benefitting from one another.
- Finally, I would work to create a culture of accountability in which every CIA employee, at every level, is educated about cyber risk and made aware that all aspects of the business should be conducted with a focus on cybersecurity as a mission imperative.

Duty to Correct Public Statements

QUESTION 10: What is your view of the Director of the CIA's responsibility to inform senior administration policy officials or their spokespersons when the available intelligence either does not support or contradicts public statements they have made?

(U) If I became aware that a senior administration policy official or their spokesperson had made a public statement that I later learned was not supported by, or contradictory to, available intelligence, I would consult with that official and suggest ways to correct the public record unless doing so would risk disclosing sources and methods.

QUESTION 11: How would you improve the independence of CIA analytic products, and distance yourself from political sentiment sufficiently to remain dispassionate and unbiased given the current media and information environment?

(U) Throughout my career, I have understood that objective intelligence analysis, delivered with honesty and without any hint of politics or policy agenda, is foundational for sound policy choices. If confirmed, I will be deeply committed to exactly that approach.

(U) Across my years in government service, I have been impressed by the exceptional lengths CIA analysts go to ensure their analysis is objective, even when its conclusions may be unwelcome. Rigorous objectivity has always been, and must remain, the touchstone for the Agency's analysis. I am committed to protecting and defending the ability of CIA officers to provide their best, well-grounded analysis, whether or not it fits my own analytic views.

(U) Both the leadership of the Directorate of Analysis and the Agency's Ombudsman for Objectivity will continue to play vital roles in ensuring CIA analysts have recourse to raise concerns about objectivity or politicization, and in acting as conduits to ensure any concerns are surfaced and addressed.

Law Enforcement Proviso

QUESTION 12: *The National Security Act of 1947* (Section 104A (d)(1)) states that the Director of the Central Intelligence Agency "*shall have no*

police, subpoena, or law enforcement powers or internal security functions.”

Explain your understanding of this proviso. Furthermore, explain whether you believe the CIA should have arrest authorities, and if so, under what conditions.

(U) The “law enforcement proviso” of the National Security Act of 1947 limits the CIA’s authority. I understand that Congress, influenced by the United States’ experience in World War II with totalitarian states such as Nazi Germany, was determined “that the CIA neither invade the FBI’s jurisdiction nor become a secret police.” I should note that while it is a significant legal constraint, the “law enforcement proviso” does not preclude certain types of CIA assistance to U.S. law enforcement agencies in various circumstances. With the exception of the authority of CIA special police officers to protect CIA installations, property, or employees, I do not believe that CIA should have the authority to arrest persons in the United States.

QUESTION 13: What principles, in your view, should govern rules pertaining to the collection and retention of U.S. person information by U.S. intelligence agencies, even if the data is in transit? Please explain if there are any special rules or exceptions necessary for the collection and retention of U.S. person information by the CIA.

(U) It is crucial that the Intelligence Community achieve the correct balance between acquiring information needed to keep our nation safe and protecting information concerning the privacy interests of U.S. persons, including their privacy interests in communications that are in transit. The CIA’s January 2017 Attorney General-approved Guidelines provide specific principles and standards that govern the collection, use, retention, and dissemination of information concerning U.S. persons, including incidentally acquired information concerning the communications of U.S. persons. These Guidelines implement the requirements of Executive Order 12333 and Section 309 of the Intelligence Authorization Act for Fiscal Year 2015 (“Procedures for the Retention of Incidentally Acquired Communications”). If confirmed, I commit to following these guidelines and procedures, and I look forward to working with the Committee in its important oversight role with respect to these authorities.

Science & Technology and Research & Development

QUESTION 14: Section 501 of the *Intelligence Authorization Act for Fiscal Year 2021* ensures that the Director of the CIA has the legal authorities required to improve the skills in science, technology, engineering, arts, and mathematics

(collectively referred to as “STEAM”) necessary to meet long-term national security needs.

- A. Do you commit to providing the support necessary to execute these legal authorities and improve the Agency’s workforce skills related to STEAM areas of expertise?

(U) Yes. Your recent approval of the STEAM legislation will certainly enhance CIA’s ability to use appropriated funds to issue grants to colleges and universities to develop innovative ways to leverage technology through research; to narrow intelligence gaps; and to develop our STEAM workforce. I fully support CIA’s academic partnerships with Historically Black Colleges & Universities and Minority Serving Institutions to increase diversity of thought and approaches in the core disciplines of science and technology. I also look forward to leveraging CIA Labs’ established relationships with academia, industry, and other government entities to expand our STEAM outreach and workforce development. I am confident that this approach will bolster the technical skills of our existing workforce, and develop the STEAM workforce of the future.

- B. Do you commit to keeping the congressional intelligence committees currently and fully informed as to the progress that the agency is making toward improving the agency’s workforce skills related to STEAM areas of expertise, and how the agency’s workforce is improving its ability to meet long-term national security needs?

(U) Yes.

Brain Trauma Injuries

QUESTION 15: To address injuries suffered by CIA employees, section 6412 of the *Damon Paul Nelson and Matthew Young Pollard Intelligence Authorization Act for Fiscal Years 2018, 2019, and 2020* authorized the Director of the CIA to provide enhanced injury benefits to a covered employee or qualifying dependents who suffer an injury overseas due to war, insurgency, hostile act, or terrorist activities. Since that time, the CIA has advised that this provision may not provide complete coverage for certain brain, heart, and back injuries.

- A. Do you commit to providing the support necessary for legislation to ensure that all qualifying brain, heart, back, and potentially other injuries

are covered?

(U) Yes. I also want to thank the Committee for its interest and advocacy on this important issue.

B. Do you commit to providing the congressional intelligence committees with ongoing, timely intelligence-related written and verbal updates on the “Havana Syndrome” and related issues?

(U) Yes.

C. Do you commit to advising the congressional intelligence committees when additional legislative, administrative, or other action is required to address the “Havana Syndrome” and related issues?

(U) Yes.

QUESTION 16: The Senate Select Committee on Intelligence (SSCI) has worked to find legislative solutions to the spate of brain trauma injuries that have afflicted CIA personnel in recent years. While the committee has had some success on this front, our efforts to achieve a comprehensive and enduring legislative fix to this problem would benefit greatly from your commitment to viewing the committee as a partner in this matter.

A. Can this committee count on your support for our legislative efforts to ensure CIA officers have access to the healthcare and rehabilitative services needed to treat brain trauma injuries?

(U) Yes.

B. Is it your position that the CIA’s Office of Medical Services (OMS) has an obligation to treat seriously all claims of duty-related physical injury arising from CIA personnel, to include the symptoms of brain trauma?

(U) Yes.

Classification & Transparency

QUESTION 17: Executive Order 13526 states, “*In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in*

order to: (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of national security.” Executive Orders 12958 and 13292 prohibited classification for these same factors.

A. Do you commit to fulfilling both the letter and the spirit of these prohibitions?

(U) Yes.

B. What role do you believe the CIA Inspector General should play in investigating possible violations of these prohibitions?

(U) Under the Central Intelligence Agency Act of 1949, one of the duties and responsibilities of the CIA Inspector General is to conduct investigations relating to the programs and operations of the Agency to ensure they are conducted in accordance with law and regulations, and to keep the Director fully and currently informed concerning violations of law and regulations. I expect that possible violations of the Executive Order 13526 classification prohibitions that come to the attention of the Inspector General will be appropriately reviewed.

C. What accountability do you believe is appropriate for violations of these prohibitions?

(U) CIA employees who knowingly, willfully, or negligently violate the Executive Order 13526 classification prohibitions will be subject to appropriate sanctions as prescribed by the Executive Order.

QUESTION 18: If you or another CIA officer were to say something that was factually inaccurate in public, would you correct the public record?

(U) If I became aware that I or another CIA officer had made a public statement that I later learned was factually inaccurate, I would take action to correct the public record unless doing so would risk disclosing sources and methods. To the extent the erroneous statement was made to Congress, I would take appropriate steps to inform Congress about the correction.

QUESTION 19: “*Central intelligence Agency intelligence Activities: Procedures Approved by the Attorney General Pursuant to Executive Order 12333*” is currently posted online. Do you commit to continuing to post these procedures and to making public any modifications, superseding policies and procedures, or significant interpretations?

(U) Yes, consistent with my responsibility to protect sources and methods.

QUESTION 20: The CIA’s PPD-28 Section 4 policies and procedures are publicly available. Will you ensure that the CIA continues to post these procedures as well as any modifications, superseding policies and procedures, or significant interpretations?

(U) In accordance with the PPD-28 Section 4 publication requirements, I commit to continue making publicly available CIA’s PPD-28 Section 4 policies and procedures, which are unclassified. I also commit to make publicly available any unclassified modifications of these procedures or any superseding unclassified procedures that are promulgated.

QUESTION 21: Will you support the declassification and public release of any interpretation of law that provides a basis for intelligence activities, but is inconsistent with the public’s understanding of the law?

(U) Yes, insofar as we see a significant gap in the public’s understanding of the law and consistent with my responsibility to protect sources and methods. Additionally, the National Security Act requires that the CIA General Counsel notify the congressional intelligence committees of any significant legal interpretations of the Constitution or federal law.

QUESTION 22: During her confirmation, DNI Haines stated that “*[i]f confirmed, I will seek to articulate and make public the circumstances under which the IC purchases commercially available information and the legal basis for doing so, consistent with the protection of sources and methods.*” Will you make the same commitment?

(U) Yes, consistent with my legal obligation to protect sources and methods.

Detention, Interrogation and Rendition

QUESTION 23: Section 1045 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 prohibits the use of any interrogation technique or approach or treatment related to interrogation not authorized by the Army Field Manual. Is this provision of law binding on the CIA?

(U) Yes.

QUESTION 24: Do you believe that any of the CIA's former enhanced interrogation techniques are consistent with the Detainee Treatment Act, the U.S. statutory prohibition on torture, the War Crimes Act, or U.S. obligations under the Convention against Torture or Common Article 3 of the Geneva Convention?

(U) I believe the CIA's former enhanced interrogation program included torture, which violates U.S. commitments and obligations.

QUESTION 25: Executive Order 13491 prohibits the CIA from operating any detention facilities other than "*facilities used only to hold people on a short-term transitory basis.*" Do you support this prohibition?

(U) Yes.

QUESTION 26: Section 1045 of the NDAA for Fiscal Year 2016 requires the Secretary of Defense, in consultation with the DNI, the Attorney General, and the Director of the FBI, to complete a "*thorough review*" every three years of Army Field Manual 2-22.3 (Human Intelligence Collector Operations) ("AFM").

A. Do you agree to advocate for a timely review of the AFM?

(U) Yes.

B. Do you agree that the CIA's former enhanced interrogation techniques should be prohibited under the AFM?

(U) Yes.

C. Section 1045 requires that the High-Value Detainee Interrogation Group

(HIG) submit a report on best practices for interrogation and states that the review of the AFM may include recommendations for revisions based on HIG research. After reviewing the science, the HIG concluded that, “[based on the comprehensive research and field validation studies detailed in this report, it is concluded that the most effective practices for eliciting accurate information and actionable intelligence are non-coercive, rapport-based, information-gathering interviewing and interrogation methods.” Do you agree that the review of the AFM should be consistent with these scientific best practices?

(U) Yes.

QUESTION 27: If confirmed, will you ensure that the full, non-redacted Committee Study of the CIA’s Detention and Interrogation Program (“Study”) is made available to cleared CIA personnel, so that its lessons can be learned?

(U) The Executive Summary containing the background, summary, and conclusions of the Study is available to all CIA personnel. Should the Committee request additional access for CIA personnel for the full, unredacted Study, I will consider appropriate options with the Committee.

QUESTION 28: If confirmed, will you review the options for making the full, non-redacted Study, or relevant portions thereof, available to appropriately cleared defense counsel at the military commissions at Guantanamo Bay and report to Congress on that review?

(U) If confirmed, should the Committee request access to the report for the military commission counsels, I will, within the framework of the rules of discovery in the military commission cases, review options with the Committee for making relevant portions of the Study available to appropriately cleared defense counsel.

QUESTION 29: If confirmed, will you review the options for ensuring that medical personnel at Guantanamo Bay have access to any information in the Study relevant to the health of detainees?

(U) If confirmed, should the Committee request access to the report for medical personnel at Guantanamo Bay, I will review any information in the Study relevant to the health of detainees and consider options with the Committee for providing access to that information if not already provided.

QUESTION 30: Do you agree that CIA officers should not participate in interrogations of detainees in liaison custody when those officers witness, know of, or otherwise suspect the torture or mistreatment of detainees?

(U) Yes, I agree that CIA officers should not participate in detainee debriefings if the CIA has received credible information that detainees in liaison custody have been tortured or mistreated.

QUESTION 31: The statutory prohibition on interrogations not consistent with the AFM applies to any individual “*in the custody or under the effective control of an officer, employee, or other agent of the United States Government; or detained within a facility owned, operated, or controlled by a department or agency of the United States, in any armed conflict.*”

- A. Please describe the factors that would indicate whether a detainee is in the “*effective control*” of any officer, employee, or other agent of the United States Government.
- B. Please describe how you would define whether a detainee is “*detained within a facility owned, operated, or controlled by a department of agency of the United States.*”

(U) I would base an interpretation of the statutory standards on the facts of a particular situation in consultation with the General Counsel. Relevant factors may include whether the U.S. controls access to the detention facility in question, owns the land on which the facility is located, manages the operations of the facility, controls the disposition of detainees, and/or has the authority to discipline or fire the personnel running the facility.

(U) Executive Order 13491 prohibits CIA from operating any detention facilities, other than facilities used only to hold people on a short-term, transitory basis.

QUESTION 32: The United States recognizes its obligations under the Convention Against Torture, not to “*expel, return (‘refouler’) or extradite a person to another state where there are substantial grounds for believing that he [or she] would be in danger of being subjected to torture.*”

- A. To what extent should written “diplomatic assurances” be required for extraditions and renditions?

(U) Diplomatic assurances, and consulting with the Department of State or Chief of Mission of the relevant Embassy in assessing the reliability and credibility of assurances obtained in connection with an extradition or rendition, are important considerations in determining whether the legal standards for an extradition or rendition are met and that detainees will be treated humanely.

B. Should such assurances be accepted from countries with established records of committing torture?

(U) The reliability and credibility of any assurances would be assessed on a case-by-case basis in light of all relevant factors and credible information known to CIA at the time, including the practices of the country providing the assurances and that country's record of compliance with assurances provided in similar circumstances to the U.S. and other countries.

Accountability

QUESTION 33: On June 27, 2013, then-CIA Director Brennan submitted to the Committee a letter acknowledging that, with regard to the CIA's Detention and Interrogation Program, the CIA "*[f]ell short when it came to holding individuals accountable for poor performance and management failures.*" The CIA then made the following recommendation:

"Broaden the scope of accountability reviews. Direct that the Executive Director ensure that all memoranda establishing and laying out the scope of an accountability review board, including directorate level boards, explicitly call on the board to assess and make recommendations to address any systemic issues revealed by the case, and to expand the scope of the review as warranted to include officers responsible for those systemic problems."

The 2014 Accountability Board that investigated the conduct of the five individuals named in the CIA's OIG report on "*Agency Access to the SSCI-Shared Drive on RDINet*" did *not* expand its scope beyond the five individuals, nor did it address accountability for officers responsible for systemic problems.

A. As a general matter, if confirmed, how would you improve accountability within the CIA?

B. Do you agree with the 2013 recommendation that accountability reviews at the CIA should be broadened to consider officers responsible for systemic problems?

C. If confirmed, will you review the accountability review process at the CIA to ensure that it addresses systemic problems and includes officers responsible for those systemic problems as well as management failures?

(U) Accountability is fundamental and systemic problems are no exception. If confirmed, I will, in leading the Agency forward, explore whether CIA's current accountability review process should be broadened or otherwise improved.

Human Rights

QUESTION 34: In an August 6, 2015, letter, then-Director Brennan wrote that “[while we neither condone nor participate in activities that violate human rights standards, we do maintain cooperative liaison relationships with a variety of intelligence and security services around the world, some of whose constituent entities have engaged in human rights abuses.” If a liaison service were to use CIA-provided resources to engage in human rights abuses, with CIA's knowledge, would the CIA bear any legal responsibility?

(U) Situations involving allegations of liaison's misuse of CIA resources in activities that violate human rights standards would be a serious matter that would involve review by the General Counsel, notification to Congress, and possible termination of the relationship.

Chief of Mission Authority and Relations with the Department of State

QUESTION 35: Director Brennan's August 6, 2015, letter stated that “[when we choose to continue a liaison relationship despite allegations of human rights abuses by individuals associated with liaison service, CIA policy requires that we take several steps to inform our U.S. Government partners and to mitigate the risk of future human rights abuses. First we advise the local Chief of Mission of CIA's concerns and seek the Chief of Mission's input on whether to continue the liaison relationship.]” Should the CIA inform the Bureau of Intelligence and Research (INR) or other elements of the Department of State when it considers a liaison relationship despite allegations of human rights abuses?

(U) Under the direction of the President, it is vital for Chiefs of Mission to be kept fully and currently informed of intelligence activities and operations undertaken in their countries of accreditation to include matters related to human rights records of liaison partners. If a Chief of Mission were to oppose continuing the relationship, I would expect that the matter would be elevated to the headquarters components of CIA and the Department of State for further discussion and resolution, which may include consideration by the Bureau of Intelligence and Research.

QUESTION 36: 22 U.S.C. 3927 states that “*Under the direction of the President, the chief of mission to a foreign country ... shall have full responsibility for the direction, coordination, and supervision of all Government executive branch employees in that country....*” Absent direct intervention from the President, is the CIA obligated to cease intelligence activities (including, but not limited to liaison relationships) that do not have the approval of the chief of mission?

(U) Pursuant to a long-held agreement between Department of State and CIA, Chiefs of Station are required to keep Chiefs of Mission fully and currently informed about all CIA programs and activities carried out in their countries of accreditation (unless CIA has been specifically exempted from this responsibility by the President or the Secretary of State). Intelligence activities that do not have the approval of the Chief of Mission, but remain supported by the Chief of Station are referred back to CIA and the Department of State for resolution.

QUESTION 37: Please describe the appropriate process whereby covert action is reviewed by the Department of State for consistency with U.S. foreign policy, both at the outset and over the course of the program. What entities within the Department of State should be part of that review?

(U) The Secretary of State is a statutory member of the NSC. In considering and submitting to the President a policy recommendation on each proposed covert action, the NSC is required to consider and submit all dissents. The NSC also is required to conduct a periodic review of ongoing covert action activities, including an evaluation of the effectiveness and consistency with current national policy of such activities and their consistency with applicable legal requirements.

(U) The Department of State has a critical role in contributing to the policy coordination of covert action programs as senior officials serving both in Washington and as Chiefs of Mission contribute to the policy coordination process

to ensure consistency with U.S. foreign policy. The Department of State's Bureau of Intelligence and Research is and should continue as a collaborative partner that participates in interagency working groups to ensure that foreign policy views are considered in developing and implementing the programs.

Section 702 of Foreign Intelligence Surveillance Act (FISA)

QUESTION 38: During his confirmation process, Assistant Attorney General for National Security John Demers was asked about the prohibition on reverse targeting in Section 702 of FISA. He responded:

“As I understand it, determining whether a particular known U.S. person has been reverse targeted through the targeting of a Section 702 target necessitates a fact specific inquiry that would involve consideration of a variety of factors. For example, as the Privacy and Civil Liberties Oversight Board noted in its 2014 report, if a Section 702 tasking resulted in substantial reporting by the Intelligence Community regarding a U.S. person, but little reporting about the Section 702 target, that might be an indication that reverse targeting may have occurred.”

If confirmed, how will you ensure that this fact specific analysis is applied to the CIA's nomination of Section 702 targets?

(U) FISA Section 702 prohibits “reverse targeting” – intentionally targeting a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States. Extensive internal and external oversight mechanisms help ensure that CIA's nomination of Section 702 targets does not violate the prohibition on reverse targeting.

(U) CIA's activities under Section 702 are subject to continuous internal oversight by CIA's FISA Program Office, Office of General Counsel, and Office of Privacy and Civil Liberties. CIA's FISA Program Office and Office of General Counsel also train CIA FISA users on the prohibition against reverse targeting.

(U) CIA's activities under Section 702 are audited every 60 days by the Department of Justice and the Office of the Director of National Intelligence (ODNI). During the 60-day audits, the Department of Justice reviews all Section 702 tasking decisions for compliance with statutory requirements, including the prohibition on reverse targeting. In addition, CIA's activities under Section 702

are subject to judicial oversight by the Foreign Intelligence Surveillance Court as well as legislative oversight by both the congressional intelligence and judiciary committees.

Executive Order 12333

QUESTION 39: NSA Director Nakasone has stated that, absent consent of the U.S. person or certain emergency situations, U.S. person queries of communications collected under Executive Order 12333 “*normally must be approved by the Attorney General on a case-by-case basis after a finding of probable cause.*” Should the same requirement apply to the CIA?

(U) The Attorney General has recognized that CIA’s situation is different from NSA’s. CIA’s January 2017 Attorney General-approved Guidelines on the collection, retention, and dissemination of information concerning U.S. persons, issued pursuant to Executive Order 12333, state that queries of CIA information repositories “are not considered collection; rather, those queries examine previously collected information and do not require any additional approval” beyond those for the initial collection of the information.

Outsourcing of Intelligence

QUESTION 40: What rules should apply to the CIA’s receipt, use, and dissemination of communications collected by a foreign source or liaison partner that is known to include U.S. person communications?

(U) The CIA’s January 2017 Attorney General-approved Guidelines apply to CIA’s receipt, use, retention, and dissemination of communications collected by a foreign source or liaison partner. The Guidelines implement Executive Order 12333 as well as the requirements of Section 309 of the Intelligence Authorization Act for Fiscal Year 2015, which requires procedures for any intelligence collection activity not otherwise authorized by court order, subpoena, or similar legal process when it is reasonably anticipated to result in the acquisition of nonpublic communication to or from a U.S. person. The Guidelines provide a robust set of rules governing the collection, use, retention, and dissemination of information concerning U.S. persons, including incidentally acquired information concerning the communications of

U.S. persons.

QUESTION 41: Do you agree that the CIA cannot request that a foreign entity conduct any activity that the CIA is not authorized to undertake itself?

(U) CIA cannot ask a third party to undertake activities forbidden by E.O. 12333 or to otherwise violate U.S. law.

Lethal Operations

QUESTION 42: The 22 May 2013 Direct Action Presidential Policy Guidance (PPG) (*“Procedures for Approving Direct Action Against Terrorist Targets Located Outside the United States and Areas of Active Hostilities”*) was released to the public. Do you support transparency with regard to these policies?

(U) Yes, I do generally support being as transparent as possible with the public on U.S. direct action policy. But I believe that such transparency must be weighed against the impact of revealing to terrorists and terrorist groups key aspects of such policies that could enable them to take steps to evade counterterrorist operations and therefore continue to threaten the U.S. homeland, U.S. persons and interests, and our allies overseas.

QUESTION 43: Please describe your view of the legal and policy implications of targeting or otherwise knowingly killing a U.S. person in a U.S. Government lethal operation. What additional public transparency do you believe would be warranted in that situation?

(U) The decision to target a U.S. citizen with lethal force is one of the most serious decisions that the U.S. Government could confront and is generally contemplated by an Administration only in narrow circumstances – for example when a U.S. citizen is part of enemy forces within the scope of a force authorization. Any proposal must be lawful, authorized by the President under a framework approved by the Department of Justice, and take into account that person’s constitutional rights. I believe continued transparency is important.

QUESTION 44: On July 1, 2016, President Obama issued Executive Order 13732, *“United States Policy and Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force.”* Section 3 of the Executive Order directed the DNI to publicly release an annual report on strikes undertaken by the U.S. Government against terrorist targets outside areas

of active hostilities. President Trump revoked Section 3 on March 6, 2019. Section 1723 of the Fiscal Year 2020 NDAA included a similar reporting requirement.

- A. During her confirmation, DNI Haines agreed to advocate for a new or revised Executive Order that includes reporting on strikes taken by and civilian casualties caused by all U.S. Government agencies. Do you support Director Haines' position?

(U) Yes, I support the release of an annual report that provides aggregate statistics on strikes undertaken by the U.S. Government and civilian casualties.

- B. DNI Haines supported making Section 1723 permanent and ensuring compliance with Section 1723, including the requirement that the report be submitted in unclassified form. Do you support these positions?

(U) Yes.

Whistleblowers

QUESTION 45: Do you agree that any monitoring of CIA personnel for purposes of detecting insider threats must protect confidentiality of protected whistleblower communications? If so, how should that protection be assured?

(U) I fully support the statutory protections afforded to whistleblowers, the confidentiality of their protected communications, and the importance of honoring whistleblower anonymity. If confirmed, I look forward to reviewing the current whistleblower procedures and protections for CIA personnel to determine whether any changes are appropriate.

QUESTION 46: Do you believe that Intelligence Community (IC) whistleblowers who request access to an attorney with appropriate security clearances should have that access?

(U) Yes, where appropriate.

Saudi Arabia

QUESTION 47: A declassified August 2019 FBI Intelligence Bulletin concluded that *“Saudi Officials Almost Certainly Assist Saudi Citizens Flee the United States to Avoid Legal Issues, Undermining the US Judicial Process.”*

A. If confirmed, will you make Saudi efforts to undermine the U.S. judicial process a collection and analytic priority?

(U) If confirmed, I will support any FBI or DOJ requirements for the intelligence community on this issue.

B. The FBI further assessed that *“KSA officials are unlikely to alter their practice of assisting the flight of Saudi citizens in legal trouble from the United States in the near term unless the USG directly addresses this issue with the KSA.”* If confirmed, do you agree to raise this concern directly with your Saudi counterparts?

(U) If confirmed, I will support any policy requirements for the intelligence community on this issue, including if policymakers ask CIA to raise concerns through intelligence channels.

Russia Investigation

QUESTION 48: During her confirmation, DNI Haines stated that she would order a review of the Committee’s Report on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, and in particular Volume 5, to determine whether additional declassification is possible consistent with the need to protect national security. If confirmed, will you support this review and seek to declassify the maximum amount of information consistent with the protection of sources and methods?

(U) Yes.

Historical Review Panel

QUESTION 49: Starting in the mid-1990s and for over 20 years, the Director of the CIA chartered a Historical Review Panel (HRP) to advise on declassification and other matters of historical interest. The HRP reported

directly to nine Directors, but in 2018 the CIA dissolved it with no reason given, either publicly or to HRP members. We understand that recently the CIA has decided to reconstitute a new entity to advise on declassification, the “*CIA Historical Advisory Panel*” (HAP). However, the new HAP does not report to the Director of the CIA and appears to be disconnected entirely from the CIA’s senior leadership. If confirmed, will you restore the new HAP to make it a direct report to the Director of the CIA, meet with it, and give it your full support?

(U) If confirmed, I look forward to promoting the work of the Historical Advisory Panel, supporting its relationship with CIA senior leadership, and working with the Agency’s Chief Data Officer to ensure the Panel’s advice and recommendations on declassification and other matters of historical interest are appropriately communicated to me and others in senior leadership.

China

QUESTION 50: In 2018 remarks to this committee, your prospective predecessor as Director of the CIA, Gina Haspel, referenced China’s unfair trade practices, overt and illicit efforts to steal U.S. technology and intellectual property, and efforts to diminish U.S. influence all around the world.

A. Do you agree with the assertion that China’s Confucius Institutes are an instrumentality for propagating Chinese Communist Party (CCP) influence on the campuses of America’s educational institutions?

(U) Yes. Beijing tries to advance its soft power and pro-China propaganda through cultural and educational programs at US academic institutions.

(U) Programs such as Confucius Institutes fund Chinese-language learning and provide the CCP direct access to university officials. Beijing uses this access to spread positive portrayals of China, and steer conversations from topics sensitive to the CCP.

B. Do you agree with the assertion that Beijing uses nominally private civic organizations like the China-U.S. Exchange Foundation to sway public opinion and build influence in the United States?

(U) Yes. The CCP employs a whole-of-government approach to exert influence and uses complementary overt and covert means that draw on a wide array of carrots and sticks to try and influence political, economic, and cultural developments to benefit CCP interests.

- C. Do you agree with the assertion that China's using nominally independent third-party organizations to act as the primary agents for funding and managing lobbying efforts on behalf of the CCP represents a deceptive and dangerous form of influence laundering?

(U) Yes. The CCP mobilizes and directs nongovernment Chinese actors, such as businesses, NGOs, and expatriate communities, to diversify influence efforts and transmit their views in multiple channels.

QUESTION 51: The CIA's quick adoption of technology like Artificial Intelligence (AI) will help to mitigate the numerical advantages of the Chinese intelligence services, as well as increase efficiency and exposure for its workforce - both critical, because in China the U.S. faces technological authoritarianism that threatens the U.S. technological dominance, and our more principled use of technology.

- A. How will you, as Director of the CIA, ensure that the IC's traditional inclination to favor security over new technology does not unreasonably delay adoption?
- B. How will you ensure there is a glide path to operationalize pilot projects at the CIA, to include those centered on AI, into sustainable solutions for multiple missions?

(U) China is investing considerable resources on Artificial Intelligence and Machine Learning (AI/ML) technologies to enhance its intelligence collection and counterintelligence capabilities. CIA must meet this challenge by transforming how it collects, analyzes, and disseminates intelligence. I understand that CIA has devised an AI/ML strategy to achieve this goal, is working closely with the leading AI/ML firms in the country, and - with DNI to help - will drive the adoption of AI/ML technologies across the IC. As DCIA, I will make this a priority by accelerating the implementation of mission critical AI/ML capabilities and ensuring the Agency develops a mature AI/ML infrastructure.

QUESTION 52: How do you plan to hire more officers with critically needed skills like data scientists and Mandarin speakers?

(U) If confirmed, I plan to continue to seek opportunities to enhance CIA initiatives focused on attracting STEAM and mission-critical language talent. These efforts will be focused on building CIA's most important asset: its people. Some of these ongoing initiatives include an increased presence online to reach the caliber of officers needed to fill critical positions. CIA's vibrant online presence and recruitment techniques are key to connecting with the prospective workforce needed for the future. I also plan to continue leveraging recruitment bonuses focused on new hires who speak mission-critical languages such as Chinese, or who are expert in hard-to-fill STEAM occupations such as data science, cyber security, data analytics, and software developers. Academic and community outreach is also critically important, and I intend to broaden CIA engagement with STEAM professional and affinity groups. This leadership challenge will be one of my top priorities if confirmed.