

June 29, 2020

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

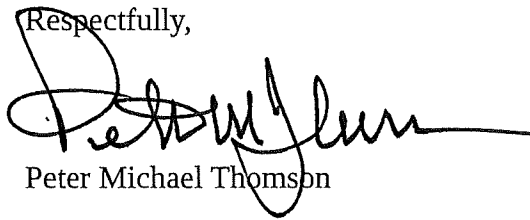
The Honorable Senator Mark Warner, Vice Chairman
U.S. Senate Select Committee on Intelligence
211 Hart Senate Office Building
Washington, DC 20510

Dear Acting Chairman Rubio and Vice Chairman Warner:

Thank you for the Committee's letter dated June 26, 2020. As you requested, please find enclosed my responses to the Committee's Questions for the Record that followed from the hearing on my nomination.

With kind regards,

Respectfully,

A handwritten signature in black ink, appearing to read "Peter Michael Thomson", written in a cursive style.

Peter Michael Thomson

Enclosure

Questions for the Record
Senate Select Committee on Intelligence
Nomination Hearing
June 24, 2020

Questions for the Record for Mr. Peter M. Thomson

[From Senator Feinstein]

1. In 2014, this Committee completed and publicly released the summary of its study of the CIA's detention and interrogation program. In it, it describes significant resistance by the CIA to a review of the program by the CIA Inspector General, and even the provision of inaccurate information to the CIA OIG. Please read the section related to CIA's interactions with the Office of Inspector General prior to answering the following questions. (Specifically Section II (K))

- **What was your assessment of the role the CIA OIG played in overseeing that program?**

I reviewed Section II(K) of the declassified Executive Summary to the SSCI Study on the CIA's Detention and Interrogation Program (2014). As documented in that report, I understand that the CIA OIG played an important oversight role by conducting a Special Review of the program after several CIA officers raised concerns to the OIG about certain aspects of the program. Importantly, the OIG impartially and objectively collected facts relevant to the program's execution and processes, and reported its findings and conclusions to the relevant stakeholders, including to this Committee. The OIG was further tasked with making recommendations to this Committee and other stakeholders to improve the program's efficiency and effectiveness. Importantly, the OIG's Special Review of the program was conducted in an independent and impartial manner, notwithstanding contrary positions, concerns and views communicated to the OIG by CIA leadership personnel during the investigative and reporting process.

- **What could have been done differently, in your opinion, to improve oversight of the program by the OIG?**

Although I am not privy to all of the background on the former interrogation program nor the Special Review conducted by the OIG, I understand that this matter has important precedential value that would inform how I undertake my role as the Inspector General, if confirmed. Furthermore, I would certainly review the classified OIG Special Review, along with other important historical OIG matters, to

understand the valuable lessons learned and incorporate those into my work as the IG if confirmed.

- **How would you address the efforts to obstruct an OIG investigation that were exhibited at CIA during that period?**

If I were confirmed as CIA IG and subsequently encountered similar opposition by CIA leadership to an OIG review, or similar opposition to factual findings made during an OIG review, I would first consider and weigh the positions and views of those expressing disagreement. If I determined that the objections were intentionally obstructive and/or deceitful and therefore presented a serious or flagrant problem, then, as I noted during my testimony before this Committee, I would bring the matter to the attention of this Committee to the fullest extent allowed. I also would continue to exercise independent judgment with regard to the OIG's review process, including with regard to the OIG's factual findings, conclusions and recommendations. As I described during my confirmation hearing testimony, this is akin to the approach I took as a federal prosecutor for 23 years and I am confident that I have the discretion and moral strength to stand firm in my convictions should I ever encounter such a situation.

2. Under the tenure of former acting CIA IG Sharpley, the CIA's Office of Inspector General misplaced one of just a few electronic copies of the full and classified Senate report on the interrogation and detention of terror suspects at CIA-run sites. When it was found, Sharpley returned it to the Committee per the Chairman's request. That means that the office you are nominated to lead does not have access to the Committee's full report, including long descriptions of how the CIA's Counterterrorism Center and leadership did not allow the IG to conduct appropriate oversight of the detention and interrogation program.

In a May 2016 letter, I asked that the OIG be furnished with a new electronic copy of the report for its own oversight purposes. The OIG was closely involved in investigating the CIA's program, and the report describes the ways in which the CIA avoided appropriate oversight of the program.

- **Do you believe the Committee's report would be helpful in the OIG's work if this or a similar issue were to arise in the future?**

Although I do not have the necessary security clearance to review the full classified report at this time, the Committee's declassified Executive Summary is very detailed. I intend to further review the Executive Summary, and, if confirmed, also the OIG Special Review. In my view, the information contained in these reports are important because they can help inform the work of the OIG as it conducts future

reviews of other CIA programs and operations. If confirmed, I look forward to engaging with this Committee on its views regarding the full report that may be helpful should similar issues arise in the future.

[From Senator Wyden]

3. The Committee has been concerned about limitations on access by IC whistleblowers to cleared attorneys. Section 325 of the Intelligence Authorization Act for Fiscal Year 2020 (which became Section 9325 of the National Defense Authorization Act for Fiscal Year 2020) requires the Intelligence Community Inspector General to submit a report and recommendations on the topic.

- **Do you agree, as a general matter, that CIA whistleblowers who wish to be represented should have access to cleared attorneys?**

As I stated in my hearing, I believe the whistleblower program is one of the most important, if not most important programs in any Inspector General Office; and, if confirmed, I will prioritize my review of and work to strengthen the CIA OIG's whistleblower program, including the outreach and training components, together with reporting procedures and the protection of CIA employees and contractors who report wrongdoing. With regard to the issue of allowing private counsel access to classified information, it is my understanding that the CIA has policies and procedures in place for allowing CIA employees to obtain cleared counsel when appropriate. If confirmed, I will look into this process further and discuss this important issue with my staff.

- **Do you agree that CIA whistleblowers and witnesses in OIG investigations who wish to be represented should be able to have cleared attorneys present at OIG interviews and meetings?**

Consistent with my above answer, it is my understanding that any CIA employee or contractor who reports wrongdoing to the OIG, and any individual who the OIG wishes to interview as a potential witness, has the right to retain private legal representation. With regard to the issue of allowing such private counsel access to classified information that might be disclosed during any interview or meeting, it is my understanding, as I previously stated, that the CIA has processes and procedures in place for allowing CIA employees and other individuals to obtain cleared counsel when appropriate.

- **Will you ensure that any CIA review of information whistleblowers wish to communicate with their attorneys protects confidentiality and attorney-client privilege and is independent of the Prepublication Classification Review Board?**

If confirmed, I would respect the integrity and confidentiality of any attorney-client relationship existing between a whistleblower and any lawyer retained by that individual. If confirmed, I will be in a better position to more thoroughly research the answer to this question and would look forward to engaging on this matter further with the Committee.

- **Will you ensure that the CIA's review process does not limit whistleblowers' communications with their attorneys for any reason other than classification?**

Please see my response to the previous question.

- **If, in the context of a PPD-19 appeal, the Intelligence Community Inspector General authorizes a CIA whistleblower's attorney for access to classified information, will you help ensure that the CIA provides reciprocal access for that attorney?**

As previously noted, I understand that there are processes and procedures in place at the CIA to clear attorneys for access to classified information when appropriate. If confirmed, I will be able to more thoroughly and accurately research the answer to this question and would look forward to engaging on this matter further with the Committee.

4. The Committee has been concerned about protecting communications of and about whistleblowers. Section 613 of the Intelligence Authorization Act for Fiscal Years 2018 and 2019 (which became Section 10613 of the National Defense Authorization Act for Fiscal year 2020) requires a report from the Security Executive Agent, in coordination with the Intelligence Community Inspector General, on controls to ensure that continuous vetting programs, including those involving user activity monitoring, protect the confidentiality of whistleblower-related communications.

- **Will you ensure that information and communications submitted by whistleblowers to the OIG or created by OIG personnel will not be subject to monitoring, interception, or review without express permission from the OIG?**

As stated during my confirmation hearing testimony and my responses to the foregoing questions, I intend to prioritize the CIA OIG whistleblower program and will work to strengthen whistleblower protections. I am not yet privy to the details of how CIA and the OIG manage their information technology (IT) systems and related security. If confirmed, and once I have a security clearance, I will be in a better position to more thoroughly research the answer to this question and would look forward to engaging on this matter further with the Committee.

- **What steps can be taken to create firewalls or other protocols to protect OIG files, systems and communications from CIA monitoring, interception, or review?**

Two years ago, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) released a report identifying information technology (IT) management and security as a top management and performance challenge for federal agencies. Although I am not yet privy to the details of how the OIG manages its IT systems and related security at CIA, if confirmed, and once I have a security clearance, I will make IT security and therefore this issue one of my top priorities for review and evaluation.

5. The Committee has stressed the importance of transparency with regard to whistleblower processes and procedures. Section 323 of the Intelligence Authorization Act for Fiscal Year 2020 (which became Section 9323 of the National Defense Authorization Act for Fiscal Year 2020) required the Intelligence Community Inspector General to provide recommendations for the harmonization of such processes and procedures “with efforts to maximize transparency.”

- **If you are confirmed, do you agree to release to the public the CIA’s whistleblower processes and procedures, with only those redactions necessary to protect sources and methods?**

As stated during my confirmation hearing testimony, the whistleblower program will be one of my top priorities. It is important to be as transparent as possible with respect to whistleblower processes and procedures in order to ensure confidence in the system. I am not yet privy to all of the information and background pertinent to this question. If confirmed, and once I have a security clearance, I will be in a better position to more thoroughly research and formulate a view on this question.

6. Pursuant to 50 U.S.C. 3517(d)(5)(D)(ii)(II), a CIA whistleblower may come directly to the congressional intelligence committees if he or she “obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.”

- **How will you ensure that the Director does not abuse this provision with unnecessary delays or with unnecessary limits on which Committee members or staff the whistleblower can talk to?**

With regard to the review and reporting procedures of urgent concerns under the CIA IG statute, the OIG has important duties and responsibilities, with the Director,

when a whistleblower elects to report an urgent concern directly to the intelligence committees. If confirmed, I would ensure that the OIG monitors this process closely. If I was unable to resolve any differences with the Director affecting my or the OIG's responsibilities in this regard, I would notify this Committee.

7. Section 322 of the Intelligence Authorization for Fiscal Year 2020 (which became Section 9322 of the National Defense Authorization Act for Fiscal Year 2020) requires the Intelligence Committee Inspector General to report on how to ensure that whistleblowers who have complaints against an inspector general and allege reprisal have access to adjudication and appellate reviews, including external review panels.

- **If you are confirmed, how will you ensure that any whistleblowers with complaints about you or the Office of the Inspector General are protected and have access to all such adjudication and appellate rights?**

If confirmed, and subsequently I became aware of an allegation against me, I would ensure that it is appropriately referred to CIGIE's Integrity Committee for further disposition. If there was an allegation made against the OIG, I would determine whether the office needed to be recused. If so, I would ensure the matter is referred to the IC IG as appropriate. As a member of the IC IG Forum, it is my understanding that I would be able to assist in providing input on development of procedures to handle allegations such as these.

8. The CIA did not brief the Inspector General about its Detention and Interrogation program until a detainee had died, by which time the CIA had held at least 22 detainees.

- **If you are confirmed, how will you ensure that the Office of the Inspector General is briefed, at the outset, on programs and operations that might warrant a review, particularly those that present novel or complex legal issues?**

Over the course of my career as a federal prosecutor, I experienced and observed instances in which federal agencies and agents failed or neglected to provide all of the evidence relating to matters under review. As a prosecutor, it is very important to assure that all evidence and relevant facts are considered when making critical charging and plea decisions. Based on my substantial experience in this area, I believe that I have the necessary sound judgment and discretion to ensure that the Inspector General's Office is briefed timely on programs and operations that might warrant review, particularly those that present novel or complex legal issues. Further, if confirmed, while noting the importance of understanding agency culture and operational tradecraft associated with CIA programs and operations, I would also rely on the professional staff of the Inspector General's Office to help assure that the OIG is briefed timely on programs and operations that might warrant review.

- **If you are confirmed, how will you ensure that the Office of the Inspector General is fully aware of programs that are highly compartmented, or which have highly compartmented components?**

Please see my response to the previous question.

[From Senator Harris]

9. In response to the Committee's questionnaire, which asked you to "indicate any specialized intelligence or national security expertise you have acquired having served in the positions described," you included in your response: "representing clients in private practice on matters involving extradition and Red Notice removal."

- **Please provide additional information to the Committee regarding your work representing clients on matters involving extradition. Which foreign nations were involved?**

In my criminal defense practice, my red notice and extradition legal work involved clients with connection to the nations of Spain, Japan and Costa Rica.

More specifically, during my tenure at Fowler Rodriquez, LLP (2011-14), I helped provide legal assistance and guidance to several current and/or former executives of a certain U.S. company, which was an established firm client. The executives had been charged with criminal offenses by a Spanish court. They had been threatened by Spanish authorities with INTERPOL red notices and extradition from the United States to Spain to face the criminal charges. I provided advice and guidance with regard to the legal authorities governing red notices and extradition from the United States to Spain.

In another matter, I provided legal assistance and guidance to an individual, a U.S. citizen, after red notices had been filed against him by INTERPOL, which had been requested by Japan and Costa Rica in relation to his alleged interference in certain commercial maritime operations.

I have not worked on red notice or extradition legal matters for clients at my current firm.

- **Please provide additional information to the Committee regarding your work representing clients on matters involving Red Notice removal. Which foreign nations were involved?**

Please see my answer to the above question. My representation necessarily included legal guidance and strategy related to red notice removal.

10. Stone Pigman's website says that you represent "corporations and individuals under investigation for, or who have been charged with, a broad range of state or federal crimes, including the Foreign Corrupt Practices Act, racketeering, banking/financial offenses, corruption, wire fraud, immigration offenses, environmental crimes and many other violations."

- **Please provide additional information to the Committee regarding your work representing clients who are under investigation for, or who have been charged with, violating the Foreign Corrupt Practices Act. Which foreign nations have been related to this work?**

While working at Fowler Rodriguez, LLP, I developed an expertise in the Foreign Corrupt Practices Act ("FCPA"). Based on that expertise, combined with my experience as an Assistant United States Attorney, Stone Pigman's website lists the FCPA as one of the specific practice areas for which I am qualified and willing to represent clients.

I developed an expertise in the FCPA by counseling U.S. corporate clients with FCPA compliance procedures related to the Act's anti-bribery and accounting provisions. However, because those former clients had not actually been charged by the government, no specific foreign nations have been related to my prior FCPA work.

- **Please provide additional information to the Committee regarding your work representing clients who are under investigation for, or who have been charged with, racketeering, corruption, and banking offenses. Have foreign nationals been related in any manner to this work? If so, please explain.**

Over the course of my career as an Assistant United States Attorney and an attorney in private practice, I obtained significant experience in matters involving racketeering, corruption and banking offenses. Based on my knowledge and experience, Stone Pigman's website lists racketeering, corruption and banking/financial offenses as some of the specific practice areas for which I am qualified and willing to represent clients.

While in private practice, I have represented clients in matters involving or related to corrupt acts and banking/financial offenses. I also have worked on client matters involving or potentially involving racketeering, both criminal and civil. To the best

of my memory, I have neither been engaged by nor represented a foreign national who is under investigation for, or who has been charged with, racketeering, corruption or a banking offense. However, I have represented a Canadian company which claimed to be a victim of civil racketeering scheme, as well as two Nigerian nationals who claimed to be victims of a fraud scheme involving overseas wire transfers.

11. Please see addendum submitted under separate cover.

[From Senator Bennet]

12. I am concerned about the ways in which the Ukraine whistleblower complaint has affected the environment for future whistleblowers. I worry that some of the events in the past year have raised questions—whether true or not—about whether protections for whistleblowers are really there.

- **What steps do you commit to taking in order to restore confidence in the CIA workforce that they will be protected, should they choose to come forward, in decisions that may put their careers or life on the line?**

As I noted during my testimony at the hearing, I believe it is vital to the whistleblower program that CIA employees and contractors have full trust and confidence in the whistleblower process, including confidence that they will be protected. As a former federal prosecutor, I know the importance of protecting confidential informants and cooperating individuals, and my experience working with informants and cooperators in criminal cases will inform my approach to protecting those within the CIA who report wrongdoing. If confirmed, I will work with OIG staff and CIA leadership to protect whistleblowers to the fullest extent of the law, including their anonymity, if requested, and from reprisals for having disclosed information of wrongdoing.

I look forward to evaluating the specific steps and procedures currently in place at the CIA OIG that serve to protect and instill confidence in whistleblowers, if confirmed. I look forward to implementing changes, as needed, to instill greater confidence in the system by CIA employees and contractors. In implementing changes, I believe it would be important to strategically focus on areas related to workforce protections that need to be improved and/or updated. Likewise, if confirmed, I would consider

prioritizing initiatives that include workforce communication and education; and I would examine how the Agency responds to reprisals.

- **What specifically would you do to ensure that the men and women of the Intelligence Community can do their work delivering objective and timely analysis free from political interference, perceived or otherwise? What role do you believe the CIA Inspector General can play in this dynamic?**

Analytic objectivity is crucial to the CIA's mission-critical work of analyzing, evaluating and disseminating intelligence information. For example, I understand that the Agency has an "Ombudsman for Analytic Objectivity", who is actively engaged in the work of the Directorate of Analysis, and that the OIG sometimes refers certain inquiries to that office. Although I understand that the CIA Inspector General's Office is not currently tasked with ensuring objective and timely analysis of intelligence information free from political interference, perceived or otherwise, if confirmed I would look forward to exploring ways in which the OIG might contribute to strengthening analytic objectivity in the face of undue influences, such as political interference. As I testified in my hearing, I am committed to leading an Inspector General's Office free from any form of political bias or prejudice, and to promoting that culture strongly within the Office.