

**OPEN HEARING TO CONSIDER THE NOMINATIONS
OF JOHN P. CARLIN AND FRANCIS X. TAYLOR**

HEARING
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
OF THE
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS
SECOND SESSION

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TUESDAY, FEBRUARY 25, 2014
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**OPEN HEARING TO CONSIDER THE
NOMINATIONS OF JOHN P. CARLIN
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TUESDAY, FEBRUARY 25, 2014

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m., in Room SD-526, Dirksen Senate Office Building, the Honorable Dianne Feinstein (Chairman of the Committee) presiding.

Committee Members Present: Senators Feinstein, Chambliss, Wyden, Udall (of Colorado), Heinrich, King, Collins, and Coburn.

**OPENING STATEMENT OF HON. DIANNE FEINSTEIN,
CHAIRMAN, A U.S. SENATOR FROM CALIFORNIA**

Chairman FEINSTEIN. We meet today to consider two intelligence positions, President's nominations for those positions. One is Mr. John Carlin, a very young-looking nominee to be assistant attorney general for national security in the Department of Justice; and the other is the slightly more mature General Frank Taylor, the nominee to be undersecretary of homeland security for intelligence and analysis.

We have votes scheduled for 3:30, so my hope is we can be succinct to the point and be able to conclude this hearing within that time. But I'd like to begin by saying welcome to you both, and particularly to your family and friends who are here with you today.

The two positions for which these nominees have been nominated were both created as a part of reform efforts in the past decade after major intelligence failures, including most specifically the terrorist attacks of September 11th, 2001. The assistant attorney general for national security in the National Security Division of the Department of Justice that Mr. Carlin would lead, if confirmed, is intended to bring together the counterterrorism, intelligence, and counterintelligence efforts within the Department of Justice.

The National Security Division conducts oversight of FBI national security investigations and has the lead within DOJ for reviewing and approving requests to the FISA Court for surveillance activities. Increasingly important, the assistant attorney general must also ensure that when terrorists, proliferators, and spies against America come into our custody, our response strikes the proper balance between gathering intelligence from them and being able to prosecute them.

Mr. Carlin is well-suited to the position, having served as the acting assistant attorney general since his predecessor, Lisa Monaco, went to the White House last year to become President Obama's top adviser for counterterrorism and homeland security.

Mr. Carlin was previously the principal deputy assistant attorney and chief of staff for the National Security Division in 2011. He served in leadership positions at the FBI, including chief of staff to FBI Director Bob Mueller. He served in a variety of positions in the department between 1999 and 2007.

Our other distinguished nominee, General Frank Taylor, has a long career in national security, starting with his 31-year career in the United States Air Force, most of which was spent in the counterintelligence field. In 2001, he was named the coordinator for counterterrorism, the senior-most counterterrorism position in the State Department, and then assistant secretary of state in charge of diplomatic security.

He spent the past nine years in the private sector, during most of which time he was the chief security officer for General Electric. In that position, he has seen the government's national and homeland security functions from the outside, giving him an important perspective on the Department of Homeland Security's support to nonfederal positions, partners, and stakeholders—specifically, the private sector.

General Taylor will have to put his leadership skills and experience to good use as undersecretary of DHS for intelligence and analysis. The office, like the department as a whole, has a large number of missions to accomplish, with a long history and precedent to rely on.

I'm going to cut my remarks short and put the remainder in the record and recognize the distinguished vice chairman for his remarks.

**OPENING STATEMENT OF HON. SAXBY CHAMBLISS, VICE
CHAIRMAN, A U.S. SENATOR FROM GEORGIA**

Vice Chairman CHAMBLISS. Well, thanks Madam Chair, and to Mr. Carlin and General Taylor, I join the chair in welcoming you to this Committee and congratulating you on your nomination by the President.

Mr. Carlin, since Congress created the National Security Division as part of the post-9/11 effort to tear down the walls between the criminal and national security worlds, NSD has taken on a key role in our nation's intelligence collection activities. In the wake of the Snowden leaks, I understand the administration may be making some changes, especially to section 702 of FISA that will negatively impact how our intelligence agencies collect and retain information.

When Congress passed the FISA Amendments Act, we were careful to not put up walls or prohibit lawfully collected information from being used. I hope you'll be a strong voice against any policies that try to undo the intent behind the FAA and that make it harder for our intelligence agencies to do their jobs.

When you and I met in my office, we had a good discussion about this administration's ongoing failure to come up with an interrogation and detention policy that would allow for the collection of real-

time, actionable intelligence, without defense attorneys, Miranda rights, or judicial deadlines.

As a prosecutor, you understand there is no requirement to give a terror suspect Miranda rights. It just means you can't use his statements at trial. Captured terrorists can be gold mines for information that we should need, and therefore we should not treat them like ordinary criminals.

Unless we can get good intelligence from these detainees, we could fall behind the curve in preventing future attacks. That's the risk that should not be acceptable to anyone, regardless of any campaign promise.

NSD is also at the forefront of terrorism and counterintelligence investigations throughout the country. While the criminal justice system clearly plays an important role in national security thesis, I believe we should do more to make our military commission system a success. Now is not the time to bring dangerous criminals, dangerous terrorists, into the United States and give them the benefits of our criminal justice system. There is simply too much uncertainty following an acquittal, as we recently saw with the unsuccessful prosecution of the Somali pirate in federal court, here in the district.

General Taylor, we thank you for returning to government to take on this new assignment: one that promises to be as difficult as any in your career, as you and I discussed a little earlier. Census creation, nearly a decade ago, DHS I&A, has struggled to find an organizational identity to fit in with the Intelligence Community and to attain the level of professional competence that the American people are entitled to expect in their government.

For some time now, Members of Congress, on both the House and the Senate, and on both sides of the aisle, have questioned the very existence of I&A and the work that it does. Their questions about the quality and necessity of much of INA's analysis, concerns about INA's ability to process and share information, questions about the size of the workforce in relationship to its level of production, and concerns about the potential for DHS to safeguard cyber and critical infrastructure. All of these questions come at a time when I&A is still clinging to a corporate notion that it is a new organization.

My comments are not intended to disparage the professional men and women who work for DHS. There are an awful lot of very capable, very professional individuals involved there, many of whom have begun to ask these same questions. Rather, my concern lies with the inability of I&A as a whole to routinely demonstrate a unique contribution to the national security of the United States.

General, if confirmed, you may be the last, best hope for the future of DHS I&A. It's unlikely you will be able to keep I&A aloft by maintaining the current course in hitting, so I would like your candid thoughts about what you plan to do over the next 12 months to fix I&A for the long term.

I have great confidence in Secretary Johnson. Secretary Johnson has great confidence in you. Therefore, I transfer that confidence, myself, to you. I look forward to our discussion today, and working with both of you in the future, and I thank you Madam Chair.

Chairman FEINSTEIN. Thank you very much, Mr. Vice Chairman. Gentlemen, would you stand and I'll administer the oath?

[Witnesses comply.]

Chairman FEINSTEIN. Please affirm when I finish reading.

Do you solemnly swear that you will give this Committee the truth, the full truth, and nothing but the truth, so help you God?

[Witnesses respond affirmatively.]

Chairman FEINSTEIN. Thank you, you may be seated.

And just a couple of questions—this is pro forma. Please answer yes or no.

Do you both agree to appear before the Committee here or in other venues when invited?

[Witnesses respond affirmatively.]

Chairman FEINSTEIN. Do you both agree to send officials from your respective offices to appear before the Committee and designated staff when requested?

[Witnesses respond affirmatively.]

Chairman FEINSTEIN. Do you both agree to provide documents or any other materials requested by the Committee in order for it to carry out its oversight and legislative responsibilities?

[Witnesses respond affirmatively.]

Chairman FEINSTEIN. Will you both ensure that your respected offices and its staff provide such material to the Committee when requested?

[Witnesses respond affirmatively.]

Chairman FEINSTEIN. Do you both agree to inform and fully brief to the fullest extent possible all Members of this Committee, of intelligence activities and covert actions, rather than only the chairman and vice chairman?

[Witnesses respond affirmatively.]

Chairman FEINSTEIN. Thank you very much. And if you would proceed and make your statements, and introduce your family or whomever you'd like to introduce in general, I'll go to seniority and ask you to speak first.

STATEMENT OF GENERAL FRANCIS X. TAYLOR, NOMINEE FOR UNDERSECRETARY OF HOMELAND SECURITY FOR INTELLIGENCE AND ANALYSIS

General TAYLOR. I'm honored and extraordinarily humbled to appear before you today as the President's nominee for the undersecretary for intelligence analysis at the Department of Homeland Security. With me today is my elder son Jacquis, sitting behind me, representing our family. My wife is now in London visiting our daughter, who is studying to be a solicitor, and could not join us—she had already had this trip planned. So she's with us in spirit. I talked to her this morning.

During my last period of government service, I was privileged to have the opportunity to work with Governor Ridge and his team as they endeavored to establish this new department in 2003. The department has come a long way since those early days, especially I&A, as its mission and responsibilities have continued to evolve.

This position, and the team that I would be privileged to lead if confirmed, is a crucial link between the federal government and the Intelligence Community, with our state, local, tribal, and territorial

partners, as well as the private sector that are on the front lines every day to protect our country and our citizens from an ever-evolving threat.

As we learned in the aftermath of 9/11, security of this nation requires effective collaboration at every level of our country. Sharing information, both from the federal government as well as from our local partners to the federal government provides clear understanding of the nature of the threats that we face, and allow all levels to be on the same sheet of music. I remain haunted by the fact that at least one of the 9/11 hijackers were engaged by local law enforcement before the attack, and their potential action against that person could not be accomplished.

That is why we strive to create—that I will strive to create, if confirmed, I will work to strengthen and improve the process of how this partnership works to identify and act on potential threats to our country and our citizens. If confirmed, I believe my 43 years of law enforcement, security intelligence, and crisis management experience provides the right skills to build on the significant work of my talented and dedicated predecessors.

I've had the distinct honor to serve our country as a leader of two global investigative and security organizations, as a U.S. ambassador directing diplomatic counterterrorism efforts, and diplomatic security operations. I also had the privilege of serving as the chief security officer for a Fortune 10 global U.S. conglomerate, the General Electric Company. In each of these roles, I have been responsible for mission execution and mission success, and I believe my record indicates consistent successful results in these very different roles. I've had both line and staff roles, worked in policy, developed, and executed budgets at every level, and led operational activity to mitigate risk to our country both in the U.S. and abroad and, as well, to an American economic giant.

I understand that the I&A mission is different from any of the—of my past responsibilities, and that I will have to endeavor to learn the organization, its customer requirements, its successes, and its opportunities for improvement. The good news is that my initial assessment after a week of briefings is very positive about where the organization is in its development, and that there will be a firm foundation upon which for me to build.

I think there are three areas where we must focus. First, enabling the fusion centers to reach their potential with effective information sharing and from this—to and from this important institution. Sustaining DHS's contribution to the Intelligence Community with information analysis derived from state, local, and tribal partners, and from a unique D.H. information sources. And finally, to aggressively eliminate duplicative analysis that can more effectively be done by other federal organizations.

In my view, what makes I&A unique in the Intelligence Community is its mission to link the U.S. Intelligence Community with first responders in our country. State and locally owned and operated fusion centers are critical to bringing the 18,000 police entities across our great country into the national counterterrorism fight. Caryn Wagner, as well as the current I&A leadership team, began that process with the aggressive deployment of I&A personnel to

the fusion centers and the development of a program of analysis that will guide the future production of our analytical products.

If confirmed, I will work relentlessly on executing these plans to ensure all understand the critical aspect of the I&A mission is the nature and effectiveness of how we support our state, local, tribal, and public sector partners. Finally, I am acutely aware that no organization can live on its reputation or hide behind its mission statement. Organizations must continue to evolve and improve to meet changing environment that they must operate in. Mission assessment, the development of clear objectives, and rigorous metrics will help I&A stay focused on the present and the future. In my initial briefings, again, I am impressed by what I have seen as a baseline to set expectations and measure effectiveness.

If confirmed, I plan to sustain these efforts and use these results as a basis for adjustments to the organization and mission execution. Madam Chairman, I'd like to submit the rest of my statement for the record and would conclude with those thoughts.

[The prepared statement of General Taylor follows:]

Statement of Francis X. Taylor
Nominee for Under Secretary for Intelligence and Analysis,
Department of Homeland Security

Before the

U. S. Senate Select Committee on Intelligence

February 25, 2014

* * *

Thank you Senator Feinstein, Senator Chambliss, and Members of the Committee. I am honored and extraordinarily humbled to appear before you today as the President's nominee for Under Secretary for Intelligence and Analysis (I&A) at the Department of Homeland Security.

I would first like to recognize my oldest son, Jacquis, and his wife MaryAn, who are here today representing our family. Unfortunately, my wife was unable to be here today due to a previously scheduled trip to visit with our daughter, Shari, who is studying in London to become a Solicitor. Seeing my family here today helps underscore one of the main reasons we accept challenges like this, and the importance of making sure we are getting it right.

During my last period of government service, I was privileged to work with Governor Ridge and his team as they endeavored to establish the Department of Homeland Security in 2003. DHS has come a long way, and its mission and responsibilities have evolved from those early days. This position and the team I would be privileged to hold and to lead, if confirmed, constitute crucial links between both the Federal Government and the Intelligence Community, and our State, Local, Tribal, Territorial (SLTT) and private sector partners who are on the front lines every day protecting our country and our citizens from an ever-evolving threat. As we learned in the aftermath of 9/11, securing our nation requires effective and intentional collaboration at every level. As envisioned by the Congress, I&A's role is to enable effective information sharing among the Federal Government and its State, local, tribal, and private sector partners, ensuring all involved have a clearer understanding of the nature of the threats that we face

collectively. I remain haunted by the fact that at least one of the 9/11 hijackers was engaged by local law enforcement before the attack, and the fact that there was certainly potential for action against that individual before the attack. This is the type of coordination that must take place if we are to be successful, and if confirmed, I will work to strengthen and improve the processes and partnerships necessary to identify and mitigate potential threats to our country and our citizens.

If confirmed, I intend to bring my 43 years of law enforcement, security, intelligence, and crisis management experience to bear in further refining and advancing the efforts of my talented and dedicated predecessors. I have had the distinct honor to serve our country as a U.S. Ambassador, leading and directing diplomatic counterterrorism (CT) and diplomatic security operations. I also had the privilege to work as the Chief Security Officer for the General Electric Company, a Fortune 10 global U.S. conglomerate. In each of these challenging but distinctly different roles, I assumed responsibility for mission execution and success, and I believe my record indicates consistently successful results. I have also had experience working both line and staff roles, developing and implementing policy, creating and managing budgets at every level, and leading operational activity to mitigate risks to our country, as well as to an American economic giant, and I understand the interdependency of the two.

While the I&A mission is different from any organization I have led before, I will have to endeavor to learn the organization, its unique customer requirements, and its strengths and shortcomings. Following a week of intense briefings and meetings, I am pleased to share that my initial assessment is very positive. I believe the organization is grounded upon a solid foundation, and I hope to continue to build on that foundation, particularly regarding the further strengthening of DHS' bond with the National Network of Fusion Centers, enhancing I&A's analytic contribution to the Intelligence Community of information derived from departmental, State and local sources, as well as working to eliminate duplicative efforts among I&A, other DHS components, and our IC partners.

What makes I&A unique in the Intelligence Community is its mission to link the US intelligence community with first responders across our country. The Network of State and local Fusion

Centers provide I&A with a critical beachhead from which it delivers information and analytic resources to our nation's 18,000 police entities. Caryn Wagner, as well as the current I&A Leadership Team, began that process with aggressive deployment of I&A personnel to the fusion centers and the development of a program of analysis that will guide the future production of analytical products. If confirmed, I will work relentlessly to execute these plans, ensuring all stakeholders understand that the critical importance of supporting our State, Local, Tribal and public sector partners.

No organization can live on its reputation or hide behind its mission statement. Organizations must evolve and improve to meet the changing environments in which they operate. Mission assessment, the development of clear objectives, and the implementation of rigorous metrics will help I&A stay focused on both the present and the future. While my initial briefings on I&A were impressive, they now constitute the baseline from which I will use, if confirmed, to set future expectations and measure effectiveness and accomplishment.

To better serve the Department and the Intelligence Community, the Under Secretary for Intelligence and Analysis must also embrace the role of Chief Intelligence Officer and work with the DHS components to synergize intelligence activities across the Department. I am impressed with the potential of what DHS calls the Homeland Security Intelligence Enterprise, and believe it is the right approach to implement intelligence integration across the Department. If confirmed, I intend to work aggressively with the DHS intelligence components to further develop that model, and I look forward to working with Congress to identifying other ways to further build the DHS Intelligence Enterprise.

I also would like to share my thoughts on an equally important topic: supporting and leading the dedicated public servants working every day to help I&A achieve its mission objectives. Over the course of my 43 years of service, I have developed a fairly consistent management philosophy. I believe in setting clear objectives to satisfy mission priorities, implementing measurable and repeatable processes to implement those objectives, and applying concrete metrics that measure progress and allow for appropriate adjustment. If confirmed, I intend to bring this same philosophy to I&A. A key part of this is an unrelenting focus on the customer

and other stakeholders. I&A has many customers and stakeholders, to include the Congress, and I intend to listen intently to all. I am impressed with where I&A is on its journey, but I intend to press further, so that in the future, I will be able to report to you and to the American people on the efficiency with which I&A is expending their tax dollars and the results that we've been able to achieve.

As I mentioned, this overall effort is a team sport. If I am confirmed, I intend to ensure that our relationships within the Intelligence Community, with the FBI, and with our state and local partners are transparent, collaborative, and complementary. I have no organizational objective other than to make I&A a consistent and effective partner at all levels. Where duplication and overlap exist, I pledge to work proactively with our partners to identify and eliminate it.

Finally, this Committee and your colleagues have been big champions for I&A, and if confirmed, I pledge to continue to work with you in shaping the direction of this important organization. I believe in full transparency and an open and candid dialogue on issues that we all care about so deeply.

Thank you once again for the opportunity to appear before you today. I am happy to answer any questions you might have.

Chairman FEINSTEIN. Excellent. Thank you, General Taylor.
Mr. Carlin.

**STATEMENT OF JOHN P. CARLIN, NOMINEE FOR ASSISTANT
ATTORNEY GENERAL FOR NATIONAL SECURITY IN THE DE-
PARTMENT OF JUSTICE**

Mr. CARLIN. Thank you, Madam Chairman and Vice Chairman Chambliss, and distinguished Members of this Committee. It's an honor to appear before you today, and I thank you for considering my nomination. I'd like to thank the President for his confidence in nominating me, and the Attorney General for his support.

Chairman FEINSTEIN. Could you please introduce your family to us, because, there's one little girl that's through (ph) with expectation.

[Laughter.]

Mr. CARLIN. She is. Thank you. I'd like to introduce them, and thank them for their love and support over the years—a few years, in one case: My wife Sarah and our daughter Sylvie; my parents, Roy and Patricia, who traveled here from New York City; and my mother in-law, Jura Newman.

I also want to thank my wife for her countless sacrifices to allow me to pursue a career in public service; and to thank my parents who always taught my sister and me, both by lesson and by example, the importance of dedication, discipline and always doing what's right.

With the support of all of my family and their selflessness, I've been able to choose the path that's led me here today. And I'd like to thank the people from the National Security Division in the department who've come here, along with friends, to show their support today.

It's been a true privilege to spend my entire legal career with the Department of Justice and to witness a time of enormous transformation after the terrible events of September 11th. As with so many Americans, I and my family recall vividly the events of that day—the horror of senseless murder and the dark cloud of ash that hovered over New York City.

My brother-in-law was across the street from the twin towers and my father was in the subway underneath. And I remember as our family called each other to determine that we were safe. We were lucky.

Our core mission at the National Security Division is clear: to prevent future terrorist attacks, while preserving our civil liberties. And it's a special honor and privilege to be considered for a position charged with leading the division that Congress, and this Committee in particular, created to unite all the Department of Justice's national security elements to bring all tools to bear in the fight against terrorism and other threats to national security.

Serving as the acting assistant attorney general for national security for approximately the last 11 months, I've been both humbled and driven by the responsibilities and mission entrusted to this position. For more than a decade, I've learned from and worked alongside some legendary public servants as the United States undertook fundamental changes in our approach to com-

bating the threat of terrorism and other emerging national security challenges.

In particular, working with FBI Director Bob Mueller as a special counsel, and later as his chief of staff, to help the bureau evolve from a law enforcement agency into a threat-based intelligence-driven national security organization. Here at NSD, we must apply and are applying those lessons, both to meet the growing national security cyber-threat and to continue to evolve to meet other changing national security threats.

If I am fortunate enough to be confirmed, I look forward both to continuing this important evolution and to working with this Committee in its essential oversight role.

Thank you again for the opportunity to appear before you today, and for your consideration, and I look forward to answering your questions.

[The prepared statement of Mr. Carlin follows:]

SSCI# 2014 - 0690

**Statement for the Record of John P. Carlin
Before the Senate Select Committee on Intelligence
February 25, 2014**

Thank you, Madam Chairman, Vice Chairman Chambliss, and distinguished Members of the Committee.

It is an honor to appear before you today, and I thank you for considering my nomination. I know this Committee has many demands on its time, and many pressing issues before it.

I want to thank the President for his confidence in nominating me, and the Attorney General for his support. It is an honor to be considered for this position, and an opportunity for which I am very grateful.

In addition, I would like to take this opportunity to recognize my family for their love and support over the years. My wife, Sarah, who has made countless sacrifices to allow me to pursue a career in public service, and our daughter, Sylvie, for her tolerance for the many evenings I have missed at home. My parents, Patricia and Roy, for teaching my sister and me by lesson and by example, the importance of dedication, discipline, and always doing what's right. My mother- and father-in-law, Jura and Stuart Newman, for their love and support for me and my family. I also want to thank my sister Jennifer, my brother-in-law Don, and their children, Daniel and Katie, for their support. Because of all of them, and their selflessness, I have been able to choose the path that has led me here today.

I have been privileged to have spent my entire legal career with the Department of Justice. For more than a decade, I have learned from, and worked alongside, legendary public servants as the United States undertook fundamental changes in our approach to combating the threat of terrorism and other emerging national security challenges. While serving as FBI Director Bob Mueller's Special Counsel and later, as his Chief of Staff, I worked with the lawyers, policymakers, and leaders who helped the Bureau evolve from a law enforcement agency into a threat-based, intelligence-driven national security organization. As Principal Deputy and Chief of Staff to Lisa Monaco, now Assistant to the President for Homeland Security and Counterterrorism, when she was Assistant Attorney General, I had the chance to help lead another evolution – one in which the Justice Department's National Security Division continued to adapt to meet the growing and evolving cyber threat, and further developed its all-tools approach to disrupting a growing range of national security challenges.

These experiences taught me significant lessons about the responsibilities of national security lawyers in our government, and about how individuals in these roles can shape the way that we protect the American people. And those lessons have only been reinforced during the approximately 11 months in which I have been fortunate to serve as the Acting Assistant Attorney General for National Security. As I have said before, but cannot say enough, I have been both humbled and driven by the responsibilities and mission entrusted to me in this role.

The Assistant Attorney General is charged with leading the Department's National Security Division, which Congress created to unite the Department's national security elements to bring all tools to bear in the fight against terrorism and other threats to national security. NSD lawyers play an indispensable role in ensuring that the Intelligence Community is able to consider all legally available options to detect and disrupt threats to our nation's security while scrupulously adhering to complex and evolving legal requirements. If confirmed, I will remain committed to supporting this all-tools approach, and to ensuring that as we adapt our intelligence practices to stay ahead of our adversaries, our critical operations are conducted within the bounds of the law and consistent with our nation's values. I recognize that these values include protecting vital civil liberties, privacy, and the rule of law.

The Division serves as a bridge between the Intelligence Community and the Department of Justice, to support the approach Congress embraced when it removed legal and structural barriers to information-sharing among intelligence and law enforcement professionals. This bridge has allowed us to maximize our disruption options and offers our best chance to prevent the next attack. If confirmed, I will build on the relationships that I have made during my time in the national security community, so that the bridge we have worked so hard to build remains strong and grows stronger.

I also appreciate the importance of effective oversight in ensuring accountability. This Committee performs an essential function in overseeing intelligence activities of the Intelligence Community, and I am committed to building and maintaining a strong, cooperative, and productive relationship with you to help promote the shared goals of oversight and accountability.

Thank you again for the opportunity to appear before you today, and for your consideration. I look forward to answering your questions.

Chairman FEINSTEIN. Thank you both very much.

We will proceed in our usual order, which is early bird regardless of party.

Mr. Carlin, in your answers to the Committee's pre-hearing questions, you wrote the DOJ's National Security Division, quote, "oversees all electronic surveillance and other activities conducted under the Foreign Intelligence Surveillance Act." So I know you have direct experience with DOJ oversight provided to FISA activities. Based on that experience, I'd like you to run through and explain, so the public understands, the various layers of oversight that the programs authorized by FISA, such as sections 215 and 702 data collection programs are subject to.

Mr. CARLIN. Thank you, Madam Chairman.

And there are different layers. I'll try to walk through the different functions that are performed.

First, at the agency that performs the collection activity, there will be supervisory oversight and Office of Compliance. Next, there will be the general counsel of that agency who will be informed of what the rules are, depending on the applicable authority, and be responsible for teaching and enforcing those rules.

Then there will be the inspector general for the particular agency involved. There will also be the inspector general for the Intelligence Community writ large, and the Office of the General Counsel for the director of national intelligence.

The National Security Division plays an oversight role as well, conducting review of the use of the authority and, depending on the particular incidents of the use of the authority, overseeing the application to another oversight element, which is that of the Foreign Intelligence Surveillance Court.

Those are judges—just the same judges I appeared before literally in some cases when I appeared in criminal court, that have been tapped to appear in their Article III role, in addition to their normal duties as part of the Foreign Intelligence Surveillance Court.

And finally, there is this Committee in particular, and the intelligence committees in Congress who have a particular oversight role in these areas and are kept current—currently and fully informed of the activities under the FISA Act.

Chairman FEINSTEIN. OK. It's my understanding that NSD does not generally conduct oversight of CIA human intelligence activities; covert action; three, DOD military activities; or four, NSA intelligence collection outside of FISA. As I understand it, within the Department of Justice, only the Office of Legal Counsel weighs in on these matters and then even only when they're asked.

So here's the question. Should NSD play a role in reviewing the legality of intelligence collection outside of FISA by CIA, NSA and others?

Mr. CARLIN. Thank you. I—the division does not have the, as you have stated, Madam Chairman, a formal oversight role for other particular authorities. But we were created to serve as a bridge between the Intelligence Community on the one hand, and the Department of Justice and the law enforcement elements on the other, to ensure that the wall came down in terms of sharing of in-

formation and that there was visibility into the activities of the Intelligence Community.

There are areas where we have a particular expertise, such as FISA. We're also assigned a role in terms of the attorney general's approval of attorney general guidelines that would get issued by the relevant agency, but then to the Department of Justice for approval. And there, our role would be in particular protecting the rights and privacies of U.S. persons.

So, I'd be happy to work with this Committee on areas where our expertise fits in, as we've discussed, to the general layers of oversight that otherwise exist within the Community, including inspectors general and general counsels.

Chairman FEINSTEIN. Thank you. We will take you up on that. Mr. Vice Chairman.

Vice Chairman CHAMBLISS. Thanks, Madam Chair.

General Taylor, you have said that one of your top priorities is to enhance the level of service that I&A provides to its unique customers in the private sector and at state and local levels. I&A has had historically low analytic production. For example, in 2012, it produced fewer analytic products than its total number of employees. How do you plan to increase the number of high-quality analytic products that are available for INA's customers without being redundant with other Intelligence Community efforts?

General TAYLOR. Senator, thank you for that question. I think it's not simple, but it's kind of focusing on what's the mission of I&A. And the mission of I&A is to collect information from our state and local partners and turn that into intelligence that can be used in the Intelligence Community; to work specifically with the Intelligence Community to get information back to our state and local and private sector partners.

But I think also to use the unique information within the department to produce intelligence. That is where we're going to focus. It's my view that that's not all happening as much today as it needs to happen going forward. But I intend to focus on those products that meet those kinds of needs.

I would also add that the analytical products that I think the Committee has seen in the past are not the only products that we get asked—that I&A is asked to deliver. So one of the metrics that I'm thinking of looking at is what is the totality of the product base that I&A delivers? Where does it go? What are the customers saying about it? And then coming back to the Committee with a better understanding, or better picture of the totality of the work done by I&A, except—rather than just analytical products.

Vice Chairman CHAMBLISS. As we all know, CIA has jurisdiction of intelligence collection outside the United States. FBI has jurisdiction of intelligence collection within the United States' borders. The relationship between I&A and the FBI has not been what it really should be. I understand you're a friend of Director Comey, who is starting off certainly in the right direction at the FBI. He's had vast experience at the Department of Justice.

Can you talk about how you expect to develop that relationship between I&A and the FBI to make sure that we're doing the best job we can within the borders of the United States to not only col-

lect intelligence, but also provide the right analysis of that intelligence?

General TAYLOR. Yes, sir. I—in my 43 years of government service have worked closely with the FBI at every level. I would tell you that I am not a person that believes in competitive—working to compete against an agency. I believe in building partnerships that look to the strength of each agency in performing the mission.

So I commit to you that I will work with Director Comey and his team to make sure that what I&A is doing is complementing what he's doing, and we're complementing what the FBI is doing in a synergistic fashion. There's just far too much for us to do to be competing with each other. We should be able to work collectively for the best interests of our country and for collecting intelligence that defends America.

Vice Chairman CHAMBLISS. Mr. Carlin, a number of groups and organizations have been making recommendations on how to fix FISA in response to Edward Snowden's leaks of classified information. Some of these recommendations have been good, but a lot of them seem to be unworkable, both from a legal as well as a practical standpoint, and would in fact damage our national security collection efforts.

Number one, do you believe NSA's telephone bulk metadata collection program fully complies with U.S. law?

Mr. CARLIN. I do.

Vice Chairman CHAMBLISS. Three of the five members of the privacy and civil liberties oversight board have said that the plain text of FISA business records statute does not authorize this bulk collection—bulk meta data collection program.

What aspects of their legal analysis do you find to be problematic?

Mr. CARLIN. Just say—Senator that—do believe that it is the correct interpretation of the statute and that it is Constitutional as have 15 FISA court judges and now two district court judges. There is one judge who has found to the contrary. We have taken that case—the Department has taken that case up on appeal and it's being litigated in the court system.

Senator KING. Well, all right I'll leave your answer at that then. Very loose answer though, Jim (ph).

Let me just lastly—quickly ask you, in your experience with the Foreign Intelligence Surveillance Court do you think it's been anywhere—anything like a rubber stamp?

Mr. CARLIN. I—no sir. I have not. It's—as I've said, today—but these are some of the same district court judges that I appear before in the criminal court. And they are respected jurists. They put us to our paces when I was a government lawyer appearing before them then. And they put us to our paces when they perform the same role in front of the Foreign Intelligence Surveillance Court.

And I think some of the opinions in this unprecedented year of de-classifying thousands of pages of documents, I think some of the court opinions have shown the type of rigor that they've applied to their analysis.

Senator KING. OK, thank you.

Chairman FEINSTEIN. Thank you very much, Mr. Vice Chairman. Senator Wyden.

Senator WYDEN. Thank you, Madam Chair.

Mr. Carlin I enjoyed very much visiting with you and as I indicated, if you're confirmed, you're gonna be responsible for overseeing a range of government surveillance activities and to be blunt, you're gonna have a lot of cleaning up to do.

For years, the Justice Department has allowed the executive branch to rely on a secret body of surveillance law that was inconsistent with the plain meaning of public statutes in the Constitution. This reliance on secret law gave rise to a pervasive culture of information in which senior officials repeatedly made misleading statements to the Congress, the public and the courts about domestic surveillance.

For example, officials from the National Security Division testified on multiple occasions that Section 215 of the PATRIOT Act was analogous to grand jury subpoena authority, which of course involves individual suspicion.

The public can now see that this claim was extraordinarily misleading and the National Security Division's credibility has been damaged as a result.

If you're confirmed to head the National Security Division, what are you going to do to end this culture of misinformation and ensure that statements made to the public, the Congress and the courts by the Department are accurate?

Mr. CARLIN. Thank you, Senator.

I think it is of the utmost importance—and the attorneys I've worked with at the National Security Divisions share this view—that when we testify, whether it's before Congress or provide information to the courts or in other settings that we do our utmost to provide the full and complete and accurate information.

If I may on the issue that arises in terms of 215 and grand jury subpoenas, it is of course in the statute itself the provision that the records that one can obtain through 215 need to be those records—similar to those records that one could obtain by a grand jury subpoena as it says in the statute or other court process.

Two-fifteen is different than the issuance of a grand jury subpoena in part because of—one needs to apply to a judge prior to being able to obtain the authority. And I know that lawyers at the National Security Division and the department and elsewhere work to make sure that those portions at the time that were classified in terms of the applications of 215 were provided not just to this Committee as would be the normal course of business, but to ensure that, that interpretation of the law was made available to all Members of the Senate prior to the consideration of the 215.

I—inclusion again, I believe it's very important to try to provide as accurate information, as complete information as possible to this Committee and to this body whether in classified or unclassified...

Senator WYDEN. If you're confirmed, I hope that will be accurate in the future, because I know when people heard those words, that this was analogous to a grand jury subpoena process, they said those kinds of processes involve individual suspicion. And, frankly, I don't know of any other grand jury subpoena that allow the government to collect records on this kind of scale.

So I'm gonna move on.

You've indicated that you are going to make a priority insuring that statements that are made, if you're confirmed, are accurate. In my view, that was not the case in the past.

Let me ask you one other question, if I might.

As the arguments in favor of bulk phone records collection have been crumbling, executive branch officials most recently have claimed that bulk collection allows the government to review phone records more quickly than would otherwise be possible.

One official recently testified that it allows the government to do in minutes what would otherwise take hours. However, the Justice Department inspector general's January 2010 report, on requests for phone records, describes an arrangement in which communications companies were able to respond to requests immediately and provide records in a format that could be immediately uploaded onto FBI databases.

While the inspector general found some problems with the—with this particular arrangement, speed was not one of them. In fact, the report goes on to note that the FBI's counterterrorism division described this arrangement as providing near real time servicing of phone record requests.

Would it be fair to say that this report—a Justice Department report—indicates that phone companies are actually capable of responding to individual record requests very quickly?

Mr. CARLIN. Senator, I'm not totally familiar with the details of that inspector general report or whether that arrangement still exists at the FBI.

But it has certainly been my experience, in the context of some particular cases—investigations that I can recall with a particular telecommunications companies that we have served particular requests on the company and that they have been able to respond very, very quickly to the FBI. And that, that speed has been critical in having that national security investigations hold people to account or to prevent future terrorist attacks, and that speed is critical.

Senator WYDEN. Well I share your view that speed is critical, but what we have is a FBI in effect Justice Department inspector general report indicating that it's possible to get that speed that we need with the kind of approach with respect to phone records without collecting other kinds of—without other kinds of processes, and that's my point, is that we're told that without metadata collection, we're not going to get it in a timely way. This report indicates that it is possible to get it in a timely way.

Thank you, Madam Chair.

Chairman FEINSTEIN. Thank you very much.

[Cross talk.]

Senator UDALL. Thank you, Madam Chair.

Good afternoon, General Taylor.

Good afternoon, Mr. Carlin.

Mr. Carlin, let me turn to you for a series of questions. Last May, the White House formally announced that if a lethal operation will be considered against a U.S. person, that the Department of Justice—and I want to quote here—“will conduct an additional legal analysis to ensure that such action may be conducted against the

individual, consistent with the Constitution and laws of the United States.”

Two questions: What’s the role of the NSD in that kind of a review? And who in the DOJ is responsible for ensuring that the facts supporting the department’s legal analysis are accurate?

Mr. CARLIN. Thank you, Senator.

In—there’s a process set up that involves input from each of the departments and agencies now, before such a decision of that magnitude is made. That’s the policy process that’s been set up by the President.

In terms of the extra legal analysis might occur, a decision of that magnitude would be made at the highest level of the department. And I would expect that before such a decision would be made, that the National Security Division, among other components, would be consulted.

On the second question, in terms of the accuracy of the information that’s provided, the accuracy of the information is usually determined by the departments and agencies providing it. So there’s the collectors and the analysts. And they would provide, then, that information to the department and that would be the basis for a legal review.

Senator UDALL. Over time, I’m going to want to drill more into those questions. Because this is, as you know, a life-and-death kind of process. But let me—let me turn to another question that’s about accuracy.

You wrote in your responses to the Committee that the decision to submit intelligence activities for legal review by the OLC is typically made by the Intelligence Community component that engages in that activity. Yet you also wrote that the NSD has the responsibility to ensure that the department’s representations in court are accurate, and that, quote, “the NSD attorneys must work diligently to understand the facts of intelligence activities and other national security-related matters that may be at issue in litigation or other matters for which they’re responsible.”

Now, to me, those statements appear to conflict with each other. So in your view, how is the Justice Department supposed to ensure the accuracy of representations to the courts in criminal cases or FOIA litigation, I should say, and so on, without an independent review of the accuracy of Intelligence Community representations?

And I ask that question in light of what former CIA General Counsel Stephen Preston’s responses to my questions last year about the CIA’s detention and interrogation program, where—and he wrote that the DOJ does not always have accurate information about the detention and interrogation program and that the actual conduct of that program was not always consistent with the way the program had been described to the DOJ, and that further, CIA’s efforts fell well short of our current practices when it comes to providing information relevant to the OLC’s legal analysis.

Mr. CARLIN. Thank you, Senator.

Your question is important and it’s important as officers of the court. And any attorney for the National Security Division when making a representation does everything that they can to assure that the representation is accurate.

And also if they were to learn or discover that information is inaccurate or misleading, to take steps with the relevant agency in order to correct the record.

There were several different decision-making processes that you've alluded to, some of which are more involved with than others. So in terms of representations before the Foreign Intelligence Surveillance Court, that is one where our attorneys would be working to make the representations; would be working with the relevant elements of the Intelligence Community in order to provide the necessary facts to the court.

And as I described earlier to the chairman, there are a variety of mechanisms, including the attorneys, to try to ensure that accuracy, including the Office of General Counsel, the component of various inspectors general, and our oversight role and section.

Senator UDALL. I'm going to stay involved with you on this, as I am with the Intelligence Community itself. Let me—one last question. I want to talk about executive order 12333, with which you're familiar. I understand that the collection, retention or dissemination of information about U.S. persons is prohibited under executive order 12333, except under certain procedures approved by the attorney general. But this doesn't mean that U.S.-person information isn't mistakenly collected, retained and then disseminated outside of these procedures.

So take this example. Let's say the NSA is conducting what it believes to be foreign collection under E.O. 12333, but discovers in the course of this collection that it also incidentally collected a vast trove of U.S.-person information. That U.S.-person collection should not have FISA protections. What role does the NSD have in overseeing any collection, retention or dissemination of U.S.-person information that might occur under that executive order?

Mr. CARLIN. Senator, so generally, the intelligence activities that NSA would conduct pursuant to its authorities under 12333 would be done pursuant to a series of guidelines that were approved by the attorney general, and then ultimately implemented through additional policies and procedures by NSA.

But the collection activities that occur pursuant to 12333, if there was incidental collection, would be handled through a different set of oversight mechanisms than the department's by the Office of Compliance, the inspector general there, the general counsel there, and the inspector general and general counsel's office for the Intelligence Community writ large, as well as reporting to these committees as appropriate.

Senator UDALL. So you don't see a direct role for the NSD in ensuring that that data is protected under FISA?

Mr. CARLIN. Under FISA, no. Under FISA, we would have a direct role. So if it was under—if it was collection that was pursuant to the FISA statutes, so collection targeted at U.S. persons, for example, or collection targeted at certain non-U.S. persons overseas that was collected domestically, such as pursuant to the 702 collection program, that would fall within the scope of the National Security Division.

That's information that—and oversight that we conduct through our oversight section, in conjunction with the agencies. And we would have the responsibility in terms of informing—working with

them to inform the court if there were any compliance incidents and making sure that those compliance incidents were addressed.

Senator UDALL. Thank you. My time is obviously expired. But I think you understand where I'm coming from here. One is to make sure that DOJ and you in your capacity have the most accurate information so that you can represent the United States of America and our citizens in the best possible way. And secondly, that you have a role to play in providing additional oversight. Those are all tied to having information that's factual, based on what happened.

And again, I'm going to continue to look for every way possible to make sure that that's what does happen, whether it's under the auspices of the IC or the DOJ. You all have a joint responsibility to protect the Bill of Rights.

Thank you.

[Cross talk.]

Senator COLLINS. Thank you, Madam Chairman.

General Taylor, I spent many years as either the chair or the ranking member of the Homeland Security Committee. And my greatest disappointment in the last Congress is that we did not enact a cyber security bill since I believe we're extremely vulnerable to attacks. And indeed, we know that every day, nation-states like China, Russia, Iran are probing our computers, leaving behind malware. Transnational criminal gangs also are invading our—our computer systems, and terrorist groups also have that as a goal.

I know that you served as chief security officer at General Electric. I'm interested in what you believe I&A, which has the special responsibility to share information with the private sector, to be the recipient of information from the private sector, and disseminate that to governments at all levels.

What particular improvements would you like to see when it comes to information sharing?

General TAYLOR. Thank you, Senator Collins.

I would say that in my eight-and-a-half years at GE, I was not always happy with the quality and the consistency of information I received on threats that would impact our company writ large, and particularly cyber issues. I think that has begun to improve.

And my focus will be on ensuring that—I think I—well, two things. I think the department plays a critical role from NPPD in reaching out to the private sector. And indeed, many companies have now joined in partnership with DHS around the NPPD and critical infrastructure protection and exchanging information on a continuous basis. I think that has to continue.

But I think we've got to do a better job on the I&A side of developing the intelligence that helps companies—and not—companies the size of GE have the resources to kind of look into these things more thoroughly than many, many other American companies. Those are the companies that need to understand what the risk is; understand how they're being had. And I think we can give them that through analysis from I&A, both from the IC and from our components within DOD—within DHS.

Senator COLLINS. Well, I hope we'll see more analytical reports, as the ranking member pointed out. There's something really wrong when there are more employees and contractors than there are—there are analytical reports being issued.

I am very impressed with what is going on at the NCIC and I hope that you'll invite Members of this Committee, as well as the Homeland Security Committee, to come out and let them see the real-time monitoring that's done of government computers because that's an important vulnerability as well.

But the fact that we still are not sharing critical threat information, particularly with the owners and operators of critical infrastructure, is just unacceptable in this day and age. And I hope that should you be confirmed, that you will make that a priority.

General TAYLOR. Senator, if confirmed, that will be a top priority for me. I lived that for eight-and-a-half years and want to see what I can do to help us close that gap.

Senator COLLINS. Mr. Carlin, according to news reports, the charges against Ali Mohamed Ali for his alleged role in a 2008 pirate attack near Yemen have been dropped after he was partially acquitted by a jury last year. This raises the whole dispute once again of how foreigners who are brought to this country or arrested here should be handled, and whether it should be in military tribunals or in regular criminal courts.

We now have the bizarre situation where the failure to successfully prosecute a suspected terrorist, pirate in federal court has now resulted in his seeking asylum so that he can stay in this country. What's your reaction to this case? And what does it say as far as our ability to ensure that those who pose a threat to this country—foreigners who pose a threat to this country should be handled—prosecuted in federal courts versus military tribunals?

Mr. CARLIN. Well, Senator, without commenting on a particular individual's application, that as you say that was a piracy case. After the increased incidence of piracy in 2011, there were a number of prosecutions of pirates. I think we did obtain convictions in 25 or 26 of those cases, and that piracy, not just due to that effort, but other international efforts, has decreased in that region, but continues to be a threat.

In general, we need to use an all-tools approach where the Article III option is one of the tools in the toolkit, but that we look at all tools whenever we face a particular case. And we look first to obtain the maximum amount of intelligence, speaking now not so much about piracy, though it's true there, particular in terrorist acts or terrorist cases, and to look to gain—obtain intelligence first, to try to prevent terrorist attacks. That needs to be our first priority.

And we also need to look to deter and disable the threat that a particular individual or group may pose. And if confirmed, I will advocate and attempt to provide as many options as possible when we're trying to make those decisions.

Senator COLLINS. Thank you.

[Cross talk.]

Senator COBURN. Thank you, Madam Chairman.

General Taylor, first of all, most people don't know you didn't have to do this. And the fact that you're coming back to serve again is highly admirable, and I want to thank you for that.

You said you'd read the report that Senator Levin and I put out on fusion centers. And I have to agree with a lot of what Senator Chambliss had to say.

My assessment when I talked to the people receiving the analysis from I&A and homeland security is it's not on time, it's not late, and it's not accurate. And half the time, it's old information that was collected not through the Intelligence Community, but is published data. And so the quality of the work in many instances actually is very, very poor. And so, when you—when you go and talk to people who receive them, they don't even read them. Because they think they have no value. There's no incremental increase in the value of what is being put out.

So, given that, as you look at this and see whether or not there's a capability there that we really need, I don't disagree with you about sharing threats downward. I have yet to see much information come from any fusion center into I&A, and that then comes that is both timely and accurate and not repetitive. So, I guess my question is, is if it is seen by you, after looking at this, that it's redundant and irrelevant, would you agree that maybe it ought to be minimized to where it's mainly a conduit down, and when we do get some information that needs to be forward, we can do that, rather than duplicate what's already going on?

General TAYLOR. Senator, first of all, thank you for your comments about my service. You may know that I began my career at Tinker (ph) Air Force Base in Oklahoma, some 43 years ago, and that was a—quite a launch place to get me here. So, I'm excited to be here to be able to serve again.

I read the report. I have heard from our stakeholders, both at the state and local level, and within the IC, and within the department. What I would commit, sir, is to a thorough analysis of what the mission is. Because I think there's some confusion in terms of the elements of I&A, in terms of what the actual mission is with regard to the fusion centers. I think it is our core responsibility. No one else in the government has this responsibility to link the locals to the IC. So, I'd like to evaluate that, develop the metrics around what we're supposed to be producing, and then, if we are able to produce those things, come back to the—to you, sir, and to the SSCI and present those results.

I think there is value, here, but I haven't had enough time to really get my arms around it, but I—if confirmed, I would expect, in very short order, to be able to do that and come back with a plan of action to implement the mission we've been assigned. And if it's not there, to not do it. And to come with that recommendation based on the facts that we find in—in a mission analysis.

Senator COBURN. Well, I appreciate, and I have a lot of confidence that you're the right man for this job at this time, and my hope is that we get some clarity as to what can be done and effectively done. One of the things that's happening, we're seeing some improvement in homeland security in a lot of areas, and like Senator Collins, we need a cyber-security bill. We know that. I think the President did a good job in terms of his executive order, but we still have a ways to go there, and it's important that the intelligence and analysis that's carried out has value, because—and the problem maybe, right now, it may be improving in value, but nobody's paying any attention to it because it hadn't had any value in the past.

So, my hope is, is that you'll have Godspeed in making that assessment and truly using metrics, your customers, of whether or not it has value.

General TAYLOR. Senator, you have just outlined my leadership philosophy, and that's how I've approached every mission I've been given, and I also believe it's important that as we take this journey, that we're in lockstep with this Committee in terms of what the expectations are, so I intend to spend a significant amount of time with the staff and with the Members to get feedback on what we're doing. I believe in full transparency. I believe in metrics, and if the facts take us in a way that we don't like, the facts are the facts, and we'll have to make decisions from this.

Senator COBURN. Thank you. I yield back.

Chairman FEINSTEIN. Thanks, Senator Coburn.

Senator Heinrich.

Senator HEINRICH. Thank you Madam Chairman. Mr. Carlin, General Taylor, welcome to you both. Mr. Carlin, you and I had the opportunity to talk a little bit last December, and I just wanted to follow up on one of the issues that we talked about when you came to my office.

As you know, in October of 2013, after months and months of discussion and debate in which you and the NSD were involved, DOJ adopted a new policy by which federal prosecutors would inform defendants when they were intended to—when they intended to offer evidence informed, obtained, or derived from intelligence collected under 702 of FISA. And when you and I met in December, you informed me that that policy had not yet been reduced to a formal written policy, and so, Mr. Carlin, I wanted to ask: is that process done yet, and has that policy been finalized, and if so, has it been disseminated in—in a written form?

Mr. CARLIN. Thank you Senator, and thank you for having taken the time to meet prior to this hearing. Just in terms of the question. I—it is my understanding that it was the practice of the policy of the department to inform a defendant in a criminal case and give notice if there was 702 information that was going to be used against them prior to—prior to this change in practice.

The change in practice had to do with a particular set of circumstances when there was an instance where information obtained from one prong of the FISA statute 702 was used and led to information that led to another prong of FISA, Title I FISA, being used, and that when the notice was given to the defendant, that notice was referring to one type of FISA but not both types of FISA, and that is the practice that we reviewed and changed, so that now, defendants are receiving notice in those instances of both types of FISA.

The review of cases affected like that—affected by that, continues, but we have filed such notice, now, I believe in three criminal matters, including the case of Muhamad Muhamad (ph), the individual convicted by a jury of attempting to use an explosive device on the Christmas tree lighting ceremony. In reference to that case, we have now filed—there's a filing in that case that we should provide to your staff while we lay out what our practice is, and I will ensure—I will ensure that filing is distributed to U.S.

attorneys' offices across the country so they know exactly what our position is on that issue.

Senator HEINRICH. That's helpful. And so you'll share with—that with the Committee as well?

Mr. CARLIN. Yes sir.

Senator HEINRICH. Great. Let's move on then to declassification real quick. I have a quick question on that front. And, in your response to Committee questions, you indicated that you and others within NSD meet regularly with ODNI personnel on multiple issues, and among those that you listed were classification - sorry, declassification and transparency matters. On December 29th of 2009, the President signed Executive Order 13526, which directs, among other things, that in no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to conceal violations of law, inefficiency, or administrative error, prevent embarrassment to a person, organization, or agencies, or prevent or delay the release of information that does not require protection in the interest of national security. What's NSD's role and responsibility in determining whether something is properly declassified—sorry, properly classified, particularly as it relates to that Executive Order 13526?

Mr. CARLIN. Thank you Senator. NSD really does not play a role in that executive order in determining whether the information is properly classified in the first instance. That would be a decision that's made by the relevant agency or department would have expertise with the particular sources and methods and would be reviewed. Assume, ultimately, if there was a dispute by their general council or inspector general, we have played and do play a role in the ongoing review in terms of coordinating the declassification, particularly of FISA related pleadings or court opinions, and we've been playing an ongoing role in that review that has led to the declassification by the director of national intelligence and thousands of pages of documents, and I would expect we would continue to play a role in that if confirmed.

Senator HEINRICH. That's very helpful, Mr. Carlin, and I want to thank you both for being here today. Thank you Chairman.

Chairman FEINSTEIN. Thank you, Senator Heinrich

Senator King. Our wrap-up questioner.

Senator KING. Thank you, Madam Chairman.

Mr. Carlin, the President made a speech on January 17th on national security policy. He called for the creation of panels of advocates to assist the FISA court. This Committee passed an amendment as part of our bill that created an opportunity for the court to appoint amicus assistants in that process. Do you have any insight on what the President had in mind in that statement, and was what we did along the lines of what the President intends?

Mr. CARLIN. Not sure, Senator, I can speak ultimately to where the administration position is, but I have stated before that I think it would be helpful in certain instances if the FISA court needed additional assistance or briefing on a complicated interpretation, that they'd be able to tap such a panel, and your bill would provide the ability for them to do so, and to hear that amicus—amicus view.

Senator KING. Thank you.

I understand that one of the responsibilities that you all have at the division is oversight, and that you're developing a training program for IC personnel. Could you tell us where that stands? Is it happening? Will it—is it mandatory for all IC personnel? Does it deal with the Fourth Amendment and those kinds of principles? What's the nature of that program?

Mr. CARLIN. I'm not sure I'm familiar with this specific program that you're referencing, but we do work with, for instance, the NSA in the development of training programs, particularly those programs that are on the procedures, the compliance procedures that would be ordered by the court, such as minimization procedures. We would help in the development of that curriculum. And then I know our attorneys also go and train, in particular, on those issues. And we also help provide similar training, I know, to the FBI.

Senator KING. Does the IC personnel generally regularly, routinely receive training that reflects the values embodied in the First Amendment? Because this is—the business that they're in is finding that right balance on a day-to-day basis. Is this part of the entry process for somebody coming into the NSA or the FBI or the CIA?

Mr. CARLIN. I'm not sure I'd have the expertise to speak writ large as to the training programs for every element of the Intelligence Community. Having spent time at the FBI, I know for the FBI, that is part of their training programs. And I know it's—these issues and issues in terms of privacy and protection of U.S. persons are definitely a part of the training program at the NSA. And I expect that each who is subject to attorney general-approved guidelines in terms of the protection and handling of U.S. person information would receive training as part of the curriculum on those protected procedures.

Senator KING. Thank you.

General Taylor, you have a very important responsibility. And I, like Senator Coburn, appreciate your willingness to step forward once again, and undertake service to your country.

We spend approximately \$75 billion a year on intelligence between military and civilian. That is a lot of money. And it's increased dramatically, as you know, since September 11th. So, the role of communicating and sharing, but at the same time, not duplicating, is really essential. And I hope that you will take seriously the comments and questions of Senator Coburn. And I want to associate myself with them. And here's my question.

If you, who are starting with a blank sheet of paper to set up a system to share information among intelligence and law enforcement, would you—what would you come up with? Would it be the fusion centers, or would it be some other—some other kind of entity?

General TAYLOR. Well, thank you, Senator, for your comments about my returning to service. I am looking forward to working with this Committee, and certainly with our colleagues at DHS.

My sense, Senator, is—the institutions exist. It's connecting the institutions appropriately. So, I wouldn't start with a blank slate. I'd figure out where the nexus (ph) are between the institutions that are currently working these issues.

Take fusion centers, for instance. Governors—adjutant generals love them because it's all source, all hazard. And so, why not use that capacity? It's already looking at all source, all hazards to help inform the Intelligence Community, which is really the sweet spot for I&A.

And if we—if we do our job properly, we won't be duplicating any work that's done by the FBI and the JTTF. We don't do investigations, we don't do overt—we don't do clandestine collection of intelligence, we take information from our partners and try to turn it into information that's useful. And also, take information from the IC (ph) just to send it back. I should say I&A does.

If confirmed, I will be a part of that great team. But I think it's making sure that the mission is clear, the objectives are linked, and the outcomes meet the expectations of our customers and partners, as opposed to kind of doing what we were—what we did before we came to the—to I&A, for instance. When we came out of the IC, (ph) we did it a certain way. If we came out of the FBI, we did it another way.

Senator KING. Well, I understand the IG is looking at some of the activities and at the GAO report. And I hope—I think you used the term—this term, Senator Coburn, and that is “value,” and determine the value achieved versus the cost—what the proper cost-sharing relationship should be with the states and localities. Because—you know, every hearing I go to is—we've partially removed the cloud of sequestration for a year or so, but it's not gone. And I think it's safe to say, we're going to be in a budget-constrained attitude for some period of years. And therefore we have to constantly be thinking about how do we achieve the same or greater value at the same or lesser cost?

So, I commend that mission to you, sir.

General TAYLOR. Yes, sir. Well, one of my marching orders from the secretary is to do just that—to eliminate duplication where it exists, and to improve the efficiency of our mission execution within I&A. And I intend, if confirmed, to follow those instructions, as well as your instructions, sir.

Senator KING. Well, if you are successful in eliminating some duplication around here, I'll put in a bill to build a statue of you in the courtyard.

[Laughter.]

Thank you very much, General.

General TAYLOR. Yes, sir, thank you.

Senator KING. I appreciate it.

Chairman FEINSTEIN. Thank you very much, Senator King. It looks like we will be able to make this vote.

I just want to say one thing to both of our nominees. You both occupy points of great interest to this Committee. And I will hope that you will be coming before us singly within the next six-month period.

I think, General Taylor, we really want to delve into more detail on your mission as you see it—the reduction of contractors within your organization, and the increase of fresh, bright, new intelligence. So we will do that.

Mr. Carlin, your division is very important to this Committee. It is a very vital part of the oversight role. And I think you, too,

might want to give some additional thought to it, and come before the Committee. And I think we should talk a little bit about it.

And I see a very beautiful young lady I happen to have some Senate lollipops for in the front row.

So, I'm going to say one thing about questions from the Members. We'd like to have them in by close of business on Friday so that we can move—take our vote and move these nominees as soon as possible. If we get them in, we'll schedule the vote for next week.

So, thank you both. Thank you, ladies and gentlemen. And the hearing is adjourned.

[Whereupon, at 5:53 p.m., the Committee adjourned.]

Supplemental Material

SELECT COMMITTEE ON
INTELLIGENCE

UNITED STATES SENATE



QUESTIONNAIRE FOR COMPLETION BY
PRESIDENTIAL NOMINEES

**SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE**

**QUESTIONNAIRE FOR COMPLETION BY
PRESIDENTIAL NOMINEES**

PART A - BIOGRAPHICAL INFORMATION

1. NAME: Francis Xavier Taylor
2. DATE AND PLACE OF BIRTH: October 22, 1948, Washington, DC
3. MARITAL STATUS: Married
4. SPOUSE'S NAME: [REDACTED]
5. SPOUSE'S MAIDEN NAME IF APPLICABLE: [REDACTED]
6. NAMES AND AGES OF CHILDREN:

| <u>NAME</u> | <u>AGE</u> |
|-------------|------------|
|-------------|------------|

[INFORMATION REDACTED]

7. EDUCATION SINCE HIGH SCHOOL:

| <u>INSTITUTION</u> | <u>DATES ATTENDED</u> | <u>DEGREE RECEIVED</u> | <u>DATE OF DEGREE</u> |
|----------------------------|-----------------------|------------------------|-----------------------|
| University of Notre Dame | Sep 1966 - June 1970 | BA | June, 1970 |
| University of Notre Dame | Sep 1972 - Aug 1974 | MA | Aug 1974 |
| Armed Forces Staff College | Aug 1983 - Jan 1984 | N/A | Jan 1984 |
| Air War College | Aug 1987 - Jun 1988 | N/A | Jun 1988 |

8. EMPLOYMENT RECORD (LIST ALL POSITIONS HELD SINCE COLLEGE, INCLUDING MILITARY SERVICE. INDICATE NAME OF EMPLOYER, POSITION, TITLE OR DESCRIPTION, LOCATION, AND DATES OF EMPLOYMENT.)

| <u>EMPLOYER</u> | <u>POSITION/TITLE</u> | <u>LOCATION</u> | <u>DATES</u> |
|-------------------------------------|--------------------------------|-----------------|---------------|
| AF Office of Special Investigations | Special Agent | Tinker AFB, OK | 06/70 - 11/70 |
| AF Office of Special Investigations | Counterintelligence Analyst | Washington, DC | 11/70 - 08/72 |
| AF Office of Special Investigations | Counterintelligence Analyst | Washington, DC | 09/74 - 07/76 |
| AF OSI District 69 | Chief, Acquisitions & Analysis | Ankara, Turkey | 07/76 - 11-77 |

| | | | |
|----------------------------------|----------------------------------|--------------------|-------------------|
| AF OSI District 4 | Commander, AFOSI Det 411 | Bolling AFB, DC | 11/77 - 07/79 |
| HQ AFOSI Director of Personnel | Chief, Assignments | Bolling, AFB, DC | 07/79 - 09/80 |
| HQ AFOSI Command Section | Asst Executive Officer | Bolling AFB, DC | 09/80 - 07/83 |
| OSD DUSD (Policy) | Dep Dir, Operations, Dir of CI | Pentagon, VA | 01/84 - 07/87 |
| USAF 487 Combat Support Gp | Deputy Commander | Comiso AS, IT | 07/88 - 07/90 |
| AFOSI District 45 | Commander | Osan AB, RK | 07/90 - 07/92 |
| AFOSI Region 2 | Commander | Langley, AFB, VA | 07/92 - 07/94 |
| HQ AFOSI Dir of Mission Guidance | Director | Bolling AFB, DC | 07/95 - 05/95 |
| SECAF Office of the IG | Director, Special Investigations | Pentagon, VA | 08/95 - 07/96 |
| HQ AFOSI | Commander, AFOSI | Bolling AFB, DC | 06/1996 - 07/2001 |
| US Dept of State | Counterterrorism Coordinator | Washington, DC | 07/2001 - 11/2002 |
| State Dept Bur of Dip Security | Assistant Secretary | Washington, DC | 11/2002 - 03/2005 |
| General Electric Company | VP & Chief Security Officer | Fairfield, CT | 03/2005 - 11/2013 |
| FXTaylor Associates LLC | President and CEO | Ft. Washington, MD | 11/2013 - Present |

9. GOVERNMENT EXPERIENCE (INDICATE EXPERIENCE IN OR ASSOCIATION WITH FEDERAL, STATE, OR LOCAL GOVERNMENTS, INCLUDING ADVISORY, CONSULTATIVE, HONORARY, OR OTHER PART-TIME SERVICE OR POSITION. DO NOT REPEAT INFORMATION ALREADY PROVIDED IN QUESTION 8):

- Member, Privacy and Civil Liberties Oversight Board- 2006-2007
- Senior Advisor, SECDEF Independent Review Group, Washington Navy Yard Shooting, 2013

10. INDICATE ANY SPECIALIZED INTELLIGENCE OR NATIONAL SECURITY EXPERTISE YOU HAVE ACQUIRED HAVING SERVED IN THE POSITIONS DESCRIBED IN QUESTIONS 8 AND/OR 9.

I have served most of my military career in counterintelligence roles at every level from the field to OSD. I have directed information collection operations, managed sources of information and directed offensive counterintelligence operations. I was tasked to establish the first DOD Computer Forensics capability. I have used intelligence to conduct antiterrorism and counterterrorism activities for the USAF and the State Department. I have been involved in the development and implementation of intelligence policy for the USAF, DOD and the US Government.

11. HONORS AND AWARDS (PROVIDE INFORMATION ON SCHOLARSHIPS, FELLOWSHIPS, HONORARY DEGREES, MILITARY DECORATIONS, CIVILIAN SERVICE CITATIONS, OR ANY OTHER SPECIAL RECOGNITION FOR OUTSTANDING PERFORMANCE OR ACHIEVEMENT):

- US Department of State Distinguished Honor Award
- US Distinguished Service Medal
- US National Intelligence Distinguished Service Medal
- The Legion of Merit Medal
- Department of Defense Superior Service Medal
- Air Force Meritorious Service Medal
- Air Force Commendation Medal
- Air Force Achievement Medal
- National Defense Service Medal
- Women in Federal Law Enforcement Leadership Award
- University of Notre Dame Alumni Association Father Corby Award for Outstanding Military Service
- Black Alumni of Notre Dame 50 Black Exemplars
- University of Notre Dame Air Force ROTC Distinguished Graduate

12. ORGANIZATIONAL AFFILIATIONS (LIST MEMBERSHIPS IN AND OFFICES HELD WITHIN THE LAST TEN YEARS IN ANY PROFESSIONAL, CIVIC, FRATERNAL, BUSINESS, SCHOLARLY, CULTURAL, CHARITABLE, OR OTHER SIMILAR ORGANIZATIONS):

| <u>ORGANIZATION</u> | <u>OFFICE HELD</u> | <u>DATES</u> |
|---|-------------------------------------|---------------------|
| • American Corporate Partners | Director | 01/2008 to Present |
| • Center for Strategic and International Studies | o Advisory Board and Senior Advisor | 11/ 2013 to Present |
| • National Organization of Black Law Enforcement Executives | o Board of Directors | 07/2008 to 07/2009 |
| | o Member | 07/1992 to Present |
| • International Security Managers Association | o Member and Director | 05/2005 to Present |

13. PUBLISHED WRITINGS AND SPEECHES (LIST THE TITLES, PUBLISHERS, AND PUBLICATION DATES OF ANY BOOKS, ARTICLES, REPORTS, OR OTHER PUBLISHED MATERIALS YOU HAVE AUTHORED. ALSO LIST ANY PUBLIC SPEECHES YOU HAVE MADE WITHIN THE LAST TEN YEARS FOR WHICH THERE IS A TEXT OR TRANSCRIPT. TO THE EXTENT POSSIBLE, PLEASE PROVIDE A COPY OF EACH SUCH PUBLICATION, TEXT, OR TRANSCRIPT):

Remarks to the Pacific Council of International Policy's Annual Conference, 11/13/04

- Text available at: [Nexis](#)

No knowledge of any other speeches or writings.

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE IN THE POSITION FOR WHICH YOU HAVE BEEN NOMINATED):

I believe that I am qualified to serve in the position for which I have been nominated because I have more than 43 years experience working in or with the US Intelligence Community. I have served as a counterintelligence analyst and operator for the Air Force in the CONUS and Overseas. I have been a consumer of intelligence at the Department of State and at the General Electric Company. I have served at the Executive Level of several intelligence community organizations and believe that I bring a unique perspective as both an operator and a consumer of intelligence, both in and out of government.

PART C - POLITICAL AND FOREIGN AFFILIATIONS

15. POLITICAL ACTIVITIES (LIST ANY MEMBERSHIPS OR OFFICES HELD IN OR FINANCIAL CONTRIBUTIONS OR SERVICES RENDERED TO, ANY POLITICAL PARTY, ELECTION COMMITTEE, POLITICAL ACTION COMMITTEE, OR INDIVIDUAL CANDIDATE DURING THE LAST TEN YEARS):

I have never participated in any political activities. I am an Independent and have not registered for any political party. As a GE Executive, I voluntarily contributed to the GE Political Action Committee (GEPAC); however, I had no role in how those contributions were used by the company to contribute to political activities. I also contributed to the following political campaigns:

- Obama for President, 3/3/2012, \$500
- Friends of Jim Clyburn, 10/21/2009, \$2000
- Marcia Fudge for Congress, 11/23/2010, \$1000
- Jim Himes for Congress, 6/25/2010, \$500
- GE PAC 10/2009 to 10/2013, \$12,955

16. CANDIDACY FOR PUBLIC OFFICE (FURNISH DETAILS OF ANY CANDIDACY FOR ELECTIVE PUBLIC OFFICE):

None

17. FOREIGN AFFILIATIONS

(NOTE: QUESTIONS 17A AND B ARE NOT LIMITED TO RELATIONSHIPS REQUIRING REGISTRATION UNDER THE FOREIGN AGENTS REGISTRATION ACT. QUESTIONS 17A, B, AND C DO NOT CALL FOR A POSITIVE RESPONSE IF THE REPRESENTATION OR TRANSACTION WAS AUTHORIZED BY THE

UNITED STATES GOVERNMENT IN CONNECTION WITH YOUR OR YOUR SPOUSE'S EMPLOYMENT IN GOVERNMENT SERVICE.)

A. HAVE YOU OR YOUR SPOUSE EVER REPRESENTED IN ANY CAPACITY (E.G. EMPLOYEE, ATTORNEY, OR POLITICAL/BUSINESS CONSULTANT), WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP. **NO**

B. HAVE ANY OF YOUR OR YOUR SPOUSE'S ASSOCIATES REPRESENTED, IN ANY CAPACITY, WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP. **NO**

C. DURING THE PAST TEN YEARS, HAVE YOU OR YOUR SPOUSE RECEIVED ANY COMPENSATION FROM, OR BEEN INVOLVED IN ANY FINANCIAL OR BUSINESS TRANSACTIONS WITH, A FOREIGN GOVERNMENT OR ANY ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS. **NO**

D. HAVE YOU OR YOUR SPOUSE EVER REGISTERED UNDER THE FOREIGN AGENTS REGISTRATION ACT? IF SO, PLEASE PROVIDE DETAILS. **NO**

18. DESCRIBE ANY LOBBYING ACTIVITY DURING THE PAST TEN YEARS, OTHER THAN IN AN OFFICIAL U.S. GOVERNMENT CAPACITY, IN WHICH YOU OR YOUR SPOUSE HAVE ENGAGED FOR THE PURPOSE OF DIRECTLY OR INDIRECTLY INFLUENCING THE PASSAGE, DEFEAT, OR MODIFICATION OF FEDERAL LEGISLATION, OR FOR THE PURPOSE OF AFFECTING THE ADMINISTRATION AND EXECUTION OF FEDERAL LAW OR PUBLIC POLICY. **NONE**

PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

19. DESCRIBE ANY EMPLOYMENT, BUSINESS RELATIONSHIP, FINANCIAL TRANSACTION, INVESTMENT, ASSOCIATION, OR ACTIVITY (INCLUDING, BUT NOT LIMITED TO, DEALINGS WITH THE FEDERAL GOVERNMENT ON YOUR OWN BEHALF OR ON BEHALF OF A CLIENT), WHICH COULD CREATE, OR APPEAR TO CREATE, A CONFLICT OF INTEREST IN THE POSITION TO WHICH YOU HAVE BEEN NOMINATED. **NONE**

20. DO YOU INTEND TO SEVER ALL BUSINESS CONNECTIONS WITH YOUR PRESENT EMPLOYERS, FIRMS, BUSINESS ASSOCIATES AND/OR PARTNERSHIPS, OR OTHER ORGANIZATIONS IN THE EVENT THAT YOU ARE CONFIRMED BY THE SENATE? IF NOT, PLEASE EXPLAIN.

YES. AS INDICATED IN MY SF278, I CONTINUE TO HAVE DEFERRED COMPENSATION AND VESTED STOCK OPTIONS WITH THE GENERAL ELECTRIC COMPANY THAT WILL BE PAID DURING MY GOVERNMENT SERVICE. I HAVE SIGNED AN ETHICS AGREEMENT THAT HAS OUTLINED WHAT I MUST DO TO AVOID ANY CONFLICT OF INTEREST FROM THESE OBLIGATIONS.

21. DESCRIBE THE FINANCIAL ARRANGEMENTS YOU HAVE MADE OR PLAN TO MAKE, IF YOU ARE CONFIRMED, IN CONNECTION WITH SEVERANCE FROM YOUR CURRENT POSITION. PLEASE INCLUDE SEVERANCE PAY, PENSION RIGHTS, STOCK OPTIONS, DEFERRED INCOME ARRANGEMENTS, AND ANY AND ALL COMPENSATION THAT WILL OR MIGHT BE RECEIVED IN THE FUTURE AS A RESULT OF YOUR CURRENT BUSINESS OR PROFESSIONAL RELATIONSHIPS.

ALL LISTED IN THE SF 278

22. DO YOU HAVE ANY PLANS, COMMITMENTS, OR AGREEMENTS TO PURSUE OUTSIDE EMPLOYMENT, WITH OR WITHOUT COMPENSATION, DURING YOUR SERVICE WITH THE GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS. **NO**

23. AS FAR AS CAN BE FORESEEN, STATE YOUR PLANS AFTER COMPLETING GOVERNMENT SERVICE. PLEASE SPECIFICALLY DESCRIBE ANY AGREEMENTS OR UNDERSTANDINGS, WRITTEN OR UNWRITTEN, CONCERNING EMPLOYMENT AFTER LEAVING GOVERNMENT SERVICE. IN PARTICULAR, DESCRIBE ANY AGREEMENTS, UNDERSTANDINGS, OR OPTIONS TO RETURN TO YOUR CURRENT POSITION.

UPON THE COMPLETION OF MY GOVERNMENT SERVICE, I PLAN TO REACTIVATE MY COMPANY, FXTAYLOR ASSOCIATES, LLC.

24. IF YOU ARE PRESENTLY IN GOVERNMENT SERVICE, DURING THE PAST FIVE YEARS OF SUCH SERVICE, HAVE YOU RECEIVED FROM A PERSON OUTSIDE OF GOVERNMENT AN OFFER OR EXPRESSION OF INTEREST TO EMPLOY YOUR SERVICES AFTER YOU LEAVE GOVERNMENT SERVICE? IF YES, PLEASE PROVIDE DETAILS. **N/A**

25. IS YOUR SPOUSE EMPLOYED? IF YES AND THE NATURE OF THIS EMPLOYMENT IS RELATED IN ANY WAY TO THE POSITION FOR WHICH YOU ARE SEEKING CONFIRMATION, PLEASE

INDICATE YOUR SPOUSE'S EMPLOYER, THE POSITION, AND THE LENGTH OF TIME THE POSITION HAS BEEN HELD. IF YOUR SPOUSE'S EMPLOYMENT IS NOT RELATED TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED, PLEASE SO STATE.

MY SPOUSE IS THE CO-OWNER OF A CATERING BUSINESS THAT HAS NO ASSOCIATION WITH THE POSITION FOR WHICH I HAVE BEEN NOMINATED.

26. LIST BELOW ALL CORPORATIONS, PARTNERSHIPS, FOUNDATIONS, TRUSTS, OR OTHER ENTITIES TOWARD WHICH YOU OR YOUR SPOUSE HAVE FIDUCIARY OBLIGATIONS OR IN WHICH YOU OR YOUR SPOUSE HAVE HELD DIRECTORSHIPS OR OTHER POSITIONS OF TRUST DURING THE PAST FIVE YEARS.

| <u>NAME OF ENTITY</u> | <u>POSITION</u> | <u>DATES HELD</u> | <u>SELF OR SPOUSE</u> |
|-----------------------|-----------------|-------------------|-----------------------|
|-----------------------|-----------------|-------------------|-----------------------|

[INFORMATION REDACTED]

27. LIST ALL GIFTS EXCEEDING \$100 IN VALUE RECEIVED DURING THE PAST FIVE YEARS BY YOU, YOUR SPOUSE, OR YOUR DEPENDENTS. (NOTE: GIFTS RECEIVED FROM RELATIVES AND GIFTS GIVEN TO YOUR SPOUSE OR DEPENDENT NEED NOT BE INCLUDED UNLESS THE GIFT WAS GIVEN WITH YOUR KNOWLEDGE AND ACQUIESCENCE AND YOU HAD REASON TO BELIEVE THE GIFT WAS GIVEN BECAUSE OF YOUR OFFICIAL POSITION.)

NONE

28. LIST ALL SECURITIES, REAL PROPERTY, PARTNERSHIP INTERESTS, OR OTHER INVESTMENTS OR RECEIVABLES WITH A CURRENT MARKET VALUE (OR, IF MARKET VALUE IS NOT ASCERTAINABLE, ESTIMATED CURRENT FAIR VALUE) IN EXCESS OF \$1,000. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE A OF THE DISCLOSURE FORMS OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CURRENT VALUATIONS ARE USED.)

| <u>DESCRIPTION OF PROPERTY</u> | <u>VALUE</u> | <u>METHOD OF VALUATION</u> |
|--------------------------------|--------------|----------------------------|
|--------------------------------|--------------|----------------------------|

[INFORMATION REDACTED]

29. LIST ALL LOANS OR OTHER INDEBTEDNESS (INCLUDING ANY CONTINGENT LIABILITIES) IN EXCESS OF \$10,000. EXCLUDE A MORTGAGE ON YOUR PERSONAL RESIDENCE UNLESS IT IS RENTED OUT, AND LOANS SECURED BY AUTOMOBILES, HOUSEHOLD FURNITURE, OR APPLIANCES. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE C OF THE DISCLOSURE FORM OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CONTINGENT LIABILITIES ARE ALSO INCLUDED.)

| <u>NATURE OF OBLIGATION</u> | <u>NAME OF OBLIGEE</u> | <u>AMOUNT</u> |
|-----------------------------|------------------------|---------------|
|-----------------------------|------------------------|---------------|

ALL LISTED IN SCHEDULE C OF THE SF 278

30. ARE YOU OR YOUR SPOUSE NOW IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION? HAVE YOU OR YOUR SPOUSE BEEN IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION IN THE PAST TEN YEARS? HAVE YOU OR YOUR SPOUSE EVER BEEN REFUSED CREDIT OR HAD A LOAN APPLICATION DENIED? IF THE ANSWER TO ANY OF THESE QUESTIONS IS YES, PLEASE PROVIDE DETAILS. **NO**

31. LIST THE SPECIFIC SOURCES AND AMOUNTS OF ALL INCOME RECEIVED DURING THE LAST FIVE YEARS, INCLUDING ALL SALARIES, FEES, DIVIDENDS, INTEREST, GIFTS, RENTS, ROYALTIES, PATENTS, HONORARIA, AND OTHER ITEMS EXCEEDING \$200. (COPIES OF U.S. INCOME TAX RETURNS FOR THESE YEARS MAY BE SUBSTITUTED HERE, BUT THEIR SUBMISSION IS NOT REQUIRED.)

I HAVE SUBMITTED MY TAX RETURNS TO MEET THIS REQUIREMENT.

| | 200_ | 200_ | 200_ | 200_ | 200_ |
|-----------|------|------|------|------|------|
| SALARIES | | | | | |
| FEES | | | | | |
| ROYALTIES | | | | | |
| DIVIDENDS | | | | | |
| INTEREST | | | | | |
| GIFTS | | | | | |
| RENTS | | | | | |
| OTHER | | | | | |
| TOTAL | | | | | |

32. IF ASKED, WILL YOU PROVIDE THE COMMITTEE WITH COPIES OF YOUR AND YOUR SPOUSE'S FEDERAL INCOME TAX RETURNS FOR THE PAST THREE YEARS? **YES**

33. LIST ALL JURISDICTIONS IN WHICH YOU AND YOUR SPOUSE FILE ANNUAL INCOME TAX RETURNS.

In addition to our federal income tax returns, my spouse and I have filed Maryland and Connecticut income tax returns.

34. HAVE YOUR FEDERAL OR STATE TAX RETURNS BEEN THE SUBJECT OF AN AUDIT, INVESTIGATION, OR INQUIRY AT ANY TIME? IF SO, PLEASE PROVIDE DETAILS, INCLUDING THE RESULT OF ANY SUCH PROCEEDING.

In August 2013, I received an examination letter from the IRS requesting additional information on the basis for the mortgage interest deduction that I claimed on my 010 tax return. I submitted the information requested and the IRS informed me that the information I submitted satisfied their questions.

35. IF YOU ARE AN ATTORNEY, ACCOUNTANT, OR OTHER PROFESSIONAL, PLEASE LIST ALL CLIENTS AND CUSTOMERS WHOM YOU BILLED MORE THAN \$200 WORTH OF SERVICES DURING THE PAST FIVE YEARS. ALSO, LIST ALL JURISDICTIONS IN WHICH YOU ARE LICENSED TO PRACTICE. N/A

36. DO YOU INTEND TO PLACE YOUR FINANCIAL HOLDINGS AND THOSE OF YOUR SPOUSE AND DEPENDENT MEMBERS OF YOUR IMMEDIATE HOUSEHOLD IN A BLIND TRUST? IF YES, PLEASE FURNISH DETAILS. IF NO, DESCRIBE OTHER ARRANGEMENTS FOR AVOIDING ANY POTENTIAL CONFLICTS OF INTEREST.

NO; HOWEVER, I WILL DIVEST OF ANY INVESTMENT DEEMED BY OGE TO PRESENT A CONFLICT OF INTEREST. I WILL SUBMIT ALL POTENTIAL FUTURE PURCHASES TO DHS ETHIC OFFICIAL FOR PRELIMINARY REVIEW.

36. IF APPLICABLE, ATTACH THE LAST THREE YEARS OF ANNUAL FINANCIAL DISCLOSURE FORMS YOU HAVE BEEN REQUIRED TO FILE WITH YOUR AGENCY, DEPARTMENT, OR BRANCH OF GOVERNMENT. N/A

PART E - ETHICAL MATTERS

38. HAVE YOU EVER BEEN THE SUBJECT OF A DISCIPLINARY PROCEEDING OR CITED FOR A BREACH OF ETHICS OR UNPROFESSIONAL CONDUCT BY, OR BEEN THE SUBJECT OF A COMPLAINT TO, ANY COURT, ADMINISTRATIVE AGENCY, PROFESSIONAL ASSOCIATION, DISCIPLINARY COMMITTEE, OR OTHER PROFESSIONAL GROUP? IF SO, PROVIDE DETAILS. **NO**

See answer to question 44.

39. HAVE YOU EVER BEEN INVESTIGATED, HELD, ARRESTED, OR CHARGED BY ANY FEDERAL, STATE, OR OTHER LAW ENFORCEMENT AUTHORITY FOR VIOLATION OF ANY FEDERAL, STATE, COUNTY, OR MUNICIPAL LAW, REGULATION, OR ORDINANCE, OTHER THAN A MINOR TRAFFIC OFFENSE, OR NAMED AS A DEFENDANT OR OTHERWISE IN ANY INDICTMENT OR INFORMATION RELATING TO SUCH VIOLATION? IF SO, PROVIDE DETAILS. **NO**
40. HAVE YOU EVER BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL VIOLATION OTHER THAN A MINOR TRAFFIC OFFENSE? IF SO, PROVIDE DETAILS. **NO**
41. ARE YOU PRESENTLY OR HAVE YOU EVER BEEN A PARTY IN INTEREST IN ANY ADMINISTRATIVE AGENCY PROCEEDING OR CIVIL LITIGATION? IF SO, PLEASE PROVIDE DETAILS. **NO**
42. HAVE YOU BEEN INTERVIEWED OR ASKED TO SUPPLY ANY INFORMATION AS A WITNESS OR OTHERWISE IN CONNECTION WITH ANY CONGRESSIONAL INVESTIGATION, FEDERAL, OR STATE AGENCY PROCEEDING, GRAND JURY INVESTIGATION, OR CRIMINAL OR CIVIL LITIGATION IN THE PAST TEN YEARS? IF SO, PROVIDE DETAILS. **NO**
43. HAS ANY BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, DIRECTOR, OR PARTNER BEEN A PARTY TO ANY ADMINISTRATIVE AGENCY PROCEEDING OR CRIMINAL OR CIVIL LITIGATION RELEVANT TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED? IF SO, PROVIDE DETAILS. (WITH RESPECT TO A BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, YOU NEED ONLY CONSIDER PROCEEDINGS AND LITIGATION THAT OCCURRED WHILE YOU WERE AN OFFICER OF THAT BUSINESS.) **NO**
44. HAVE YOU EVER BEEN THE SUBJECT OF ANY INSPECTOR GENERAL INVESTIGATION? IF SO, PROVIDE DETAILS.

IN 1998 THE DOD IG RECEIVED A COMPLAINT FROM A MEMBER OF MY COMMAND THAT ALLEGED THAT I HAD IMPROPERLY USED THE RESULTS OF A POLYGRAPH EXAMINATION OF THE INDIVIDUAL TO TAKE ACTION TO DECERTIFY HIM AS AN AFOSI SPECIAL AGENT. I WAS INFORMED THAT THE ALLEGATIONS WERE UNSUBSTANTIATED.

IN 2006, DURING THE CONDUCT OF AN FBI BACKGROUND INVESTIGATION PRIOR TO MY SELECTION AS A MEMBER OF THE PRESIDENT'S PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD, I WAS INFORMED BY THE FBI AGENT CONDUCTING THE

INVESTIGATION THAT AN INSPECTOR GENERAL COMPLAINT HAD BEEN FILED AGAINST ME AT THE STATE DEPARTMENT. THE COMPLAINT ALLEGED THAT I HAD IMPROPERLY INTERFERED WITH THE DIPLOMATIC SECURITY PROMOTION BOARD BY INQUIRING ABOUT THE COMPOSITION OF THE PROMOTION PANEL. AS FAR AS I KNOW, THE STATE DEPARTMENT IG RECORDED THE COMPLAINT BUT TOOK NO FURTHER ACTION. I WAS NOT MADE AWARE OF ANY COMPLAINT BY THE STATE DEPARTMENT IG OR ANY OTHER OFFICIAL AT STATE.

PART F - SECURITY INFORMATION

45. HAVE YOU EVER BEEN DENIED ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION FOR ANY REASON? IF YES, PLEASE EXPLAIN IN DETAIL. **NO**

46. HAVE YOU BEEN REQUIRED TO TAKE A POLYGRAPH EXAMINATION FOR ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION? IF YES, PLEASE EXPLAIN.

YES. DURING MY TENURE IN AFOSI, I WAS REQUIRED TO UNDERGO A PERIODIC COUNTERINTELLIGENCE SCOPE POLYGRAPH. I DO NOT RECALL THE NUMBER OF EXAMS THAT I TOOK.

47. HAVE YOU EVER REFUSED TO SUBMIT TO A POLYGRAPH EXAMINATION? IF YES, PLEASE EXPLAIN. **NO**

PART G - ADDITIONAL INFORMATION

48. DESCRIBE IN YOUR OWN WORDS THE CONCEPT OF CONGRESSIONAL OVERSIGHT OF U.S. INTELLIGENCE ACTIVITIES. IN PARTICULAR, CHARACTERIZE WHAT YOU BELIEVE TO BE THE OBLIGATIONS OF THE _____ AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS RESPECTIVELY IN THE OVERSIGHT PROCESS.

CONGRESSIONAL OVERSIGHT ESSENTIALLY MEANS THAT THE CONGRESS HAS THE AUTHORITY AND RESPONSIBILITY TO ENSURE THAT ALL US INTELLIGENCE OPERATIONS ARE CONDUCTED CONSISTENT WITH THE US CONSTITUTION AND US LAW. I BELIEVE THAT CONGRESS SHOULD BE KEPT FULLY INFORMED OF US INTELLIGENCE ACTIVITIES TO MEET THIS OVERSIGHT RESPONSIBILITY. I BELIEVE THAT I HAVE THE RESPONSIBILITY TO KEEP CONGRESSIONAL COMMITTEES FULLY AND TRUTHFULLY INFORMED OF MATTERS UNDER MY AUTHORITY

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE UNDERSECRETARY OF HOMELAND SECURITY FOR INTELLIGENCE AND ANALYSIS. THE OFFICE IS RESPONSIBLE FOR THE OVERSIGHT AND EXECUTION OF THE NATIONAL INTELLIGENCE PROGRAM WITHIN DHS. THE INCUMBANT IS THE DHS CHIEF INTELLIGENCE OFFICER AND IS RESPONSIBLE FOR THE COORDINATION OF INTELLIGENCE OPERATIONS ACROSS THE HOMELAND SECURITY INTELLIGENCE ENTERPRISE.

DISTRICT OF COLUMBIA :

AFFIRMATION

I, **FRANCIS X. TAYLOR**, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

2/25/2014
(Date)

[SIGNATURE]

(Name)

ACKNOWLEDGED BEFORE ME ON 2.25.2014.

[SIGNATURE]



AGNES YACKSHAW
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires October 14, 2018

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be UNDER SECRETARY, INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY, I hereby express my willingness to respond to requests to appear and testify before any duly constituted committee of the Senate.

[SIGNATURE]

Signature

Date: 2/25/2014

| | | | | | | | | | |
|---|--|--|--|--|--|-------------------------------------|--|---|--|
| Date of Appointment, Candidacy, Election, or Termination (Month, Day, Year) Reporting Period (Month, Day, Year) | | Calendar Year Covered by Report Reporting Period (Month, Day, Year) | | New Appointment Number, or Candidate Department or Agency (If Applicable) | | Termination Date (Month, Day, Year) | | Fee for Late Filing Any individual who is required to file this report and does so more than 10 days after the due date is subject to a late filing fee, or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a \$200 fee. | |
| Reporting Individual's Name TAYLOR | | First Name and Middle Initial FRANCIS | | Department or Agency (If Applicable) DEPARTMENT OF HOMELAND SECURITY | | Termination Date (Month, Day, Year) | | Reporting Periods Incumbent reporting periods are the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing period for the reporting period. Part II of Schedule D is not applicable. | |
| Position for Which Filing UNDER SECRETARY, INTELLIGENCE AND ANALYSIS | | Title of Position UNDER SECRETARY, INTELLIGENCE AND ANALYSIS | | Department or Agency (If Applicable) DEPARTMENT OF HOMELAND SECURITY | | Termination Date (Month, Day, Year) | | Termination Filing The reporting period begins at the end of the period covered by the preceding calendar year and ends at the date of termination. Part II of Schedule D is not applicable. | |
| Location of Reporting Office (for forwarding address) C/O C. Allen, 246 Murray Lane, MSC 0486, Washington DC 20528 | | Address (Number, Street, City, State, and ZIP Code) | | Telephone No. (Include Area Code) 202-447-3514 | | Termination Date (Month, Day, Year) | | Nonres, New Entrants and Candidates Schedule A--The reporting period begins at the end of the period covered by the preceding calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing. Schedule B--Not applicable. Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing. Schedule C, Part II (Agreements or Arrangements)--The reporting period is the preceding two calendar years and the next calendar year up to the date of filing. | |
| Name of Congressional Committee Considering Nomination Select Committee on Intelligence | | Do You Intend to Create a Qualified Diverted Trust? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | Date (Month, Day, Year) Feb 14, 2014 | | Termination Date (Month, Day, Year) | | Comments of Reporting Officials (If additional space is required, use reverse side of this sheet) | |
| Signature of Reporting Individual [SIGNATURE] | | Signature of Other Reviewer | | Date (Month, Day, Year) 2/21/14 | | Termination Date (Month, Day, Year) | | Agency Use Only | |
| Signature of Agency Ethics Official/Reviewing Official [SIGNATURE] | | Signature of Other Reviewer | | Date (Month, Day, Year) 2/24/14 | | Termination Date (Month, Day, Year) | | OGR Use Only | |
| Signature of Government Ethics Office [SIGNATURE] | | Signature of Other Reviewer | | Date (Month, Day, Year) | | Termination Date (Month, Day, Year) | | Agency Use Only | |
| Comments of Reporting Officials (If additional space is required, use reverse side of this sheet) | | Comments of Reporting Officials (If additional space is required, use reverse side of this sheet) | | Date (Month, Day, Year) | | Termination Date (Month, Day, Year) | | Agency Use Only | |

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 U.S. Office of Government Ethics

Reporting individual's name
 TAYLOR, FRANCIS X

SCHEDULE A

Page Number
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Income, type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.

| BLOCK A Assets and Income | BLOCK B Valuation of Assets at close of reporting period | | | | | | | | | | BLOCK C Type | | | | | | | | | | Date (Mo., Day, Yr.) Only if Honoraria | | | |
|--|---|--------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------|-------------------|---------------------------|----------------------------|----------------------------------|-------------------|---------------------------|-----------------|-------------------|-------------------|--------------------|---------------------|----------------------|-------------------------|---|-------------------|------------------|--|
| | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | Over \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | | Over \$1,000,000* | Over \$5,000,000 | |
| For you, your spouse, and dependent children, report the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period, or which generated more than \$200 in income during the reporting period, together with such income. For yourself, also report the source and actual amount of earned income exceeding \$200 (other than honoraria) that you or your spouse reported the source but not the amount of earned income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse). None <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | | |
| Name <input type="checkbox"/> Central Airlines Common Examples: D&B Banc & South, Homebrew, State Kempsone Equity Fund IRA, Hartford 500 Index Fund | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 AKRE FOCUS FUND (AKREX) | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 AMERICAN GROWTH FUND A (AGTEIX) | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 AQR MANAGED FUTURES FUND (AQMNAK) | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 ARBITRAGE FUND (ARBFX) | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 ABERDEEN SELECT INTERNATIONAL EQUITY FUND II CLASS A (AETAS) | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 ARTESIAN INTERNATIONAL INVESTOR FUND (ARTIX) | | | | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer's, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher category of value, as appropriate.

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 U.S. Office of Government Ethics

Reporting Individual's Name
 TAYLOR, FRANCIS X

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| Assets and Income | | BLOCK B | | | | | | | | | | | | | BLOCK C | | | | | | | | | | | | | | | | | | | | | | |
|-------------------|--|--|--------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------|--------------------------|---------------------------|-----------------------------|-----------------------------|---------------------------|---------------------------|---------------------------|--------------------|---------------------|----------------------|-------------------------|----------------------|---------------------------|-------------------|---------------------------|------------------|------------------------------|----------------------|--------------------|---------------------|----------------------|-------------------------|-------------------|------------------|------------------|--|--|--|--|
| | | Valuation of Assets at Close of Reporting Period | | | | | | | | | | | | | Amount | | | | | | | | | | | | | | | | | | | | | | |
| BLOCK A | Type | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | Over \$5,000,000 | Other Income (No., Day, Yr.) | Date (Mo., Day, Yr.) | | | | | | | | | | | |
| | | Dividends | Interest | Rent and Royalties | Capital Gains | Dividends | Qualified Trust | Excepted Trust | Excepted Investment Fund | Over \$50,000,000 | \$25,000,001 - \$50,000,000 | \$5,000,001 - \$25,000,000 | \$1,000,001 - \$5,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | Over \$5,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000* | Over \$5,000,000 | Only if Honorary | | | | |
| 1 | DRIEHAUS ACTIVE INCOME FUND (DCAIX) | X | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | EMC CORPORATION (EMC) | X | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | FIDELITY CASH RESERVES (FDRXX) | X | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | FORWARD TACTICAL GROWTH INVESTOR (FFTGX) | X | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | GE INTERNATIONAL FUND (GIEIX) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | GE RSP US EQUITY FUND (GESSX) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | GE SMALL CAP EQUITY FUND (GSVIX) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | GE STOCK FUND (GE 401K) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | US LARGE CAP EQUITY INDEX (GE 401K) | X | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or family held by the filer with the spouse or dependent children, mark the other higher category of value, as appropriate.

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Reporting Individual's Name:
 TAYLOR, FRANCIS X

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SCHEDULE A continued
 (Use only if needed)

Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.

Valuation of Assets at close of reporting period

Assets and Income

Block A

Block B

Block C

Type

Amount

Date (Mo., Day, Yr.)
 Only if Honorary

Other Income (Specify Year and Amount)

None (or less than \$1,001)

\$1,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$250,000

\$250,001 - \$500,000

\$500,001 - \$1,000,000

Over \$1,000,000*

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

Over \$500,000

None (or less than \$201)

Capital Gains

Interest

Rent and Royalties

Dividends

Qualified Trust

Excepted Trust

Excepted Investment Fund

Over \$50,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

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 U.S. Office of Government Ethics
 Reporting Individual's Name
 TAYLOR, FRANCIS X

| Assets and Income | | BLOCK B | | | | | | | | | | | | | BLOCK C | | | | | | | | | | Date (Mo., Day, Yr.) Only if Honoraria | | | |
|-------------------|---|--|--------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------|-------------------|---------------------------|----------------------------|-----------------------------|-------------------|---------------------------|---|-------------------|-------------------|--------------------|---------------------|----------------------|-------------------------|-------------------|---------------------------|------------------|--|---|--|--|
| | | Valuation of Assets at close of reporting period | | | | | | | | | | | | | Income: Type and amount. If "None for less than \$201" is checked, no other entry is needed in Block C for that item. | | | | | | | | | | | | | |
| BLOCK A | | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | Over \$5,000,000 | Other Income (Specify Category and Amount) | Date (Mo., Day, Yr.) Only if Honoraria | | |
| 1 | ROYCE OPPORTUNITY FUND (RYOPX) | | X | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | SOUND SHORE FUND INC | | X | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | MID COLLEGE FUND T. ROWE PRICE BALANCED PORTFOLIO | | | X | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | MID COLLEGE FUND T. ROWE PRICE PORTFOLIO 2030 | | | X | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | US SAVINGS BOND | | | X | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | USAA FIRST START GROWTH FUND (UFSSX) | | | X | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | YACKMAN FOCUSED FUND (YAFIX) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | WASATCH LONG/SHORT FUND (WALEX) | | | X | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | VIRTUS EMERGING MARKET OPPORTUNITY (HEMZX) | | | X | | | | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or family held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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U.S. Office of Government Ethics

Reporting Individual's Name:
TAYLOR, FRANCIS X

SCHEDULE A continued
(Use only if needed)

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| Assets and Income | BLOCK B Valuation of Assets at close of reporting period | | | | | | | | | | | | BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C. (or that item). | | | | | | | | | |
|-------------------|--|-----------------------------|--------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------|-------------------|---------------------------|----------------------------|-----------------------------|---|---------------------------|---------------|-----------|--------------------|----------|--|------|--|--|
| | BLOCK B Valuation of Assets at close of reporting period | | | | | | | | | | | | BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C. (or that item). | | | | | | | | | |
| | BLOCK B Valuation of Assets at close of reporting period | | | | | | | | | | | | BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C. (or that item). | | | | | | | | | |
| 1 | BANK OF AMERICA CHECKING ACCOUNT | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | Capital Gains | Dividends | Rent and Royalties | Interest | Other Income (No., Day, Yr., only if Honorary) | Date | | |
| 2 | USAA TAX EXEMPT MONEY MARKET FUND | X | | | | | | | | | | | | X | | | | | | | | |
| 3 | USAA FEDERAL SAVINGS BANK CHECKING SAVINGS ACCOUNTS | | X | | | | | | | | | | | X | | | | | | | | |
| 4 | PENTAGON FEDERAL CREDIT UNION CHECKING SAVINGS ACCOUNTS | | X | | | | | | | | | | | X | | | | | | | | |
| 5 | GE | | | | | | | | | | | | | | | | | | | | | |
| 6 | EXTAYLOR ASSOCIATES, LLC | | | | | | | | | | | | | | | | | | | | | |
| 7 | GE LEADERSHIP LIFE INSURANCE (UNIVERSAL LIFE) | | | | | | | | | | | | | | | | | | | | | |
| 8 | GE EXECUTIVE LIFE INSURANCE (UNIVERSAL LIFE) | | | | | | | | | | | | | | | | | | | | | |
| 9 | METROPOLITAN LIFE INSURANCE (UNIVERSAL LIFE) | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Reporting Individual's Name
 TAYLOR, FRANCIS X

SCHEDULE A continued
 (Use only if needed)

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| Assets and Income | BLOCK B | | | | | | | | | | | | BLOCK C | | | | | | | | | | | | | | |
|--|--|--------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------|-------------------|---------------------------|----------------------------|-----------------------------|-------------------|--|--------------------|-------------------|-------------------|--------------------|---------------------|----------------------|------------------|-------------------|------------------|------------------|------------------|--------------------------------------|-------------------------------------|--|
| | Valuation of Assets at close of reporting period | | | | | | | | | | | | Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. | | | | | | | | | | | | | | |
| | BLOCK B | | | | | | | | | | | | BLOCK C | | | | | | | | | | | | | | |
| | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | Over \$1,000,000 | Over \$1,000,000* | Over \$1,000,000 | Over \$1,000,000 | Over \$5,000,000 | Other Income (Specify Type & Amount) | Date (Mo., Day, Yr.) only if Amount | |
| | | | | | | | | | | | | | Dividends | Rent and Royalties | Interest | Capital Gains | | | | | | | | | | | |
| 1 METROPOLITAN LIFE INSURANCE (UNIVERSAL LIFE) (SPOUSE) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 RENTAL PROPERTY, GRANGER, IN (RESIDENTIAL) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 RENTAL PROPERTY, ATLANTA, GA (RESIDENTIAL) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 RENTAL PROPERTY, FAIRFIELD, CT (RESIDENTIAL) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 GE RETIREMENT PAY (DEFINED BENEFIT/ VALUE NOT READILY ASCERTAINABLE) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 GE RSP SHORT TERM INTEREST FUND | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 RESIDENTIAL REAL ESTATE, WASHINGTON DC (50% OWNER) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 GE EXECUTIVE SUPPLEMENTAL PENSION PLAN (VALUE NOT READILY ASCERTAINABLE) | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 ASCERTAINABLE | | | | | | | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other appropriate categories of value, as appropriate.

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TAYLOR, FRANCIS X

SCHEDULE C

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Part I: Liabilities
Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude accounts.

| Creditor's Name and address | Type of Liability | Date Incurred | Interest Rate | Term of Loan | Amount Owed |
|---|---|---------------|---------------|----------------------|-------------|
| Examples: First Party Living W/Dependent, P, S, or T; Jim Jones, Washington, DC | Property on owned property, P, S, or T; Transitory note | 1991 | 8% | 25 Yrs. (or default) | \$10,000 |
| CHASE BANK | MORTGAGE ON RENTAL PROPERTY, GA | 2005 | 5.5% | 30 YRS | \$1,000,000 |
| WELLS FARGO BANK | MORTGAGE ON RENTAL PROPERTY, IN | 2008 | 5.5% | 30 YRS | \$250,000 |
| WELLS FARGO BANK | MORTGAGE ON RENTAL PROPERTY, CT | 2005 | 6% | 30 YRS | \$1,000,000 |
| US BANK | MORTGAGE ON RESIDENCE | 2013 | 4.5% | 30 YRS | \$1,000,000 |

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leave.

| Status and Terms of any Agreement or Arrangement | Parties | Date |
|--|-------------------------------------|-------|
| Example: Partnership agreement with executive lump sum payment of capital account & partnership share (included in severance payments through Table) | Pete Jones & Smith, Dromorew, State | 7/85 |
| 1 CONTINUED PARTICIPATION IN GE SAVINGS AND SECURITY PROGRAM 401K HELD BY FIDELITY INVESTMENTS. ASSETS LISTED ON SCHEDULE A | GE, FAIRFIELD, CT | 03/05 |
| 2 CONTINUED PARTICIPATION IN GE DEFERRED INCENTIVE COMPENSATION TO BE PAID IN TEN YEARLY INCREMENTS BEGINNING IN 2014 | GE, FAIRFIELD CT | 3/05 |
| 3 CONTINUED PARTICIPATION IN GE DEFERRED SALARY (2005) TO BE PAID IN TEN ANNUAL INSTALLMENTS BEGINNING IN 2014 | GE, FAIRFIELD CT | 3/05 |
| 4 I WILL CONTINUE TO RETIRE GE VESTED STOCK OPTIONS THAT EXPIRE BETWEEN 2016 and 2022. | GE FAIRFIELD CT | 3/05 |
| 5 I WILL CONTINUE TO PARTICIPATE IN THE GE PENSION PLAN | GE FAIRFIELD, CT | 3/05 |
| 6 I WILL CONTINUE TO PARTICIPATE IN THE GE EXECUTIVE SUPPLEMENTAL PENSION PLAN | GE FAIRFIELD CT | 3/05 |

of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

Name

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SCHEDULE D

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Part I: Positions Held Outside U.S. Government
 Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

| Examples | Start Year of Reporting Period | Organization Name and Address | Position Held | From (Date, Day, Month, Year) | To (Date, Day, Month, Year) | Name |
|----------|--------------------------------|---|---|-------------------------------|-----------------------------|------|
| 1 | | GLOBAL ELECTRIC CORPORATION 1000 Park Avenue, New York, NY 10022 | VICE PRESIDENT AND CHIEF SECURITY OFFICER | 03/2005 | 11/2013 | |
| 2 | | UNA CHAPMAN COX FOUNDATION 1000 Park Avenue, New York, NY 10022 | POLICY Council | 01/2009 | PRESENT | |
| 3 | | AMERICAN CORPORATE PARTNERS 1000 Park Avenue, New York, NY 10022 | DIRECTOR | 01/2008 | PRESENT | |
| 4 | | INTERNATIONAL SECURITY MANAGEMENT ASSOCIATION 1000 Park Avenue, New York, NY 10022 | DIRECTOR | 05/2005 | PRESENT | |
| 5 | | FATXAYLOR ASSOCIATES LLC (INACTIVE) | PRESIDENT AND CEO | 11/2013 | PRESENT | |

Part II: Compensation in Excess of \$5,000 Paid by One Source
 Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other source (Name and Address)

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.

None

| Examples | Source (Name and Address) | Amount | Period (Description of Dates) |
|----------|--|--------|---|
| 1 | Mr. James A. Smith, Hampton, State 1000 Park Avenue, East of New York, NY 10022 | | Local services in connection with intelligence operations |
| 2 | GENERAL ELECTRIC COMPANY, FAIRFIELD CT 06428 | | VICE PRESIDENT AND CHIEF SECURITY OFFICER |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |

SELECT COMMITTEE ON
INTELLIGENCE

UNITED STATES SENATE



Additional Prehearing Questions
for
Mr. Francis X. Taylor
upon his nomination to be the
Under Secretary for Intelligence and Analysis of the
Department of Homeland Security

Role and Responsibilities of the Under Secretary for Intelligence and Analysis

QUESTION 1: I&A's mission was originally defined in the Homeland Security Act of 2002, which mandated I&A's responsibility for critical infrastructure analysis. The mission was further defined by the Intelligence Reform and Terrorism Prevention Act of 2004 and the Implementing Recommendations of the 9/11 Commission Act of 2007. What is your understanding of the history and purpose of the establishment by Congress of the office of the Under Secretary for Intelligence & Analysis in DHS?

My understanding of the history and Congressional intent behind the DHS Office of Intelligence and Analysis (I&A) is that I&A was created to serve as an analytic and information sharing hub for Departmental, Federal, State, local, private sector and other partners with homeland security and counter-terror responsibilities. Given the criticality of effective information sharing to these efforts, I&A was to a) understand the information resources and requirements of these partners, b) develop mechanisms to identify and access required information from and for each, and c) produce intelligence and information products responsive to those requirements. The Homeland Security Act also provided explicit authorities to enable the performance of these analytic and information sharing efforts. Over time, Congress enacted revisions to the Homeland Security Act to address evolving requirements such as establishing the role and authorities of the Chief Intelligence Officer and of the DHS Intelligence Components, establishing the State & Local Fusion Center Initiative, the Information Sharing Fellows Program, and the Interagency Threat Assessment and Coordination Group, among others.

The Implementing Recommendations of the 9/11 Commission Act also established the Under Secretary for I&A as the DHS Chief Intelligence Officer (CINT). The DHS CINT exercises leadership and authority over intelligence policy and programs throughout the Department and provides strategic oversight to and supports the missions and goals of members of the DHS Intelligence Enterprise (IE). The CINT performs the following functions:

- Coordinates and enhances integration within the DHS IE;
- Establishes the intelligence collection, gathering, processing, analysis, production, and dissemination priorities, policies, processes, standards, guidelines, and procedures for the DHS IE;
- Establishes a unified structure and process to support the intelligence missions and goals of the DHS IE;
- Ensures that, whenever possible, the Department produces and disseminates timely, targeted unclassified reports and analytic products designed for action by DHS Components, SLTT, and Private Sector customers;
- Based on intelligence priorities set by the President, and guidance from the Secretary and, as appropriate, the Director of National Intelligence, (i) provides to the Head of each DHS Intelligence Component guidance for developing the budget pertaining to the Component Intelligence Programs (CIPs) of such Components; and (ii) presents to the Secretary a recommendation for a consolidated budget for the DHS IE, together with any comments from the Heads of DHS Intelligence Components;

- Ensures the integration of information and standardization of the format of the products of the members of the DHS IE; and
- Provides training and guidance for employees, officials, and senior executives within the DHS IE to develop knowledge of laws, regulations, operations, policies, procedures, and programs that are related to the functions of the Department relating to the collection, gathering, processing, analysis, production, and dissemination of counterintelligence, foreign intelligence, and homeland security intelligence.
- In addition to statutes, I&A's strategy was further refined by Departmental and IC strategies and guidance, including Vision 2025, the Quadrennial Homeland Security Review, and the Department's Bottom-Up Review. What do you understand I&A's current mission to be?

Within the context of the QHSR, I&A's mission is to integrate intelligence and information sharing capabilities and counterintelligence activities across the Department and to provide a clear threat picture to DHS leadership. As such, I&A's broader stated mission is "to equip the Homeland Security Enterprise with the intelligence and information it needs to keep the homeland safe, secure, and resilient." I believe that is the right mission for this organization, and if confirmed, I will endeavor to effectively execute it.

- In your opinion, does I&A have a focused and well-defined mission consistent with the purpose Congress originally intended?

I&A's mission statement appears consistent with Congress' intent as I understand it and have described it above. If confirmed, I'd expect that as I become more familiar with I&A's many initiatives and programs, as well as its strengths and challenges, that some will appear more closely aligned to that mission than others, and that there may be additional missions that the President, the Director of National Intelligence, or the Secretary have assigned it that will also need to be considered.

Congress intended I&A to:

- *Perform All-Source Analysis and Dissemination*
- *Ensure DHS Access to Information*
- *Promote Internal and External Information Sharing*
- *Protect Information from Unauthorized Disclosure*
- *Protect Intelligence Sources and Methods.*

I believe I&A plays a unique and critical role in helping operators and decision makers protect the homeland by providing access to timely, relevant, and comprehensive intelligence and information across the full range of Homeland Security missions. Its current priorities are:

- Enhance support to operations through cross-cutting analysis
- Be a model for information sharing and Safeguarding
- Integrate and strengthen the DHS Intelligence Enterprise (IE)

- What should the mission of I&A be in the future?

At this time, I believe that Congresses' initial intent for I&A was and continues to be correct, and I am grateful for the advances in that mission that have been made by each of I&A's previous leaders. With regard to the future, if I am fortunate enough to serve as I&A's leader, I expect my contribution may be more focused on how I&A performs its mission than on revisiting the nature of the mission itself.

- How should I&A's role be distinct from the analytic role played by other members of the Intelligence Community (e.g. CIA, DIA, FBI, INR)? Do you assess that this role is currently being performed?

I&A is positioned within the Department and the IC to use DHS data, information from state and local law enforcement, and intelligence from the IC in a way no one else can. If confirmed, I plan to conduct an in depth assessment of operations and metrics and would be pleased to report back to the Committee.

- Are there legal authorities that DHS(I&A) does not possess but that it should?

At this time, the Under Secretary for Intelligence and Analysis' authorities appear appropriate given the breadth of the DHS Intelligence Mission. If confirmed, I will assess the authorities and would work with my leadership and the Congress, as appropriate, to fill any identified gaps.

- Are there any legal authorities that the DHS(I&A) possesses that it does not need or should not have?

As I mentioned before, I think the Under Secretary for Intelligence and Analysis' authorities appear appropriate given the breadth of the DHS Intelligence Mission. If confirmed, I would assess these authorities for adjustment and if necessary work with my leadership and the Congress, as appropriate, to correct any problems.

- Is the United States assuming less risk of a terrorist attack than it otherwise would because of the capabilities established in DHS(I&A)? If so, explain why.

Risk is a calculation of vulnerabilities and threat; because the threat is evolving there will always be risk. I&A was established following 9/11 in order to afford the State & Local law enforcement and private sector the information needed to anticipate future threats and vulnerabilities within their localities. I believe that DHS I&A is an added value to protecting the homeland and positively affecting the risk equation.

- What unique role should I&A be performing, if any, with regard to countering violent extremism in the United States?

This is an area I have not had an opportunity to fully assess at this point. I acknowledge that it is important to the Department's efforts to protect the Homeland and learning more

about this topic will be a priority, if confirmed. I look forward to learning more about this issue and discussing this in more detail with the Committee in the future.

- What unique role should I&A play in supporting the efforts of DHS entities to combat trade-based money laundering, illegal bulk cash transfers, exploitation of money service businesses, and other illicit money flows that support the drug trade and other security challenges?

I&A's role should be to de-conflict the work of the Components to ensure efforts are being supported and not duplicated within the DHS IE on these topics. This highlights the need for better departmental collections coordination to make the Department's efforts more effective and efficient in these, and other important topics.

Priorities and Performance

QUESTION 2: If confirmed, how will you personally evaluate whether your tenure as Under Secretary for Intelligence & Analysis has been a success?

If confirmed, I believe in setting mission priorities and objectives and continually measuring performance and making adjustments. I plan to make this assessment at the beginning of my tenure at I&A and adjusting it throughout my time as Undersecretary.

- Have you discussed with the Secretary of Homeland Security his specific expectations of you, if confirmed as Under Secretary, and his expectations of I&A as a whole? If so, please describe those expectations.

I had the opportunity to meet with the Secretary on his expectations. They are clear: 1) make the fusion center process work by improving the two-way flow of communications; 2) ensure DHS information is accessible and utilized in I&A analysis to better inform the policy makers, operators, and customer sets that I&A supports and; 3) eliminate programs that are duplicative within the Department and with other agencies.

- Have you discussed with the Director of National Intelligence his expectations of the relationship between I&A and the Office of the Director of National Intelligence and other elements of the Intelligence Community? If so, please describe those expectations.

I have spoken with DNI Clapper. He requested that I continue to execute NIP funds at I&A prudently and with a view toward best supporting the State & Local customer set. He asked that I continue to build on the relationship with the other IC elements. He considers I&A's role with the State & Locals to be a critical piece of the national security apparatus protecting our homeland.

- What do you believe are the most critical analytic priorities for I&A today?

My top priority is to enhance the level of service I&A provides to its unique customer sets at the state and local level, and in the private sector. I want to better understand their needs in order to more appropriately target and tailor our analysis for them.

I&A's intelligence analysis priorities will be ever-evolving based on new intelligence and customer requirements of the Secretary, DHS operational components, and state, local, tribal, territorial, and private sector customers in the field.

I am encouraged about the efforts that I&A has led throughout the DHS Intelligence Enterprise to build a Program of Analysis, which identifies the most pressing Key Intelligence Questions for which I&A and other partners (in DHS and around the IC) will conduct research and analysis to build intellectual capital.

- I&A has many customers competing for a limited amount of analytic capacity. Who is I&A's primary customer?

I&A has one of the broadest customer bases in the IC, ranging from the Secretary, to DHS policymakers and operators, to thousands of state and local officials and private sector partners – each of whom have different information classification requirements and limitations. All of them are important, and we do and will continue to work to meet their needs by producing a broad range of products at different classification levels. I think the issue is to ensure that I&A is not duplicative of other analytical efforts and uses its unique information access to produce quality products that exceed customer requirements.

Workforce

QUESTION 3: Morale within the office of the Under Secretary for Intelligence and Analysis has been consistently low. As Under Secretary for I&A, what is your plan to address this?

I am aware of the consistently low scores reported on recent I&A employment satisfaction surveys. I believe morale increases when people understand the mission they carry out, their roles in that mission, and how those roles make a difference. It is not an overnight process, but one that will be a top priority for me if I am confirmed.

- Why will this strategy work where others have failed?

I have led large organizations several times in my career and I believe high moral comes when people understand expectations, are given the tools to succeed, and feedback on performance. If confirmed, I&A personnel will know how much I value what they do from day one.

- Do you have a human capital strategy to recruit and retain the "best and brightest" to I&A?

Over the course of my career, I have had the opportunity to develop and oversee human capital strategies in a variety of managerial positions, from the Air Force to the State Department. I also developed the security process for GE. My philosophy is that an organization must tie objectives to mission expectations, and then develop a recruitment strategy to find the right people to meet the mission needs.

I understand that it is a real challenge to recruit the “best and the brightest.” I have been briefed on the Intelligence Committee efforts to include excepted service authorities within the FY2012 Intelligence Authorization Act, and I believe this can be a very useful tool. It is my understanding that this authority has been recently applied to the hiring process at I&A.

If confirmed, I look forward to finding ways to best leverage this new authority to fill any outstanding gaps in the I&A workforce and implement an effective human capital strategy. I hope to provide the Committee with a more comprehensive strategy after I have had an opportunity to assess the situation and determine a new strategy.

- Are there any reforms you plan to take to improve the skill set and experience profile of the DHS I&A workforce?

It is my understanding that a senior I&A official has recently been assigned to institute strategic workforce initiatives for IA and the DHS IE including updating existing career roadmaps, ensuring clear career options are understood by both employees and managers, and that rotational opportunities exist for all members of the IE. The initiatives strive to create a professional homeland intelligence workforce that better understands the needs and capabilities of DHS and its unique partners.

Rotational assignments are also an integral part of I&A’s improvement of the skill set of its workforce. I&A participates in the Intelligence Community Joint Duty Assignment Program, and has revamped the DHS Intelligence Rotational Assignment Program. Both programs allow the workforce to gain additional professional development opportunities via rotational assignments to the IC and DHS Intelligence Enterprise (IE) organizations.

Should I be fortunate enough to be confirmed, I plan to review the new roadmap immediately. I believe that morale and a solid workforce is critical to the overall success of I&A, and the customers it supports.

- A significant portion of I&A’s budget since its inception has been used for contractor support. Previously, contract personnel made up 63 percent of I&A’s workforce before this percentage was significantly reduced in response to concerns and direction from the congressional intelligence committees. Within the context of I&A, what do you believe are the appropriate roles for contractor staff to play?

I have been briefed that I&A’s reliance on contractor support has steadily declined since 2009. In FY 2014, contractors now only comprise 27% of its total workforce. Contractors are a valuable resource which allows I&A to surge assets to emerging areas

of interest or concern where it would be more cumbersome to hire federal employees for the same functions. Contract staff can be used as a surge force to immediately respond to an issue, and allows I&A to perform those functions.

- Do you believe that contractor staff should serve as intelligence analysts, and if so, under what conditions?

While optimally all intelligence analysts would be USG personnel, contract intelligence analysts play an important role in bringing subject matter expertise to bear in an organization quickly as organic expertise in various areas is grown and matured. Growing deep organic organizational expertise in any subject area takes years as analysts gain broadening experiences and expand their research over time. Where gaps in specific skills or expertise exist in I&A's analytic organization, it is appropriate to utilize contract intelligence analysts until which time organic government expertise is grown or until that subject matter expertise is no longer needed.

Contractors are a valuable resource that allows I&A to surge assets to emerging areas of interest or concern where it would be more cumbersome to hire federal employees for the same functions. Contractors are also useful in watch standing and other critical functions where speed in hiring is paramount.

- I&A now enjoys direct hiring authority. How has this new authority influenced I&A's ability to recruit and retain personnel?

It is my understanding that I&A was provided in the FY2012 Intelligence Authorization Act with excepted service hiring authority, which would allow it to hire outside of the Office of Personnel Management rule set. I have been further briefed that I&A has only recently applied this new authority to the hiring process. Should I be fortunate to be confirmed, I look forward to reviewing the implementation of the new authority and making any appropriate modifications to the business rules.

- How are the career paths of analysts specifically managed to ensure that they have opportunities to serve in DHS or elsewhere in the IC at the senior most levels?

I have not had the opportunity to conduct an in depth assessment of the proposed process. I understand the proposed analyst career paths will have both a technical and management track. Both tracks will allow analysts the opportunity at the higher grades to serve in already established senior level positions within the IC, DHS and other agencies. I&A currently fills on a reoccurring basis Senior Advisors, Chief of Staff, and Senior Liaison Officer positions in the IC, DHS and other agencies.

- If confirmed, do you plan to provide additional opportunities for I&A analysts to work directly with I&A customer groups to improve the level of collaboration between I&A analysts and the customers they serve?

Workforce planning is integrated into the way in which employees are detailed to ensure all career paths are able to effectively have and administer a rotational assignment at different junctures in the analyst career. The goal is to foster collaboration, and greater awareness of our customers, including working with the Intelligence Officers at the Fusion Centers, at all levels of an analyst career, not just at the senior levels.

I absolutely think this is a great idea. If confirmed, I hope to expand efforts already underway to deploy multiple analysts to State Fusion Centers and each of our operational components. Additionally, we have a private sector program office that regularly engages with ISACs from each of the critical sectors as well as analysts deployed to and leading the Domestic Security Alliance Council in an effort to better understand and serve our private sector customers.

Fusion Centers

QUESTION 3: The purpose of the federal fusion centers is to provide state, local, tribal, and territorial officials with situational awareness, threat information, and intelligence on a continuous basis and to receive such information from these entities. Do you recommend any changes to the statute that provides the basis for federal support for fusion centers?

At this time I am unaware of any additional legislation needed. If confirmed, I will maintain a constant conversation with the committee and request any additional legislation to strengthen the outcomes of the federal government's support to and relationships with state and local fusion centers.

- How many fusion centers have you visited?

I have not had an opportunity to visit a fusion center yet, but this will be a top priority for me if I am confirmed.

- How can Congress measure the effectiveness of fusion centers?

I have been briefed on I&A's work to support fusion centers and the work it has done over the past several years to develop and implement an assessment program with its federal, state, and local partners. The assessment program evaluates two key components:

- Capabilities of the national network of fusion centers
- The performance of these centers in executing their capabilities and contributing to our homeland security efforts

If confirmed, I intend to work closely with the Congress to validate and improve these measures.

- What document defines the characteristics of a properly working fusion center? What percentage of fusion centers are working as designed?

In my briefings on this issue, it is my understanding that the Federal Government measures the efficacy of a fusion center based on their core capabilities to receive, analyze, and disseminate information, which is reflected in I&A's annual fusion center assessment. In the 2012 assessment, I&A found that the average of fusion centers scored well above 80% in meeting those requirements.

- Is this the right model for fusion centers?

I understand that the current structure functions effectively for our state and local partners. If confirmed, I look forward to engaging them on this topic to strengthen these already robust relationships and fine tune the incorporation of their data into I&A's analysis products.

- Does I&A currently provide adequate support to all fusion centers?

I understand that I&A support includes deployed personnel, training, technical assistance, exercise assistance, security clearances, connectivity to federal systems, and technology. If confirmed, I look forward to evaluating the overall level of support provided and working with the Committee to discuss the future of I&A's domestic support to the fusion center network.

- During the last two years, there have been several reports conducted by the Government Accountability Office, the House Homeland Security Committee, and by the Senate Homeland Security and Governmental Affairs Committee Permanent Subcommittee on Investigations regarding domestic information sharing entities and fusion centers. Have you read these reports?

I have read each of these reports. If confirmed, I will assess the DHS capacity for information sharing and support to fusion centers and make appropriate recommendations to Congress.

- Please list each of the recommendations from these reports with which you agree or believe merit further consideration.

If confirmed, I intend to have regular conversations with Congress and the I&A team to assess all recommendations and evaluate actions that can be taken to incorporate those recommendations where appropriate. I look forward to following up with you once I have had an opportunity to review the recommendations made by Congress and others.

Management

QUESTION 4: What do you believe are the most important management-related challenges facing I&A today?

I received an initial briefing from I&A's Plans, Policy, and Performance Management team on the progress that has been made with regard to management of I&A over the last few years. I

believe the current management capacity is solid and moving in the right direction. While I have not been able to do a thorough review of the management issues facing I&A, I saw an apparent rigor in processes that will enable me to definitively answer this question in the future.

- Previous reports have found I&A processes to be ill-defined, inconsistent, and ad hoc. Does DHS I&A tie budgets and financial planning to requirements through a defined and stable long-term budgeting, planning, and programming process? If so, do you have confidence that the process effectively serves its purpose?

Over the course of my career, I have gained a deep appreciation for the effectiveness of well-defined, consistent, and repeatable management processes. This certainly applies to the need for clear financial planning and budgeting that is lined to long-term strategic goals.

It is clear to me that my predecessors paid significant attention to these shortcomings and worked hard to address the process inconsistencies within the organization. I am excited by how much progress has been made, and if confirmed, I would continue that progress in a positive direction moving forward.

- Do you believe DHS I&A should have outcome measures for antiterrorism and intelligence-related programs consistent with those measures established by other government agencies? Please explain.

Yes, consistent with the Government Performance and Results Act of 1993, our intelligence-related measures should be outcome-based to the greatest extent possible. This ensures that our activities are producing the desired results.

I understand that the new FY2014 Program of Analysis provides an opportunity to assess the extent to which analytic production by I&A and other DHS components aligns to established DHS and national priorities. I further understand that I&A works closely with the ODNI staff and other IC members to identify and implement best practices, and is open to additional views on this challenging but important topic. This is certainly a topic that I think warrants additional attention and development, and plan to take a close look into it should I be fortunate enough to be confirmed.

- Do you believe that any of the following are inherently governmental functions: (a) strategic planning, (b) policy support, (c) intelligence analysis, (d) foreign relations, (e) counterintelligence program support, and (f) state and local fusion centers support?

I believe the listed functions are inherently governmental; therefore, they should be performed by government employees. I also recognize that missions are always changing and evolving and there needs to be flexibility to fill gaps with contractor support until government resources can be identified. I always believe that government employees should be responsible for direction of any action that is inherently governmental.

- How do you intend to measure financial and human capital processes as a part of I&A's performance measures?

I received an initial briefing on this topic and am quite pleased by what I was told. I believe I&A's team is focused on the right issues, and I look forward to working to continuing to refine allocating resources to mission priorities.

- I&A has undergone several realignments since it was established in 2002. Do you anticipate undertaking a similar realignment or restructuring? If so, what would be the costs and benefits of doing so?

If confirmed, I will make continuing assessments of I&A and make recommendations about how to improve structure and performance.

I&A's Relationship with the Intelligence Community

QUESTION 5: What role should I&A play in disseminating information obtained from other elements of the Department of Homeland Security to the Intelligence Community?

I&A plays a critical role in helping operators and decision makers protect the homeland by disseminating and providing access to timely, relevant, and comprehensive intelligence and information across the full range of Homeland Security missions (e.g., preventing terrorism and enhancing security, securing and managing our borders, enforcing and administering our immigration laws, safeguarding cyberspace, and ensuring resilience to disasters).

IA plays a key role in integrating component data with that collected or produced by the IC to add value where DHS data contributes to an identity, contacts, travel, or derogatory information such as criminal activity. DHS data can, and has, contributed to the IC's knowledge about a threat.

- What kinds of information should be so disseminated and from what elements of the DHS?

I&A supports the dissemination and analysis of a wide range of Department information to other agencies of the Federal Government, to include the Intelligence Community, with responsibilities related to homeland security, and to agencies of State, tribal, territorial, local, and private sector entities. This includes law enforcement information, suspicious activity reporting information, unique travel and immigration data, seizures data, and cyber intrusion data.

- What limitations should apply to this dissemination, if any?

DHS must ensure the integrity of ongoing law enforcement investigations, and ensure that information sharing practices are conducted in a manner consistent with the law, including Federal privacy and civil rights laws, and international treaties when applicable.

- If a U.S.-person or non-U.S. person voluntarily provides information to a DHS entity such as TSA, CBP, or USCIS, do you believe that information should readily be made available for Title 50 entities conducting intelligence activities?

The collecting and sharing of information is a grave responsibility shared by many within the Department. The Department's components are charged with being careful stewards of the information collected from the public. The Privacy Act, the Violence Against Women Act, the Intelligence Reform and Terrorism Prevention Act, and Executive Order 12333, U.S. Intelligence Activities, are significant legal authorities that the Department looks to when determining the circumstances of sharing information reasonably believed to constitute terrorism information. The Department's Chief Privacy Officer, Officer for Civil Rights and Civil Liberties and General Counsel also serve significant roles in determining the scope of terrorism information that can be further disseminated within the Intelligence Community and also with our state, local, tribal and territorial and private partners.

- In your role as Under Secretary for I&A, what assistance do you expect from a U.S. Intelligence Community apparatus that is primary geared to foreign threats?

I&A today has excellent partnerships across the U.S. Intelligence Community, and it is I&A's job to ensure they continue to mature and strengthen. I&A's collaboration, in particular, with NCTC, CIA, NSA, and FBI occurs every day. As I&A's IC partners uncover potential threats to the Homeland through their reporting and analysis of foreign activities, I&A needs to ensure its partners know how to alert I&A to these threats so that it can utilize its unique DHS data to broaden our understanding of the threats and to help the Department mitigate them.

- While the mission of I&A is statutorily unique; the particular program activities carried out at the division and branch levels are not. If confirmed, will you commit to reviewing I&A programs to ensure that they are not redundant or duplicative of any other Federal, state, local, or private effort?

For example, the Border Security Branch performs work that in some instances appears duplicative of the type of work done by Customs and Border Protection. Both the Department of Homeland Security (DHS) and Federal Bureau of Investigation (FBI) play a role in sharing terrorism-related information with state, local and tribal governments and law enforcement agencies. Both DHS and CIA maintain open source intelligence capabilities.

Absolutely, and consistent with the Secretary's direction, if confirmed, I will discontinue those activities that duplicate the work of others. Our limited resources must be focused on what we bring uniquely to the Intelligence Community.

- Do you believe that the roles of DHS and the FBI are clear with respect to domestic information-sharing?

Protecting the Homeland is a team sport and requires DHS, FBI, the IC, and state and local law enforcement to collaborate. A top priority of mine, if confirmed, will be to ensure that DHS and FBI leaders have a shared plan for domestic information sharing, which is critical to the safety and security of the Nation and an important reminder of the gaps that existed prior to 9/11.

- How do you envision the relationship between DHS and FBI in providing intelligence support for law enforcement personnel?

If confirmed, I look forward to working closely with the FBI to ensure that our unique capabilities are used to meet their intelligence needs. Our efforts must be complementary.

- Is the National Counterterrorism Center satisfied with the degree of information sharing from DHS and the degree of access to DHS data stores?

I do not have any firsthand knowledge about information sharing relationships between DHS and the NCTC. Having said that, I do understand how information collected by DHS could prove useful for other Intelligence Community organizations conducting sensitive national security work. If confirmed, I hope to examine the memoranda and agreements currently in place that govern the sharing of DHS data with NCTC, and pledge to work with my counterparts to find a way to ensure DHS has a way to share critical information with NCTC while still honoring all applicable privacy and civil rights/civil liberties protections such data may have been collected under.

I&A's Relationship with State, Local, Tribal, Territorial, and Private Partners

QUESTION 6: What role should I&A play in disseminating information obtained from other elements of the Intelligence Community to state, local, tribal, territorial, and private partners?

I&A should, and does, provide the tools for SLTT and private sector partners to receive information from the IC by way of classified connectivity and relevant, timely analysis.

- What is the proper role of I&A in framing requests for information from state and local law enforcement officials, as well as retaining such information and disseminating it to the Intelligence Community?

I&A ensures that its field personnel who interface with SLTT customers are trained in Intelligence Oversight, CRCL and Privacy guidelines. They provide guidance on the formulation of requests so that RFI's are appropriate for DHS to respond. Any I&A responses intended for SLTT customers receive additional oversight review and vetting before dissemination. I&A does not share SLTT requests or the results of those request with other partners. Responses may be shared with other partners if they have requested the same information from DHS I&A and the response is cleared by the requester and can satisfy multiple customers.

- As Under Secretary for I&A, what measures would you take to improve the effectiveness of efforts to share information in both directions?

If confirmed, I plan to conduct an extensive review of the process, and its metrics and outcomes to determine its effectiveness and where gaps, if any, need to be addressed. I will be able to better answer this question after that review.

- What forms of information (e.g. threat information, infrastructure vulnerability, etc.) are appropriate for sharing?

I&A should, and does, make an effort to share as much information as possible with SLTT partners to enable timely, informed action to prevent, protect against, and effectively respond to threats in the Homeland. This goal must be balanced against the need to protect information to avoid compromising investigations, sources and methods, and the privacy, civil rights, and civil liberties of U.S. persons. All of these issues are important to the process.

- I&A has taken positive steps to provide intelligence reporting that has greater relevance to its private sector customers. What additional steps will you implement to ensure that I&A private sector customers are provided with timely and relevant intelligence reports?

During my eight years at GE, I experienced firsthand the need for, and sometimes the lack thereof, timely, relevant information that would inform both corporate operations and actions to protect our financial resources and investments. With this perspective, if confirmed, it would be one of my top priorities to thoroughly review how I&A can better serve the needs of the private sector. I look forward to sharing the results of that review and having an open dialogue with this Committee on ways to meet the intelligence needs of the private sector.

- Do you intend to work with I&A customers to determine training needs and requests?

I have been briefed about fusion centers and I&A's training programs, and it is my understanding that I&A works with its state and local partners to identify training that can and should be integrated into I&A intelligence training curricula. If confirmed, I believe we should link training requirements to the capacity of the fusion centers to meet their missions.

- How do you plan to incorporate the IC law enforcement and IE partners training plans into the I&A training plan?

If confirmed as Under Secretary, I intend to leverage I&A's current relationships and processes with state and local law enforcement, as well as the HSIC to ensure that I&A receives input from, and meets the training needs of, its customers. I will also ensure that IC and state and local training opportunities are available to DHS personnel when possible.

- What do you expect out of state, local, tribal, territorial, and private partners writ large to assist you in performing your roles and responsibilities as Under Secretary?

If confirmed, I intend to be actively engaged with all of I&A's partners and stakeholders to ensure an open dialogue and relationship that will support a two-way exchange of ideas to meet our shared goals.

I&A's Relationship within DHS Intelligence Enterprise and DHS

QUESTION 7: The Under Secretary for I&A is responsible for coordinating and enhancing integration among the intelligence components of the Department of Homeland Security, including those at Customs and Border Protection (CBP), Immigration and Customs Enforcement, (ICE) and Transportation Security Administration (TSA). What is your assessment of efforts to date to improve integration between I&A and the components, and among the components?

In my initial discussions on this topic, it is apparent to me that efforts to improve integration between I&A and the components have matured in recent years, but there is more to be done. If I become Under Secretary, I would continue to leverage the HSIC to ensure that I&A and all the DHS Components are integrating efforts to meet the Department's mission of protecting the Homeland.

My experience with DOD investigative organizations is that such collaboration identifies gaps and duplicative processes that can be resolved collectively better than individually.

- What assistance do you expect out of the rest of DHS, and the other intelligence elements of the DHS Intelligence Enterprise to help you in performing your roles and responsibilities as Under Secretary and as the head of the Homeland Security Intelligence Council (HSIC)?

DHS Components, including all of the intelligence elements, have a responsibility to coordinate and collaborate to effectively achieve the Department's mission. If all of the DHS intelligence elements work together to define their specific operational and tactical intelligence needs, I would, as Under Secretary and CINT, be able to better coordinate activities and make recommendations on resources.

- What role should I&A play in disseminating information obtained from other elements of the Intelligence Community to other elements of the Department of Homeland Security?

I&A should not serve as a gatekeeper but rather should enable appropriate access to IC information to enable DHS component missions and operations. I&A provides SCI network access to the components to enable direct access to IC holdings. Additionally, I&A produces tailored all-source analytic products based on IC information specifically for the operations of the Homeland Security Enterprise.

- What authority, if any, has the Secretary provided to you in your role as the head of the HSIC? Does this include budgeting or providing strategic guidance?

I have been informed that many of the Under Secretary's authorities are enumerated in the Homeland Security Act of 2002. In addition to those enumerated authorities, I understand that the Secretary, in DHS Delegation Number 08503, delegated authorities regarding interaction with the Intelligence Community, Information Sharing and Safeguarding, Intelligence Training, and the State, Local and Regional Fusion Center initiative. The Chief Intelligence Officer (CINT) has several tools to integrate the Intelligence Enterprise (IE) through the HSIC, including setting common DHS standards and overseeing the execution of Departmental policy or common services. Also, as CINT, I would advise the Secretary on the overall intelligence priorities to inform the budgets of the Department's intelligence elements.

- What steps do you believe are the key barriers to enhanced coordination and integration, and what steps would you take as Under Secretary to overcome these barriers?

Having not yet served in the DHS Intelligence Enterprise, I am not fully familiar with the specific barriers that may be hindering coordination and integration. However, having spent a considerable tenure of my career inside the Intelligence Community, I often find that the barriers referred to in the question above may not be limited to the DHS Intelligence Enterprise.

In my experience, coordination and integration is often hindered by:

- Competing priorities between component operational needs and enterprise priorities with limited resources
- Differing authorities among intelligence components

If confirmed, I would seek to address and overcome these kinds of challenges by:

- Developing and communicating consistent enterprise priorities
- Identifying and leading collaboration to address gaps in intelligence support to operations and gaps in intelligence capabilities
- Developing consistent policy, strategy, and opportunities for common training and career growth among Intelligence Enterprise staff.

- Do you believe that each of the components of DHS should retain its own intelligence function, or would the Department be better suited by having I&A assume their efforts?

No, I&A should not assume the intelligence functions or efforts of the Components. Each DHS Operating Component has its own operational and tactical intelligence functions, tailored to its own unique mission. The role of I&A in the enterprise is to integrate and align the efforts of the Component Intelligence Programs to maximize the effectiveness of DHS intelligence in support of the Homeland Security Enterprise.

- Some DHS components have their own individual intelligence support units that provide operational support to their field elements. How does I&A uniquely augment these efforts?

I&A produces tailored all-source analytic products, fusing Intelligence Community, DHS component, and State and local information, specifically for the operations of the Homeland Security Enterprise. Additionally, I&A provides a centralized collection requirements management process and a centralized intelligence request for information (RFI) process for the Intelligence Enterprise including intelligence support units. I&A facilitates the synchronization of analysis and collection activities across all of the components to enable all portions of the Enterprise.

- What process is in place to ensure that I&A does not duplicate the efforts of these intelligence support units?

The Secretary has made it clear to me that I should identify and resolve any unnecessary duplication within the Department, and if confirmed, I intend to use the HSIC as my first line of defense against such duplication. Through this body, all of DHS' intelligence elements can discuss and share their priorities and objectives, as well as de-conflict any overlapping efforts.

Domestic Intelligence Responsibilities

QUESTION 8: Please describe any and all intelligence roles I&A and other DHS intelligence components perform other than analysis.

DHS intelligence components support their operational missions, and I&A has many intelligence responsibilities beyond just analysis to meet its broad mission, to include open source collection, Departmental counterintelligence activities, writing and disseminating raw reporting, and facilitating information sharing among others.

- How does I&A ensure that it does not focus intelligence resources on the First Amendment-protected activities of American citizens?

I&A's intelligence oversight guidelines prohibit collection of information regarding U.S. persons solely for the purpose of monitoring activities protected by the U.S. Constitution such as the First Amendment protected freedoms of religion, speech, press, and peaceful assembly and protest. The guidelines permit U.S. person information collection only where there is a reasonable belief of a nexus between the subject and one or more of I&A's defined collection categories (such as terrorism information, counterintelligence, threats to safety, etc.), and where the information is necessary for the conduct of an authorized I&A mission.

- What policies should govern the use, retention and dissemination of U.S. person information by I&A? How should these policies differ, if at all, from the other elements of the Intelligence Community?

Executive Order 12333 requires that elements of the IC collect, retain, and disseminate information regarding U.S. persons only in accordance with procedures established by the head of the element or department and approved by the Attorney General. These procedures incorporate principles set forth in the EO, and expand upon them as required for the mission specific requirements of each IC element. Like a number of other IC elements, I&A operates under interim procedures while continuing to work with ODNI and Department of Justice attorneys to perfect permanent procedures.

- As a member of the IC, I&A must also adhere to U.S. Code Title 50 (National Security Act) and Executive Order 12333, as amended. Executive Order 12333 establishes procedures for the conduct of intelligence activities, including activities carried out abroad and directed against non-U.S. persons. The order was signed by President Reagan in 1981 and requires each intelligence agency to adhere to Attorney General-approved procedures for the collection, retention, or dissemination of information concerning United States persons. Do you believe Executive Order 12333 continues to provide sufficient guidance for the conduct of intelligence activities, to include procedures for handling incidentally acquired information concerning United States persons?

In meeting with the various offices within I&A, I am impressed by the fact that the protection of Americans' privacy and civil rights and civil liberties appears to be at the forefront of all of their intelligence activities. If confirmed, I would examine how these protections are actually implemented to ensure that these protections inform how I&A meets its mission.

The Constitution and EO 12333 correctly inform what the IC can do, and I&A must adhere to both.

- What limitations exist with regard to the collection, retention, and analysis of information related to First Amendment-protected freedoms of speech, association and religion?

I&A's functions, and its handling of U.S. person information, are subject to numerous legal and policy restrictions, including applicable statutes, the U.S. Constitution, executive orders and directives, and internal departmental guidelines, including I&A's Interim Intelligence Oversight Guidelines. If confirmed, I would consider it a core part of my responsibilities to work closely with the DHS General Counsel, the I&A Intelligence Oversight Office, and the Offices of Privacy and Civil Rights & Civil Liberties to ensure that I&A is operating in full compliance with the law and consistent with DHS policies to ensure the protection of privacy and civil liberties.

- What sources should I&A use when conducting its analysis, in particular in its analysis of U.S. Persons?

By statute, I&A accesses and receives intelligence and information, including law enforcement information, made available from or reported by other Federal, state, local and private sector entities. While the potential sources of information available to I&A are correspondingly broad, I&A personnel are limited to collecting that information

overtly or from publicly available sources. Furthermore, I&A must comply with specific procedures reflected in its Interim Intelligence Oversight Guidelines whenever collecting, analyzing, or disseminating information involving U.S. Persons.

Analytic Quality

QUESTION 9: In the past I&A has struggled to define the scope, relevance, and quality of its finished intelligence products.

- Some stakeholders perceive I&A as having an intelligence function that is overlapping or redundant. How will you ensure that I&A analytic products are differentiated from those of the rest of the Intelligence Community and the DHS intelligence enterprise?

While I&A seeks to avoid duplication, it is important to remember that some degree of competing or redundant analysis is necessary and healthy for the IC. One of the lessons learned in the WMD and 9/11 Commissions was that various elements with different missions and perspective should conduct analysis to avoid group-think.

To avoid unnecessary duplication, I think it is important to de-conflict any production plans with I&A's IC partners, leverage their expertise on foreign events to drive I&A analysis of Homeland implications, and produce joint products when appropriate. I understand that I&A annually publishes a Program of Analysis that captures the key intelligence questions on which they plan to focus; this product can serve as a marker within the IC to identify I&A priority analytic issues for the year.

- How would you assess I&A's analytical tradecraft, analyst training, editing, quality control measures, approval procedures, and independence from political considerations?

I am not yet in a position to adequately assess I&A's entire analytical program and processes. From what I have learned thus far, I&A is focused on improving analytical tradecraft and review processes and is receiving positive feedback from its customers.

- How does I&A ensure that all I&A analytic reports meet well-defined Intelligence Community analytic tradecraft standards prior to production of intelligence that is disseminated to the IC?

I am aware that I&A has developed support and advisory services for its analysts and managers to provide timely tradecraft feedback to ensure constant improvement. If confirmed, I will evaluate I&A's analytical processes in the context of the IC standards to ensure that all products meet those standards before dissemination.

- In your opinion, should I&A be an aggregator of intelligence or a value-added provider of analysis? What changes will you implement to reflect this vision?

I&A statutorily has a mandate to both share terrorism-related information and to produce original analysis. I believe that this broad mission calls for a healthy balance of both.

While I&A is responsible for sharing intelligence produced by others when it is relevant to its state, local, and private sector homeland security partners, I&A also adds significant value by fusing that intelligence together with all sources of information—to include unique Departmental data—to provide a holistic picture of the threats to the Homeland.

- DHS previously released an unclassified report titled, *Right-wing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment*, dated April 7 that warned that the faltering economy and the election of the country's first African-American president could fuel support for "right-wing radicalization and recruitment." Specifically, the report stated that rightwing extremists may include "individuals that are dedicated to a single issue, such as abortion or immigration." Additionally, the report warned that "the return of military veterans facing significant challenges into their communities could lead to potential emergence of terrorist groups or lone wolf extremists . . . carrying out violent acts." According to I&A, this report was coordinated with the FBI. Do you believe "rightwing" and "leftwing" extremism are appropriate topics for I&A?

Since I was not at I&A at the time this report was published in April 7, 2009, I cannot comment on its analytical assessments. I understand that many institutional reforms to I&A's analytic and production processes were set in motion as a result of this report. It forced every I&A employee to contemplate the critical role of domestic intelligence and the delicacy in exercising this analysis with appropriate analytical tradecraft techniques, particularly where the nature of the threat involves individuals or groups willing to engage in illegal acts of violence dangerous to human life or destructive of critical infrastructure and key national resources for political, religious, or other ideologically motivated reasons.

Congressional Oversight

QUESTION 10: Section 502 of the National Security Act of 1947 provides that the obligation to keep the congressional intelligence committees fully and currently informed of all intelligence activities. It applies not only to the Director of National Intelligence but also to the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities.

- What is your understanding of the standard for meaningful compliance with this obligation by the Secretary of Homeland Security in keeping the congressional intelligence committees, including all their Members, fully and currently informed of intelligence activities?

I am committed to keeping the congressional intelligence committees fully and currently informed of all intelligence activities as required by the National Security Act of 1947. This includes significant anticipated intelligence activities, significant intelligence failures, and illegal intelligence activities. I believe that meaningful compliance with this

obligation can be achieved by adhering to the Director of National Intelligence's guidance issued in Intelligence Community Directive Number 112, Congressional Notification, dated November 16, 2011.

- Under what circumstances, if any, is it appropriate to brief the Chairman and Vice Chairman and not the full Committee membership?

While I am not aware of any circumstances in which previous Undersecretaries for I&A have found it necessary or appropriate to do so, it is my understanding that it would be appropriate only when necessary and essential in light of extraordinary circumstances affecting the vital national security interests of the United States, as determined by the President pursuant to Section 503(C)(2) of the National Security Act of 1947.

- Do you pledge to provide all unclassified and classified intelligence products of I&A to this Committee?

I pledge to work with you in good faith to ensure the Committee has access to all information, classified or unclassified, necessary for full and proper oversight of I&A activities.

- How will you change the I&A budget justification to ensure that it serves as an effective for I&A managers and can be effectively evaluated by the Congress?

It is my understanding that I&A's budget justification is included in the larger budget justification books of the Department of Homeland Security and the Director of National Intelligence, and as such it must adhere to the structure and format of those documents. I&A provides both versions of the justification to the Intelligence committees on the day they are released. I pledge to work with the committee to look at ways to approve these submissions, subject to DNI, Department, and OMB approval.

- Do division-level managers have visibility into the I&A budget? Do you intend to provide such visibility to these managers, if confirmed?

It is my understanding that beginning in FY 2013, the I&A CFO tracked and reported execution of annual spend plans at the Division-level, and provided monthly updates to management on planned -vs- actual expenditures. In FY 2014, the I&A CFO has, in conjunction with the rest of I&A, expanded this to include quarterly spending plans, and is monitoring and reporting spending execution at the division level. The I&A CFO provides detailed execution data to the Deputy Under Secretaries each month, no later than the middle of the following month, which links budget execution data and performance information to the priorities in the I&A Strategic Plan. This reporting links the priorities established during the "zero-based" budget work conducted in 2011 with accurate financial data available to all levels of management in I&A to support management decision-making and accountability.

Unauthorized Disclosures of Classified Information

QUESTION 11: If confirmed as the Under Secretary for Intelligence and Analysis of the Department of Homeland Security, please describe the actions you will take to prevent, detect, and report unauthorized disclosures of classified information.

Protection of the intelligence and information that I&A receives is among the foremost obligations of the Under Secretary for Intelligence and Analysis, not only as directed by Presidential and Director of National Intelligence guidance, but because doing so is one of the explicit requirements of the Congress as reflected in the Homeland Security Act. As such, I would anticipate working closely with colleagues in the Office of Security, the Chief Human Capital Officer, the Inspector General, and other DHS and external officials to ensure that DHS has not only a first-rate Insider Threat detection program, but a counterintelligence effort that is equipped, staffed and empowered to provide DHS with robust protection from foreign intelligence threats.

Committee Detention Report

QUESTION 12: As the State Department's Coordinator of Counterterrorism efforts from 2001 to 2002, you were responsible for implementing U.S. counterterrorism policy overseas and coordinating the U.S. government response to international terrorist activities. Were you aware of the CIA's Detention and Interrogation Program during your time of service?

As S/CT coordinator, I became aware of this program, but I was not involved in the policy discussions for this program and was not directed to facilitate the implementation of the program.



International Association of Chiefs of Police

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Executive Director
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Deputy Executive Director
Chief of Staff
James W. Malachuk
Alexandria, VA

February 21, 2014

The Honorable Dianne Feinstein
United States Senate
Chairwoman
Select Committee on Intelligence
Washington, DC, 20510

The Honorable Saxby Chambliss
United States Senate
Vice Chairman
Select Committee on Intelligence
Washington, DC, 20510

Dear Chairwoman Feinstein and Vice Chairman Chambliss:

On behalf of the International Association of Chiefs of Police (IACP), I am pleased to inform you of our support for the nomination of General Francis X. Taylor to serve as the next Under Secretary for Intelligence and Analysis (I&A) at the Department of Homeland Security (DHS). The IACP believes that the selection of General Taylor is a logical decision and one that will enhance and strengthen the Office of Intelligence and Analysis' mission and ability to ensure our homeland is safe, secure, and resilient against terrorism threats.

It is the position of the IACP that that General Taylor's prior experience serving in the United States military, as Coordinator for Counterterrorism, and as Assistant Secretary of State for Diplomatic Security make him highly qualified to handle the unique and diverse challenges our country faces. In addition, General Taylor understands the crucial role and the challenges that federal, state, local and tribal law enforcement agencies play in combating terrorism and the importance of inter-agency communication and information sharing.

We had the opportunity to meet with General Taylor today and he clearly articulated the importance of I&A and disseminating intelligence throughout DHS and to state, local and tribal law enforcement. Additionally, General Taylor was well versed and understanding of the role of the National Network of Fusion Centers and the important role they play in the protection of the homeland.

We strongly believe that General Taylor is well positioned to serve as the next Under Secretary for Intelligence and Analysis. Therefore, the IACP urges you to rapidly confirm General Taylor's nomination. Please do not hesitate to contact me or Mr. Bart R. Johnson, IACP Executive Director, if the IACP may be of further assistance.

Sincerely,



Chief Yousry Zakhary
President

Serving the Leaders of Today, Developing the Leaders of Tomorrow

SELECT COMMITTEE ON
INTELLIGENCE

UNITED STATES SENATE



QUESTIONNAIRE FOR COMPLETION BY
PRESIDENTIAL NOMINEES

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

**QUESTIONNAIRE FOR COMPLETION BY
PRESIDENTIAL NOMINEES**

PART A - BIOGRAPHICAL INFORMATION

1. NAME: John Philip Carlin
2. DATE AND PLACE OF BIRTH: 1973; New York, New York
3. MARITAL STATUS: Married
4. SPOUSE'S NAME: [REDACTED]
5. SPOUSE'S MAIDEN NAME IF APPLICABLE: N/A
6. NAMES AND AGES OF CHILDREN:

NAME AGE

[INFORMATION REDACTED]

7. EDUCATION SINCE HIGH SCHOOL:

| <u>INSTITUTION</u> | <u>DATES ATTENDED</u> | <u>DEGREE RECEIVED</u> | <u>DATE OF DEGREE</u> |
|-----------------------------------|-----------------------|------------------------|-----------------------|
| Harvard Law School | 1996-1999 | J.D. | June 1999 |
| Williams College | 1991-1995 | B.A. | June 1995 |
| Oxford University, Exeter College | 1993-1994 | Junior year abroad | N/A |

8. EMPLOYMENT RECORD (LIST ALL POSITIONS HELD SINCE COLLEGE, INCLUDING MILITARY SERVICE. INDICATE NAME OF EMPLOYER, POSITION, TITLE OR DESCRIPTION, LOCATION, AND DATES OF EMPLOYMENT.)

| <u>EMPLOYER</u> | <u>POSITION/TITLE</u> | <u>LOCATION</u> | <u>DATES</u> |
|--|--|-----------------|---|
| U.S. Dept. of Justice National Security Division | Acting Assistant Attorney General | Washington, DC | March 2013-present |
| | Principal Deputy Assistant Attorney General and Chief of Staff | | August 2012-March 2013, and while on detail from FBI, est. July 2011-July 2012 |

| | | | |
|---|---|----------------|--|
| Federal Bureau of Investigation | Chief of Staff and Senior Counsel to the Director | Washington, DC | February 2010-est. July 2011 |
| | Acting Chief of Staff and Senior Counsel to the Director | | est. August 2009-February 2010 |
| | Deputy Chief of Staff and Counselor to the Director | | March 2009-est. August 2009 |
| | Special Counsel to the Director | | on detail from the U.S. Attorney's Office for the District of Columbia, July 2007-February 2009 |
| U.S. Dept. of Justice Criminal Division | National Computer Hacking and Intellectual Property Program Coordinator | Washington, DC | on detail from the U.S. Attorney's Office for the District of Columbia, January 2007-June 2007 |
| U.S. Attorney's Office for the District of Columbia | Assistant U.S. Attorney | Washington, DC | October 2001-February 2009; on detail to U.S. Dept. of Justice, January 2007-June 2007, and to FBI, July 2007-February 2009 as noted above |
| | Special Assistant U.S. Attorney | | on detail from the U.S. Dept. of Justice Tax Division, est. February 2000-June 2000 |
| U.S. Attorney's Office for the District of Arizona | Special Assistant U.S. Attorney | Tucson, AZ | on detail from the U.S. Dept. of Justice Tax Division, June 2000-December 2000 |
| U.S. Dept. of Justice Tax Division Criminal Enforcement | Trial Attorney | Washington, DC | October 1999-October 2001; on detail to the U.S. Attorney's Office for the District of Columbia, est. February 2000-June 2000, and to the U.S. Attorney's Office for District of Arizona, June 2000-December 2000 as noted above |
| Debevoise and Plimpton | Summer Associate | New York, NY | June 1998-August 1998 |
| Office of the Public Advocate for the City of New York | Summer Legal Intern | New York, NY | June 1997-August 1997 |
| Gifford Miller for New York City Council '96 | Campaign Manager | New York, NY | est. June 1996-est. August 1996 |
| Freedom House Inc. | Project Officer | New York, NY | June 1995-June 1996 |

9. GOVERNMENT EXPERIENCE (INDICATE EXPERIENCE IN OR ASSOCIATION WITH FEDERAL, STATE, OR LOCAL GOVERNMENTS, INCLUDING ADVISORY, CONSULTATIVE, HONORARY, OR OTHER PART-TIME SERVICE OR POSITION. DO NOT REPEAT INFORMATION ALREADY PROVIDED IN QUESTION 8):

See Response to Question 8.

10. INDICATE ANY SPECIALIZED INTELLIGENCE OR NATIONAL SECURITY EXPERTISE YOU HAVE ACQUIRED HAVING SERVED IN THE POSITIONS DESCRIBED IN QUESTIONS 8 AND/OR 9.

During my career at the Department of Justice, as a line prosecutor, a national coordinator and an employee of the FBI, I gained national security experience both from the point of view of an attorney and prosecutor, and from an operational perspective. Since 2007, I have spent the vast majority of my time working on national security issues.

At the FBI, I provided advice and guidance to Director Robert S. Mueller on a range of national security matters and worked with the FBI's leadership team to develop the FBI's National Security Branch; to begin to tackle the problem of national security cyber threats; and to further the integration of intelligence across all facets of that organization. I helped manage the Bureau's national security assets and worked to advance the FBI's transformation from a law enforcement agency to a national security organization focused on preventing terrorist attacks. Through this work, I gained an understanding of the FBI's national security program generally, FBI's role as an element of the Intelligence Community and the use of the Foreign Intelligence Surveillance Act and other intelligence authorities.

In 2011, I moved to the National Security Division, first as Principal Deputy Assistant Attorney General and Chief of Staff and now as Acting Assistant Attorney General. In addition to providing strategic legal advice to senior Department of Justice leaders and coordinating national security initiatives across the government for the Department, I oversee and manage the full spectrum of the National Security Division's work including the investigation and prosecution of terrorism and counterintelligence investigations, NSD's export enforcement initiative, NSD's practice before the Foreign Intelligence Surveillance Court, NSD's oversight function, and the Department's participation in the inter-agency Committee for Foreign Investment in the United States (CFIUS). At both FBI and the Department of Justice I have worked with partners in the Intelligence Community and have developed an understanding of the national security architecture of the federal government.

11. HONORS AND AWARDS (PROVIDE INFORMATION ON SCHOLARSHIPS, FELLOWSHIPS, HONORARY DEGREES, MILITARY DECORATIONS, CIVILIAN SERVICE CITATIONS, OR ANY OTHER SPECIAL RECOGNITION FOR OUTSTANDING PERFORMANCE OR ACHIEVEMENT):

Samuel J. Heyman Fellowship for Federal Government Service (2000)
 Department of Justice Award for Special Achievement (five-time recipient, various dates)
 Harvard Journal on Legislation, Articles Editor (1998-1999)
 Phi Beta Kappa (1995)

12. ORGANIZATIONAL AFFILIATIONS (LIST MEMBERSHIPS IN AND OFFICES HELD WITHIN THE LAST TEN YEARS IN ANY PROFESSIONAL, CIVIC, FRATERNAL, BUSINESS, SCHOLARLY, CULTURAL, CHARITABLE, OR OTHER SIMILAR ORGANIZATIONS):

| <u>ORGANIZATION</u> | <u>OFFICE HELD</u> | <u>DATE</u> |
|--------------------------------------|--------------------|-------------------|
| Edward Bennett Williams Inn of Court | Associate-at-Large | est. 2003-present |
| New York Bar | Member | 2000-present |

13. PUBLISHED WRITINGS AND SPEECHES (LIST THE TITLES, PUBLISHERS, AND PUBLICATION DATES OF ANY BOOKS, ARTICLES, REPORTS, OR OTHER PUBLISHED MATERIALS YOU HAVE AUTHORED. ALSO LIST ANY PUBLIC SPEECHES YOU HAVE MADE WITHIN THE LAST TEN YEARS FOR WHICH THERE IS A TEXT OR TRANSCRIPT. TO THE EXTENT POSSIBLE, PLEASE PROVIDE A COPY OF EACH SUCH PUBLICATION, TEXT, OR TRANSCRIPT):

I have done my best to identify all books, articles, reports, or other published materials, including through a review of my personal files and searches of publicly available electronic databases. I have also done my best to identify speeches or talks I have given, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have found the following:

Book review, *Harvard Journal on Legislation*, Summer 1997 (cite: 34 Harv. J. on Legis. 611) (copy supplied).

Op-ed, *New York Daily News*, July 24, 1995 *Don't Honor Singapore PM* (copy supplied).

Panelist, 2013 Aspen Institute on "Law Enforcement and National Security," July 20, 2013 (no transcript located, but video available at <http://aspensecurityforum.org/2013-video>).

Keynote Speaker, 2013 ABA Homeland Security Law Institute on "An Overview of the U.S. Department of Justice's National Security Division and What to Expect in 2013," June 20, 2013 (copy supplied).

Panelist, 2012, ABA Homeland Security Law Institute on "A Look at Homeland Security Legal and Policy Issues," March 22, 2012 (copy supplied).

Panelist, Edward Bennett Williams American Inn of Court, "Economic Espionage: national security issues confronting white collar practitioners, from cyber intrusions to export control and sanctions," October 18, 2012 (no notes or transcript available).

Panelist, American University Washington College of Law panel discussion entitled "The Changing Terrorist Threat," September 8, 2011 (copy supplied).

Keynote Speaker, "Safety and Social Networks: the Challenge of Community Policing in a Virtual Neighborhood," at Berkeley Law School, October 23, 2009 (no transcript located, but audio available at <http://www.law.berkeley.edu/7458.htm>).

Panelist, Princeton Forum on Public Service, "Panel: Perspectives from the Next Generation," November 8, 2007. I spoke on the benefits of a public service career (no notes or transcript available).

Panelist, Edward Bennett Williams American Inn of Court, "Recovery and Use of Electronic Data in Internal Inquiries and Criminal Cases," March 15, 2007 (no notes or transcript available).

Opening Remarks, Federal Trade Commission Hearings on Protecting Consumers in the Next Tech-ade, November 9, 2006 (no notes or transcript available).

Speaker, Partnership for Public Service Third Annual Gala honoring Senator John McCain. I spoke on the benefits of a public service career (est. June 2005) (no notes or transcript available).

PART B - QUALIFICATIONS**14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE IN THE POSITION FOR WHICH YOU HAVE BEEN NOMINATED):**

As Acting Assistant Attorney General for National Security, I utilize my experience as a federal prosecutor and my experience in the national security realm, including intelligence matters, to manage the coordination of our intelligence and prosecutorial assets in support of our mission: preventing terrorist attacks and other threats to the national security. If confirmed, I will continue to apply that experience in handling the unique aspects of national security prosecutions, including the challenges of protecting intelligence equities while developing admissible evidence to sustain a conviction.

During my time at the FBI and the Department, I have worked with, and on behalf of, the Intelligence Community on a wide variety of issues. I am very familiar with the use of the Foreign Intelligence Surveillance Act and other intelligence authorities, and understand the importance of intelligence collection in confronting the terrorist threat while preserving our fundamental rights and liberties.

I understand the importance of using all available tools in order to combat national security threats and of doing so consistent with statutes, executive orders, relevant regulations, and the Constitution. Drawing on my experience as a prosecutor, as well as the perspective I have gained with the FBI and with the Department of Justice working on the operational aspects of national security investigations, I will exercise independent judgment in managing the Department's national security functions while ensuring that the Division's activities are properly coordinated with other national security activities when appropriate. I will do the same in providing advice to and advancing partnerships with the Division's partners within the Intelligence Community and in working cooperatively with the congressional oversight committees.

PART C - POLITICAL AND FOREIGN AFFILIATIONS**15. POLITICAL ACTIVITIES (LIST ANY MEMBERSHIPS OR OFFICES HELD IN OR FINANCIAL CONTRIBUTIONS OR SERVICES RENDERED TO, ANY POLITICAL PARTY, ELECTION COMMITTEE, POLITICAL ACTION COMMITTEE, OR INDIVIDUAL CANDIDATE DURING THE LAST TEN YEARS):**

Campaign Manager for the Gifford Miller for New York City Council '96 campaign from June of 1996 (est.) to August of 1996 (est.).

16. CANDIDACY FOR PUBLIC OFFICE (FURNISH DETAILS OF ANY CANDIDACY FOR ELECTIVE PUBLIC OFFICE):

I have never been a candidate for public office.

17. FOREIGN AFFILIATIONS

(NOTE: QUESTIONS 17A AND B ARE NOT LIMITED TO RELATIONSHIPS REQUIRING REGISTRATION UNDER THE FOREIGN AGENTS REGISTRATION ACT. QUESTIONS 17A, B, AND C DO NOT CALL FOR A POSITIVE RESPONSE IF THE REPRESENTATION OR TRANSACTION WAS AUTHORIZED BY THE UNITED STATES GOVERNMENT IN CONNECTION WITH YOUR OR YOUR SPOUSE'S EMPLOYMENT IN GOVERNMENT SERVICE.)

A. HAVE YOU OR YOUR SPOUSE EVER REPRESENTED IN ANY CAPACITY (E.G. EMPLOYEE, ATTORNEY, OR POLITICAL/BUSINESS CONSULTANT), WITH OR WITHOUT COMPENSATION, A

FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

No.

B. HAVE ANY OF YOUR OR YOUR SPOUSE'S ASSOCIATES REPRESENTED, IN ANY CAPACITY, WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

No.

C. DURING THE PAST TEN YEARS, HAVE YOU OR YOUR SPOUSE RECEIVED ANY COMPENSATION FROM, OR BEEN INVOLVED IN ANY FINANCIAL OR BUSINESS TRANSACTIONS WITH, A FOREIGN GOVERNMENT OR ANY ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.

No.

D. HAVE YOU OR YOUR SPOUSE EVER REGISTERED UNDER THE FOREIGN AGENTS REGISTRATION ACT? IF SO, PLEASE PROVIDE DETAILS.

No.

18. DESCRIBE ANY LOBBYING ACTIVITY DURING THE PAST TEN YEARS, OTHER THAN IN AN OFFICIAL U.S. GOVERNMENT CAPACITY, IN WHICH YOU OR YOUR SPOUSE HAVE ENGAGED FOR THE PURPOSE OF DIRECTLY OR INDIRECTLY INFLUENCING THE PASSAGE, DEFEAT, OR MODIFICATION OF FEDERAL LEGISLATION, OR FOR THE PURPOSE OF AFFECTING THE ADMINISTRATION AND EXECUTION OF FEDERAL LAW OR PUBLIC POLICY.

I have not been a lobbyist.

PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

19. DESCRIBE ANY EMPLOYMENT, BUSINESS RELATIONSHIP, FINANCIAL TRANSACTION, INVESTMENT, ASSOCIATION, OR ACTIVITY (INCLUDING, BUT NOT LIMITED TO, DEALINGS WITH THE FEDERAL GOVERNMENT ON YOUR OWN BEHALF OR ON BEHALF OF A CLIENT), WHICH COULD CREATE, OR APPEAR TO CREATE, A CONFLICT OF INTEREST IN THE POSITION TO WHICH YOU HAVE BEEN NOMINATED.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement I have entered into with the Department's designated ethics official.

20. DO YOU INTEND TO SEVER ALL BUSINESS CONNECTIONS WITH YOUR PRESENT EMPLOYERS, FIRMS, BUSINESS ASSOCIATES AND/OR PARTNERSHIPS, OR OTHER ORGANIZATIONS IN THE EVENT THAT YOU ARE CONFIRMED BY THE SENATE? IF NOT, PLEASE EXPLAIN.

No. I am currently employed by the United States Government, and if confirmed, will continue to be.

21. DESCRIBE THE FINANCIAL ARRANGEMENTS YOU HAVE MADE OR PLAN TO MAKE, IF YOU ARE CONFIRMED, IN CONNECTION WITH SEVERANCE FROM YOUR CURRENT POSITION. PLEASE INCLUDE SEVERANCE PAY, PENSION RIGHTS, STOCK OPTIONS, DEFERRED INCOME ARRANGEMENTS, AND ANY AND ALL COMPENSATION THAT WILL OR MIGHT BE RECEIVED IN THE FUTURE AS A RESULT OF YOUR CURRENT BUSINESS OR PROFESSIONAL RELATIONSHIPS.

See answer to question 20 above.

22. DO YOU HAVE ANY PLANS, COMMITMENTS, OR AGREEMENTS TO PURSUE OUTSIDE EMPLOYMENT, WITH OR WITHOUT COMPENSATION, DURING YOUR SERVICE WITH THE GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.

No.

23. AS FAR AS CAN BE FORESEEN, STATE YOUR PLANS AFTER COMPLETING GOVERNMENT SERVICE. PLEASE SPECIFICALLY DESCRIBE ANY AGREEMENTS OR UNDERSTANDINGS, WRITTEN OR UNWRITTEN, CONCERNING EMPLOYMENT AFTER LEAVING GOVERNMENT SERVICE. IN PARTICULAR, DESCRIBE ANY AGREEMENTS, UNDERSTANDINGS, OR OPTIONS TO RETURN TO YOUR CURRENT POSITION.

See answer to question 20 above.

24. IF YOU ARE PRESENTLY IN GOVERNMENT SERVICE, DURING THE PAST FIVE YEARS OF SUCH SERVICE, HAVE YOU RECEIVED FROM A PERSON OUTSIDE OF GOVERNMENT AN OFFER OR EXPRESSION OF INTEREST TO EMPLOY YOUR SERVICES AFTER YOU LEAVE GOVERNMENT SERVICE? IF YES, PLEASE PROVIDE DETAILS.

During the past five years, I have not received from a person outside of government an offer or expression of interest to employ my services after I leave government. For completeness, I have been contacted on occasion by professional recruiters.

25. IS YOUR SPOUSE EMPLOYED? IF YES AND THE NATURE OF THIS EMPLOYMENT IS RELATED IN ANY WAY TO THE POSITION FOR WHICH YOU ARE SEEKING CONFIRMATION, PLEASE INDICATE YOUR SPOUSE'S EMPLOYER, THE POSITION, AND THE LENGTH OF TIME THE POSITION HAS BEEN HELD. IF YOUR SPOUSE'S EMPLOYMENT IS NOT RELATED TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED, PLEASE SO STATE.

Yes. My spouse is employed at the Corcoran Gallery of Art; however, her work is not related to the position to which I have been nominated.

26. LIST BELOW ALL CORPORATIONS, PARTNERSHIPS, FOUNDATIONS, TRUSTS, OR OTHER ENTITIES TOWARD WHICH YOU OR YOUR SPOUSE HAVE FIDUCIARY OBLIGATIONS OR IN WHICH YOU OR YOUR SPOUSE HAVE HELD DIRECTORSHIPS OR OTHER POSITIONS OF TRUST DURING THE PAST FIVE YEARS.

| <u>NAME OF ENTITY</u> | <u>POSITION</u> | <u>DATES HELD</u> | <u>SELF OR SPOUSE</u> |
|-----------------------|-----------------|-------------------|-----------------------|
|-----------------------|-----------------|-------------------|-----------------------|

None.

27. LIST ALL GIFTS EXCEEDING \$100 IN VALUE RECEIVED DURING THE PAST FIVE YEARS BY YOU, YOUR SPOUSE, OR YOUR DEPENDENTS. (NOTE: GIFTS RECEIVED FROM RELATIVES AND GIFTS GIVEN TO YOUR SPOUSE OR DEPENDENT NEED NOT BE INCLUDED UNLESS THE GIFT WAS GIVEN WITH YOUR KNOWLEDGE AND ACQUIESCENCE AND YOU HAD REASON TO BELIEVE THE GIFT WAS GIVEN BECAUSE OF YOUR OFFICIAL POSITION.)

None.

28. LIST ALL SECURITIES, REAL PROPERTY, PARTNERSHIP INTERESTS, OR OTHER INVESTMENTS OR RECEIVABLES WITH A CURRENT MARKET VALUE (OR, IF MARKET VALUE IS NOT ASCERTAINABLE, ESTIMATED CURRENT FAIR VALUE) IN EXCESS OF \$1,000. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE A OF THE DISCLOSURE FORMS OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CURRENT VALUATIONS ARE USED.)

| <u>DESCRIPTION OF PROPERTY</u> | <u>VALUE</u> | <u>METHOD OF VALUATION</u> |
|--------------------------------|--------------|----------------------------|
|--------------------------------|--------------|----------------------------|

Please see attached SF-278.

29. LIST ALL LOANS OR OTHER INDEBTEDNESS (INCLUDING ANY CONTINGENT LIABILITIES) IN EXCESS OF \$10,000. EXCLUDE A MORTGAGE ON YOUR PERSONAL RESIDENCE UNLESS IT IS RENTED OUT, AND LOANS SECURED BY AUTOMOBILES, HOUSEHOLD FURNITURE, OR APPLIANCES. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE C OF THE DISCLOSURE FORM OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CONTINGENT LIABILITIES ARE ALSO INCLUDED.)

| <u>NATURE OF OBLIGATION</u> | <u>NAME OF OBLIGEE</u> | <u>AMOUNT</u> |
|-----------------------------|------------------------|---------------|
|-----------------------------|------------------------|---------------|

Please see attached SF-278.

30. ARE YOU OR YOUR SPOUSE NOW IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION? HAVE YOU OR YOUR SPOUSE BEEN IN DEFAULT ON ANY LOAN, DEBT, OR OTHER FINANCIAL OBLIGATION IN THE PAST TEN YEARS? HAVE YOU OR YOUR SPOUSE EVER BEEN REFUSED CREDIT OR HAD A LOAN APPLICATION DENIED? IF THE ANSWER TO ANY OF THESE QUESTIONS IS YES, PLEASE PROVIDE DETAILS.

No, I am not in default on any loan, debt or other financial obligation nor have I ever been to my knowledge. I have never been refused credit nor had a loan application denied.

31. LIST THE SPECIFIC SOURCES AND AMOUNTS OF ALL INCOME RECEIVED DURING THE LAST FIVE YEARS, INCLUDING ALL SALARIES, FEES, DIVIDENDS, INTEREST, GIFTS, RENTS, ROYALTIES, PATENTS, HONORARIA, AND OTHER ITEMS EXCEEDING \$200. (COPIES OF U.S. INCOME TAX RETURNS FOR THESE YEARS MAY BE SUBSTITUTED HERE, BUT THEIR SUBMISSION IS NOT REQUIRED.)

[INFORMATION REDACTED]

[INFORMATION REDACTED]

32. IF ASKED, WILL YOU PROVIDE THE COMMITTEE WITH COPIES OF YOUR AND YOUR SPOUSE'S FEDERAL INCOME TAX RETURNS FOR THE PAST THREE YEARS?

Yes.

33. LIST ALL JURISDICTIONS IN WHICH YOU AND YOUR SPOUSE FILE ANNUAL INCOME TAX RETURNS.

We file federal tax returns and District of Columbia returns.

34. HAVE YOUR FEDERAL OR STATE TAX RETURNS BEEN THE SUBJECT OF AN AUDIT, INVESTIGATION, OR INQUIRY AT ANY TIME? IF SO, PLEASE PROVIDE DETAILS, INCLUDING THE RESULT OF ANY SUCH PROCEEDING.

No.

35. IF YOU ARE AN ATTORNEY, ACCOUNTANT, OR OTHER PROFESSIONAL, PLEASE LIST ALL CLIENTS AND CUSTOMERS WHOM YOU BILLED MORE THAN \$200 WORTH OF SERVICES DURING THE PAST FIVE YEARS. ALSO, LIST ALL JURISDICTIONS IN WHICH YOU ARE LICENSED TO PRACTICE.

None.

I am a member of the New York Bar.

36. DO YOU INTEND TO PLACE YOUR FINANCIAL HOLDINGS AND THOSE OF YOUR SPOUSE AND DEPENDENT MEMBERS OF YOUR IMMEDIATE HOUSEHOLD IN A BLIND TRUST? IF YES, PLEASE FURNISH DETAILS. IF NO, DESCRIBE OTHER ARRANGEMENTS FOR AVOIDING ANY POTENTIAL CONFLICTS OF INTEREST.

No. In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official. I am not aware of any other conflicts.

36. IF APPLICABLE, ATTACH THE LAST THREE YEARS OF ANNUAL FINANCIAL DISCLOSURE FORMS YOU HAVE BEEN REQUIRED TO FILE WITH YOUR AGENCY, DEPARTMENT, OR BRANCH OF GOVERNMENT.

Attached.

PART E - ETHICAL MATTERS

38. HAVE YOU EVER BEEN THE SUBJECT OF A DISCIPLINARY PROCEEDING OR CITED FOR A BREACH OF ETHICS OR UNPROFESSIONAL CONDUCT BY, OR BEEN THE SUBJECT OF A COMPLAINT TO, ANY COURT, ADMINISTRATIVE AGENCY, PROFESSIONAL ASSOCIATION, DISCIPLINARY COMMITTEE, OR OTHER PROFESSIONAL GROUP? IF SO, PROVIDE DETAILS.

No.

39. HAVE YOU EVER BEEN INVESTIGATED, HELD, ARRESTED, OR CHARGED BY ANY FEDERAL, STATE, OR OTHER LAW ENFORCEMENT AUTHORITY FOR VIOLATION OF ANY FEDERAL STATE, COUNTY, OR MUNICIPAL LAW, REGULATION, OR ORDINANCE, OTHER THAN A MINOR TRAFFIC OFFENSE, OR NAMED AS A DEFENDANT OR OTHERWISE IN ANY INDICTMENT OR INFORMATION RELATING TO SUCH VIOLATION? IF SO, PROVIDE DETAILS.

No.

40. HAVE YOU EVER BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL VIOLATION OTHER THAN A MINOR TRAFFIC OFFENSE? IF SO, PROVIDE DETAILS.

No.

41. ARE YOU PRESENTLY OR HAVE YOU EVER BEEN A PARTY IN INTEREST IN ANY ADMINISTRATIVE AGENCY PROCEEDING OR CIVIL LITIGATION? IF SO, PLEASE PROVIDE DETAILS.

[INFORMATION REDACTED]

42. HAVE YOU BEEN INTERVIEWED OR ASKED TO SUPPLY ANY INFORMATION AS A WITNESS OR OTHERWISE IN CONNECTION WITH ANY CONGRESSIONAL INVESTIGATION, FEDERAL, OR STATE AGENCY PROCEEDING, GRAND JURY INVESTIGATION, OR CRIMINAL OR CIVIL LITIGATION IN THE PAST TEN YEARS? IF SO, PROVIDE DETAILS.

Yes. I was interviewed in connection with an investigation being conducted by the United States Attorney's Office for the District of Columbia into possible unauthorized disclosures of information to reporters about a foiled bomb plot tied to Al Qaeda in the Arabian Peninsula. I was advised by representatives of the United States Attorney's Office that I was a witness in the investigation. The individual responsible for the unauthorized disclosures was identified and charged. He pleaded guilty and was sentenced earlier this year.

43. HAS ANY BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, DIRECTOR, OR PARTNER BEEN A PARTY TO ANY ADMINISTRATIVE AGENCY PROCEEDING OR CRIMINAL OR CIVIL LITIGATION RELEVANT TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED? IF SO, PROVIDE DETAILS. (WITH RESPECT TO A BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, YOU NEED ONLY CONSIDER PROCEEDINGS AND LITIGATION THAT OCCURRED WHILE YOU WERE AN OFFICER OF THAT BUSINESS.)

No.

44. HAVE YOU EVER BEEN THE SUBJECT OF ANY INSPECTOR GENERAL INVESTIGATION? IF SO, PROVIDE DETAILS.

No.

PART F - SECURITY INFORMATION

45. HAVE YOU EVER BEEN DENIED ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION FOR ANY REASON? IF YES, PLEASE EXPLAIN IN DETAIL.

No.

46. HAVE YOU BEEN REQUIRED TO TAKE A POLYGRAPH EXAMINATION FOR ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION? IF YES, PLEASE EXPLAIN.

Yes, for FBI employment.

47. HAVE YOU EVER REFUSED TO SUBMIT TO A POLYGRAPH EXAMINATION? IF YES, PLEASE EXPLAIN.

No.

PART G - ADDITIONAL INFORMATION

48. DESCRIBE IN YOUR OWN WORDS THE CONCEPT OF CONGRESSIONAL OVERSIGHT OF U.S. INTELLIGENCE ACTIVITIES. IN PARTICULAR, CHARACTERIZE WHAT YOU BELIEVE TO BE THE OBLIGATIONS OF THE ASSISTANT ATTORNEY GENERAL FOR NATIONAL SECURITY AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS RESPECTIVELY IN THE OVERSIGHT PROCESS.

I believe appropriate oversight is essential and that the Assistant Attorney General for National Security should assist in ensuring a cooperative relationship between the Department of Justice, the Intelligence Community and the oversight committees.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE ASSISTANT ATTORNEY GENERAL.

The Assistant Attorney General (AAG) for National Security serves as the head of the National Security Division (NSD) of the Department of Justice (DOJ) and acts as DOJ's primary liaison with the Director of National Intelligence and the Intelligence Community. The mission of NSD is to carry out the Department's highest priority:

to combat terrorism and other threats to the national security. Congress created NSD to ensure greater coordination and unity of purpose between prosecutors and law enforcement agencies, on the one hand, and intelligence attorneys and the Intelligence Community, on the other; thus, strengthening the effectiveness of the federal government's national security efforts. The AAG's duties include, but are not limited to, oversight and approval (upon designation) of applications under the Foreign Intelligence Surveillance Act (FISA), representing the Executive Branch before the FISA Court, coordination of the Department's national security investigations and prosecutions, and generally ensuring that all of the Department's national security activities are effectively coordinated. Other responsibilities of the AAG for National Security and the National Security Division are set out in 28 CFR § 0.72. The AAG assists the Attorney General and the Deputy Attorney General in ensuring that intelligence matters are carried out consistent with the rule of law. The AAG should ensure that the Division is a resource for United States Attorneys, the FBI, and the rest of the Intelligence Community, in order to provide advice, guidance and expertise in carrying out their national security operations ranging from intelligence investigations and operations to prosecutions. The AAG should partner with the FBI and other Intelligence Community elements and assist in addressing national security threats with a threat-based, intelligence-driven strategy. The AAG should ensure that the Department is carrying out its national security functions consistent with statute, Executive Order, appropriate regulations, and the Constitution.

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be Assistant Attorney General for National Security
I hereby express my willingness to respond to requests to appear and testify before
any duly constituted committee of the Senate.

[SIGNATURE]

Signature

Date: 11/14/13

| | | | | | | | | | |
|---|--|--|--|---|--|---|--|---|--|
| Reporting Individual's Name John | | Calendar Year Covered by Report 2018 | | New Branch Nomination or Candidate <input checked="" type="checkbox"/> | | Reporting Period (Month, Day, Year) 9/13/18 | | Reporting Period (Month, Day, Year) 9/13/18 | |
| Position for Which Filing Assistant Attorney General, National Security Division | | Title of Position Assistant Attorney General, National Security Division | | Department or Agency (if applicable) Department of Justice | | Reporting Period (Month, Day, Year) 9/13/18 | | Reporting Period (Month, Day, Year) 9/13/18 | |
| Location of Present Office (or forward address) 600 Pennsylvania Avenue NW Washington DC 20535 | | Address (Number, Street, City, State, and ZIP Code) 600 Pennsylvania Avenue NW Washington DC 20535 | | Telephone No. (include Area Code) 202-514-1017 | | Reporting Period (Month, Day, Year) 9/13/18 | | Reporting Period (Month, Day, Year) 9/13/18 | |
| Presidential Nominee Subject to Senate Confirmation Do You Intend to Create a Qualified Divorced Trust? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | Name of Congressional Committee Considering Nomination Do You Intend to Create a Qualified Divorced Trust? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | | Signature of Senate (Individual) [SIGNATURE] | | Date (Month, Day, Year) 9/13/18 | | Reporting Period (Month, Day, Year) 9/13/18 | |
| Signature of Other Reviewer (if fast-track by agency) [SIGNATURE] | | Signature of Designated Agency Official (Non-Reviewing Official) [SIGNATURE] | | Date (Month, Day, Year) 9/6/18 | | Reporting Period (Month, Day, Year) 9/6/2018 | | Reporting Period (Month, Day, Year) 9/6/2018 | |
| Signature of Designated Agency Official (Reviewing Official) [SIGNATURE] | | Signature of Designated Agency Official (Reviewing Official) [SIGNATURE] | | Date (Month, Day, Year) 9/14/18 | | Reporting Period (Month, Day, Year) 9/14/18 | | Reporting Period (Month, Day, Year) 9/14/18 | |
| Office of Government Ethics [SIGNATURE] | | Office of Government Ethics [SIGNATURE] | | Date (Month, Day, Year) 9/14/18 | | Reporting Period (Month, Day, Year) 9/14/18 | | Reporting Period (Month, Day, Year) 9/14/18 | |
| Comments of Reporting Officials (if additional space is required, use the reverse side of this sheet) | | Comments of Reporting Officials (if additional space is required, use the reverse side of this sheet) | | Date (Month, Day, Year) 9/14/18 | | Reporting Period (Month, Day, Year) 9/14/18 | | Reporting Period (Month, Day, Year) 9/14/18 | |

Fee for Late Filing
 Any individual who is required to file this report late after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a \$200 fee.

Reporting Periods
 Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part of Schedule D where you must also include the filing period for the preceding calendar year. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period of service of the reporting individual at the date of termination. Part II of Schedule D is not applicable.

Notices, New Entrants and Candidates for President and Vice President:
 Schedule A—The reporting period commences on the date of the preceding calendar year and ends on the date of filing. When assessing the number of days you choose that is within 31 days of the date of filing.
 Schedule B—Not applicable.
 Schedule C, Part I (Liabilities)—The reporting period is the preceding calendar year up to the date of filing. When assessing the number of days you choose that is within 31 days of the date of filing.
 Schedule C, Part II (Agreements or Arrangements)—The reporting period commences on the date of filing.
 Schedule D—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

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OMB Form 278 (Rev. 12/2011)
 3 C.F.R. Part 203A
 U.S. Office of Government Ethics

| Assets and Income | | BLOCK B | | | | | | | | | | BLOCK C | | | | | | | | | | | | | | | | | | | | | | | |
|-------------------|--|--|--------------------|---------------------|----------------------|-----------------------|-----------------------|-------------------------|-------------------|---------------------------|----------------------------|--|-------------------|--------------------------|----------------|-----------------|-----------|--------------------|----------|---------------|---------------------------|-----------------|-------------------|-------------------|--------------------|---------------------|----------------------|-------------------------|------------------|------------------|---|---------------------------------------|--|--|--|
| | | Valuation of Assets at close of reporting period | | | | | | | | | | Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. | | | | | | | | | | | | | | | | | | | | | | | |
| BLOCK A | | None (or less than \$1,001) | \$1,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$250,000 | \$250,001 - \$500,000 | \$500,001 - \$1,000,000 | Over \$1,000,000* | \$1,000,001 - \$5,000,000 | \$5,000,001 - \$25,000,000 | \$25,000,001 - \$50,000,000 | Over \$50,000,000 | Excepted Investment Fund | Excepted Trust | Qualified Trust | Dividends | Rent and Royalties | Interest | Capital Gains | None (or less than \$201) | \$201 - \$1,000 | \$1,001 - \$2,500 | \$2,501 - \$5,000 | \$5,001 - \$15,000 | \$15,001 - \$50,000 | \$50,001 - \$100,000 | \$100,001 - \$1,000,000 | Over \$1,000,000 | Over \$5,000,000 | Other Income (Mo., Day, Yr.) Specify Asset Amount | Date (Mo., Day, Yr.) Only if Honorary | | | |
| 1 | Judice Federal Credit Union checking and savings | X | | | | | | | | | | | | | | | X | | | X | | | | | | | | | | | | | | | |
| 2 | Contemporary Arts Foundation | | | | | | | | | | | | | | | | | | | | X | | | | | | | | | | | | | | |
| 3 | JP Morgan State of New York 528 Aggressive | | | | | X | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | Age Based Portfolio-A (Dependent Child) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | Edison Place Gallery | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | PNC Bank Checking | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | Bank of America Checking | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other "higher" category of value, as appropriate.

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Reporting Individual's Name
Cain, John P.

SCHEDULE C

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Part I: Liabilities

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude accounts:

- a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None

| Condition (Name and Address) | Type of liability | Date incurred | Interest Rate | Term if applicable | Category of Amount or Value (a) | Category of Amount or Value (b) |
|--|--|---------------|---------------|--------------------|---------------------------------|---|
| Example: First National Bank, Washington, DC John Jones, Washington, DC | Mortgage on real property; balance \$100,000 | 1999 | 8% | 25 yrs. | \$10,001 - \$15,000 | \$10,000.001 - \$15,000.000 |
| 1 PNC Bank | Mortgage on personal residence. | 2013 | 4.25 | 30 yr | \$15,001 - \$25,000 | \$15,000.001 - \$25,000.000 |
| 2 | | | | | \$25,001 - \$50,000 | \$25,000.001 - \$50,000.000 |
| 3 | | | | | \$50,001 - \$100,000 | \$50,000.001 - \$100,000.000 |
| 4 | | | | | \$100,001 - \$250,000 | \$100,000.001 - \$250,000.000 |
| 5 | | | | | \$250,001 - \$500,000 | \$250,000.001 - \$500,000.000 |
| | | | | | \$500,001 - \$1,000,000 | \$500,000.001 - \$1,000,000.000 |
| | | | | | \$1,000,001 - \$5,000,000 | \$1,000,000.001 - \$5,000,000.000 |
| | | | | | \$5,000,001 - \$50,000,000 | \$5,000,000.001 - \$50,000,000.000 |
| | | | | | \$50,000,001 - \$500,000,000 | \$50,000,000.001 - \$500,000,000.000 |
| | | | | | \$500,000,001 - \$5,000,000,000 | \$500,000,000.001 - \$5,000,000,000.000 |

*This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None

| Example | Status and Terms of any Agreement or Arrangement | Parties | Date |
|---------|--|------------------------------------|------|
| 1 | Participant in partnership agreement with which I am a partner. Partnership calculated the partner's share of income through 1/30. | Doc, Jones & Smith, Romeown, State | 7/85 |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |

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| SCHEDULE D | | Page Number 6 of 6 |
|---|---|---|
| <p>Part I: Positions Held Outside U.S. Government Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature. None <input checked="" type="checkbox"/></p> | | |
| Reporting Individual's Name | Organization (Name and Address) | Position Held |
| Example: John P. Smith | ABC Company, Inc. 123 Main St. New York, NY 10001 | President |
| 1 | Doi Jones & Smith, Home town, State | Partner |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| <p>Part II: Compensation in Excess of \$5,000 Paid by One Source Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other source. None <input checked="" type="checkbox"/></p> | | |
| Reporting Individual's Name | Source (Name and Address) | Brief Description of Duties |
| Example: John P. Smith | ABC University, Home town, State | Legal services in connection with university construction |
| 1 | Doi Jones & Smith, Home town, State | Legal services in connection with university construction |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |

Additional Prehearing Questions
For
John Carlin
Upon his nomination to be
Assistant Attorney General for National Security
Department of Justice

Keeping the Intelligence Committee Fully and Currently Informed

QUESTION 1: Section 502 of the *National Security Act of 1947* provides that the obligation to keep the congressional intelligence committees fully and currently informed of all intelligence activities applies not only to the Director of National Intelligence (DNI) but to the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities. Section 503 establishes a similar requirement concerning covert actions. Sections 502(a)(2) and 503(b)(2) provide that these officials shall furnish to the congressional intelligence committees any information or material concerning intelligence activities or covert actions, including the legal basis for them, that is requested by either of the committees in order to carry out its legislative or oversight responsibilities. 28 C.F.R. § 0.72(a) provides that the Assistant Attorney General for National Security (AAG/NS) shall conduct, handle, or supervise the briefing of Congress, as appropriate, on matters relating to the national security activities of the United States.

- a. What is your understanding of the obligation of the Attorney General and the Director of the Federal Bureau of Investigation (FBI) to keep the congressional intelligence committees, including all their Members, fully and currently informed?

Answer: Section 502 of the National Security Act of 1947 imposes an obligation on the Director of National Intelligence and the heads of all agencies involved in intelligence activities to keep the congressional intelligence committees “fully and currently informed of all intelligence activities . . . including any significant anticipated intelligence activity and any significant intelligence failure.” The Act also provides that this responsibility be exercised “to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters.” These obligations apply to intelligence activities undertaken by the FBI and DEA components that are part of the Intelligence Community.

- b. To what components of the Department of Justice, including the FBI, does this obligation apply?

Answer: The FBI and DEA have obligations to keep the congressional intelligence committees fully and currently informed about their intelligence activities, as set forth in Section 502 of the National Security Act. These pertain to certain activities of the FBI’s National Security Branch and the Drug Enforcement Administration (DEA)’s

Office of National Security Intelligence, both of which are Intelligence Community elements.

- c. What is your understanding of the obligation of the Attorney General to provide to the congressional intelligence committees any information or material concerning the legal basis for intelligence activities, including those conducted by elements of the Intelligence Community outside the Department of Justice, which either committee requests in order to carry out its legislative or oversight responsibilities?

Answer: The congressional intelligence committees in particular have a unique and important role in authorizing and overseeing the Executive Branch's intelligence activities. To facilitate that role, it is important for the Committees to receive timely information concerning the legal basis for intelligence activities or covert actions, as Sections 502 and 503 provide. The intelligence agencies themselves are required to provide information or material relating to their own intelligence activities to the committees as set forth in the National Security Act. The Attorney General, like all department heads, has responsibility for ensuring that Intelligence Community elements within the Department fulfill this obligation with respect to their activities.

- d. Do you agree that the Department of Justice and FBI should fully notify and brief the congressional intelligence committees on potential counterterrorism and counterintelligence threats to the United States, as well as FBI intelligence-related activities to thwart such threats? The committees' legislative and oversight responsibilities include assessing the utility and effectiveness of counterterrorism and counterintelligence authorities, as well as the legality of those authorities as applied. Do you agree that notifications and briefings provided by the Department and FBI should include detailed information on the use of these authorities in ongoing as well as completed investigations?

Answer: I agree that the congressional intelligence committees should be briefed by the appropriate intelligence agencies on significant counterterrorism and counterintelligence threats, as well as intelligence activities to thwart such threats. These intelligence briefings must be conducted in a way that keeps the intelligence committee fully informed as required, consistent with law enforcement and intelligence responsibilities.

Liaison to the Director of National Intelligence

QUESTION 2: Pursuant to 28 U.S.C. § 507A(b)(2), the AAG/NS shall serve as primary liaison to the DNI for the Department of Justice.

- a. What is your understanding of how this responsibility has been performed? Describe the principal ways in which the AAG/NS should carry out this responsibility.

Answer: As the Department's primary liaison to the DNI, the AAG and, by extension, NSD as a whole work extremely closely with the Office of the Director of National Intelligence (ODNI) and the Office of General Counsel for ODNI. This responsibility is best carried out through regular consultations and coordination with ODNI and its Office of General Counsel, thereby facilitating protection of national security consistent with the law. I and many others within NSD meet regularly with ODNI personnel on issues related to the Foreign Intelligence Surveillance Act (FISA) and NSD's responsibility to represent the Executive Branch before the Foreign Intelligence Surveillance Court (FISC), counterintelligence matters, the handling of United States person information in multiple contexts, the Department's work with Intelligence Community elements to develop and implement guidelines for intelligence activities conducted under Executive Order 12333, declassification and transparency related matters, and numerous operational, legal, and policy issues that arise in the course of intelligence investigations and operations.

- b. Have you discussed with the DNI, and with personnel in the Office of the Director of National Intelligence (ODNI), your respective understandings of that responsibility? If so, please describe.

Answer: Yes. As Acting AAG for National Security, I communicate regularly with the Director of National Intelligence and the General Counsel of ODNI. Through those conversations, we have shared our understanding of issues of priority to the Intelligence Community, and I have gained a greater understanding of how NSD can best carry out its responsibility to facilitate protection of national security consistent with the law, especially as we represent the Executive Branch before the FISC and provide support to the Intelligence Community.

QUESTION 3: In her May 2011 responses to Committee questions, Lisa Monaco, then nominee to be AAG/NS, stated that, "[t]he AAG regularly consults with the ODNI and with the Office of the General Counsel."

- a. What is the role of the National Security Division (NSD) in ensuring that the Office of Legal Counsel (OLC) assesses the legality of U.S. intelligence activities? What is your view of when an intelligence activity should be submitted to the OLC for review?

Answer: The decision to submit intelligence activities for legal review by OLC is typically made by the Intelligence Community component that engages in the activity, based on all the facts and circumstances. OLC may, in certain matters, consult with NSD in connection with such referrals. In addition, NSD provides legal assistance and advice, in coordination with OLC as appropriate, to Government agencies on matters of national security law and policy. *See* 28 C.F.R. §0.72(a)(5).

- b. What is the role of the NSD in ensuring that the OLC has accurate, complete and current information on intelligence activities it is reviewing?

Answer: The principal responsibility for ensuring that OLC has accurate, complete, and current information concerning intelligence activities that it is reviewing lies with the Intelligence Community component that engages in the activity.

- c. What is the role of the NSD in ensuring that U.S. intelligence activities are conducted in compliance with the opinions and memoranda of the OLC?

Answer: The principal responsibility for ensuring that intelligence activities are conducted in compliance with the opinions and memoranda of the OLC, lies with the Intelligence Community component that engages in the activity and has received the OLC advice.

Priorities of the National Security Division

QUESTION 4: Have you discussed with the Attorney General his specific expectations of you, if confirmed as AAG/NS, and his expectations of the NSD as a whole? If so, please describe those expectations.

Answer: Yes. In connection with my selection as Acting AAG for National Security, and through my ongoing work in that capacity, I have discussed with the Attorney General his expectations for how we must accomplish the Department's top priority of protecting the country against national security threats. I understand that the Attorney General expects NSD to lead the Department's coordinated approach to national security matters and provide a single focal point within the Department for its national security functions. If I am fortunate enough to be confirmed, I expect to continue consulting with the Attorney General regularly to ensure that the Division is fulfilling its mission to address the Department's top priority.

QUESTION 5: Based on your experience in the NSD, please provide any observations or recommendations related to the strengths or weaknesses of the NSD, including with regard to its organization, responsibilities, personnel, allocation of resources, and any other matters that you believe are relevant to strengthening the NSD.

Answer: Based on my experience at the Department – including at the FBI – and my work with previous Assistant Attorneys General for National Security, I believe NSD has successfully implemented the goals of the legislation guiding its creation. Today, NSD leads the Department's efforts to centrally manage counterterrorism, counterintelligence, and national security cyber prosecutions; foreign intelligence surveillance; and coordination of policy and operations involving national security issues. NSD has established an oversight program and is continuing to develop training for the Intelligence Community elements to enable them to maintain their operational effectiveness in a manner that is consistent with applicable laws. The previous Assistant Attorneys General established and developed a structure that realized the key goals of NSD's creation – to ensure greater coordination and unity of purpose between prosecutors and law enforcement agencies, on the one hand, and intelligence attorneys and the Intelligence Community, on the other, and to focus all of the Department's national security functions under one roof. Based on my experience at DOJ both before and after the creation of

NSD, I believe the general structure and focus of the Division are sound.

If confirmed, it would be my priority to ensure the Division is able to nimbly anticipate and adapt to evolving threats to the national security, including emerging cyber threats, along with a range of new and changing terrorism threats. To that end, I plan to continually assess the organization, responsibilities, personnel, and allocation of resources within the Division; learn lessons where applicable from our partners in the Intelligence Community; and look for new ways to continue strengthening NSD, building upon the solid foundation laid by previous Assistant Attorneys General.

Oversight of Intelligence Activities

QUESTION 6: 28 C.P.R. § 0.72(17) provides that the AAG/NS shall provide oversight of intelligence, counterintelligence, and national security matters by executive branch agencies to ensure conformity with applicable law, regulations and departmental objectives and report to the Attorney General. In your responses to the Committee's questionnaire, you wrote that "[t]he AAG assists the Attorney General and the Deputy Attorney General in ensuring that intelligence matters are carried out consistent with the rule of law," and that, "[t]he AAG should ensure that the Division is a resource for United States Attorneys, the FBI, and the rest of the Intelligence Community, in order to provide advice, guidance and expertise in carrying out their national security operations ranging from intelligence investigations and operations to prosecutions."

- a. What is your understanding of the NSD's oversight role, including the manner in which it has been exercised, concerning intelligence activities of the FBI?

Answer: NSD performs oversight of certain activities through the Oversight Section of its Office of Intelligence, which ensures that the FISC and Congress are informed of identified instances of FISA-related non-compliance. In addition to oversight related to its role as government counsel before the FISC, NSD also conducts other oversight functions in its review of investigative activities of the FBI, including:

- Review of certain investigative activities under the Attorney General Guidelines;
- Implementation and compliance reviews of FISA minimization procedures;
- National Security Reviews conducted with lawyers from FBI's Office of General Counsel to review national security investigations conducted by FBI Field Offices, including review of the use of National Security Letters by the FBI;
- Review of the accuracy of FISA applications;
- Training at FBI field offices throughout the year to ensure FBI personnel are equipped with the knowledge to comply with legal authorities applicable to FBI national security investigations and FISA court orders; and
- Review of certain undercover operations regarding national security.

- b. What is your understanding of the NSD's oversight role, including the manner in which it has been exercised, concerning intelligence activities, and related prosecutorial activities, undertaken in the offices of United States Attorneys?

Answer: NSD is responsible for ensuring that national security activities conducted by United States Attorney's Offices are coordinated as part of a national program. To fulfill that responsibility, NSD supervises the application of most federal criminal laws related to counterterrorism and counterespionage. Through its authority to approve the use of certain statutes in national security prosecutions, NSD seeks to ensure a coordinated and consistent approach in combating national security threats. NSD also ensures that the Department's national security activities are coordinated with other members of the Executive Branch's national security apparatus.

NSD utilizes the Anti-Terrorism Advisory Councils (ATACs) in each United States Attorney's Office as a mechanism for coordination between NSD's counterterrorism and counterintelligence prosecutors and counterespionage prosecutors in the field. The ATAC program facilitates a process of information sharing and coordination that serves as the focal point for the Department's counterterrorism and counterintelligence national security initiatives. Similarly, NSD has developed a new National Security Cyber Specialists (NSCS) Network, consisting of personnel from NSD, DOJ's Criminal Division, and at least one individual from each United States Attorney's Office, to facilitate coordination of action on cyber threats to the national security.

NSD also provides national security-related support and training to United States Attorneys' Offices and works with the Executive Office of United States Attorneys (EOUSA) to ensure a robust mechanism for exchanges of information, ideas, and resources with the United States Attorneys' community and Main Justice.

If confirmed, my goal would be to continue to advance the partnership between United States Attorneys' Offices and NSD in pursuing the Department's top priority of combating terrorism and protecting the American people, while ensuring prosecutions are carried out in a manner consistent with Intelligence Community equities.

- c. What is your understanding of the NSD's oversight role, including the manner in which it has been exercised, concerning the activities of other components of the Department of Justice?

Answer: NSD coordinates closely with the Civil and Criminal Divisions, as well as others, when their efforts have national security implications.

d. What is your understanding of the NSD's oversight role, including the manner in which it has been exercised, concerning intelligence activities of Intelligence Community elements, and other U.S. government departments and agencies, outside of the Department of Justice? Please address, specifically:

1. NSA, with regard to activities conducted under the Foreign Intelligence Surveillance Act (FISA) and activities conducted under other authorities, including Executive Order 12333;

Answer: In its role as administrator of FISA and as the government's representative before the FISC, NSD oversees all electronic surveillance and other activities conducted under FISA – including the application of minimization procedures – and files all applications for orders from the FISC, including on behalf of NSA. NSD also works closely with NSA and ODNI to ensure that all FISA authorities are carried out consistent with applicable law.

NSD does not oversee NSA activities conducted under Executive Order 12333. However, NSD is involved in developing the Attorney General Guidelines required under Executive Order 12333, which govern the collection, retention, and dissemination of information concerning U.S. persons by Intelligence Community agencies, and also provides guidance on questions as they arise concerning intelligence activities conducted under Executive Order 12333. In addition, certain activities conducted under Executive Order 12333 or the Guidelines require the Attorney General's approval, and NSD is involved in requests for those approvals.

2. Cyber operations, conducted by NSA under Title 50, Cyber Command under Title 10, and other U.S. intelligence, law enforcement and military entities;

Answer: NSD does not have statutory oversight authority over cyber operations conducted by NSA or Cyber Command. However, NSD, along with other DOJ components, participates in an interagency process whereby some cyber operations are subject to legal and policy discussions, as appropriate in light of established authorities and precedents.

3. CIA, with regard to both foreign intelligence collection and covert action operations;

Answer: See answer to 6(d)(1) above regarding NSA, which applies equally to CIA to the extent it engages in relevant activities. Also, depending on the operation at issue, regardless of the authority under which it may be conducted, NSD could be involved in any legal or policy discussions involving DOJ.

4. Department of Defense, with regard to both intelligence collection and military operations conducted outside of declared war zones; and

Answer: See answer to 6(d)(1) above answer regarding NSA, which applies equally to the Department of Defense (DoD) to the extent it engages in relevant activities. Also, depending on the operation at issue, regardless of the authority under which it may be conducted, NSD could be involved in any legal or policy discussions involving DOJ.

5. Any other U.S. intelligence or law enforcement entity, particularly those whose activities involve collection, retention and dissemination of U.S. person information.

Answer: See answer to 6(d)(1) above answer regarding NSA, to the extent another agency engages in relevant activities. In addition, depending on the operation at issue, regardless of the authority under which it may be conducted, NSD could be involved in any legal or policy discussions involving DOJ.

- d. Are there improvements, in terms of resources, scope, methodology, and objectives, in the conduct of this oversight that you believe should be considered?

Answer: If I am confirmed, one of my top priorities will be to continue reviewing NSD's current oversight activities – including the resources and methods currently devoted to those efforts – in order to evaluate whether any changes or adjustments should be made to those efforts, in light of current priorities.

- e. What are the most significant lessons that have been learned as a result of NSD oversight of intelligence activities?

Answer: Based on my experience in the Department, including at the FBI, I believe significant lessons have been learned by those entities subject to NSD's oversight. For instance, in the wake of the Inspector General's report on the use of National Security Letters, the FBI and NSD put into place a series of reforms and compliance mechanisms to ensure that this vital national security tool is used with appropriate predication and documentation, that there are processes and procedures in place to minimize human error, and that there is a robust program of review after-the-fact to monitor compliance and to identify and correct, expeditiously, instances of noncompliance.

Representations to the U.S. Courts and the Use of Evidence Collected Pursuant to FISA

QUESTION 7: What responsibility does the NSD have with regard to ensuring that representations made to the U.S. courts by elements of the Department of Justice and by elements of the U.S. Intelligence Community with regard to intelligence activities and other classified matters are accurate and complete? What responsibility does the NSD have to correct any inaccurate or incomplete representations? Please describe how the NSD fulfills this responsibility.

Answer: NSD has the responsibility to ensure that the Department's representations in court are accurate, and to do its utmost to ensure that the same is true of representations made by the Intelligence Community in matters handled by NSD. To fulfill this responsibility, NSD attorneys must work diligently to understand the facts of intelligence activities and other national security-related matters that may be at issue in litigation or other matters for which they are responsible. Our lawyers are officers of the court, and with that role comes the responsibility to ensure that their representations are accurate—and, if any mistakes are made, that they are corrected promptly.

QUESTION 8: In October 2013, federal prosecutors informed a criminal defendant that they intended to offer into evidence "information obtained or derived from" intelligence collected pursuant to Section 702 of FISA. In November 2013, the Attorney General informed the *Washington Post* that "[w]e will be examining cases that are in a variety of stages, and we will be, where appropriate, providing defendants with information that they should have so they can make their own determinations about how they want to react to it."

- a. Please describe your understanding of the scope of the Department's new policy, including whether it applies to FISA authorities beyond Section 702, and how the Department defines information "obtained or derived from" collection under FISA authorities.

Answer: My understanding is that DOJ's practice has always been to provide notice to aggrieved parties when the government intends to use at trial evidence that it understands to be obtained or derived from FISA surveillance. DOJ recently reviewed the particular question of whether and under what circumstances information obtained through surveillance under Title I of FISA or physical search under Title III of FISA could also be considered derived from surveillance under Title VII of FISA (the FISA Amendments Act). The Department has concluded that the term "obtained or derived from" incorporates legal principles similar to those applied under the Fourth Amendment's "fruit of the poisonous tree" doctrine and Title III of the Wiretap Act. The Department has therefore determined that, consistent with practice under the Wiretap Act, information obtained or derived from Title I FISA collection may, in particular cases, also be derived from prior Title VII FISA collection, such that notice concerning both Title I and Title VII should be given in appropriate cases with respect to the same information.

The Department will continue to comply with its legal obligations to notify aggrieved persons of the use of information obtained or derived from an acquisition under the applicable provisions of FISA in judicial or administrative proceedings against such persons.

- b. What role has the NSD played in the review described by the Attorney General? Please provide an update on the status of the review.

Answer: The Department has publicly stated that it is conducting a review of cases in a variety of stages, and NSD has played an active part in that review. The process associated with that review is still ongoing.

The Foreign Intelligence Surveillance Act and the Findings and Recommendations of the President's Review Group on Intelligence and Communications Technologies

QUESTION 9: What is your view of the December 12, 2013, report of the President's Review Group on Intelligence and Communications Technologies (the Review Group)? Are there particular principles, findings of fact or analyses of law included in the report that you believe should be highlighted, refuted or clarified?

Answer: The Review Group Report, which set out 46 significant recommendations, is one important contribution to the debate over how we can best protect both national security and privacy when conducting intelligence collection activities. The Administration is working to implement the directives announced by the President in his January 17 speech, which are related to many of the group's recommendations.

QUESTION 10: What is your view of the specific recommendations made by the Review Group? Please address the Review Group's recommendations related to Section 215 of the PATRIOT Act (Recommendations 1, 5), National Security Letters (Recommendations 2, 3, 7, 8, 9, 10), bulk collection generally (Recommendations 4, 6, 35), transparency (Recommendations 7, 10, 11), non-disclosure orders (Recommendations 8, 9), Section 702 of the Foreign Intelligence Surveillance Act (FISA) (Recommendation 12), surveillance and privacy generally (Recommendation 13, 14, 26, 27, 28, 36), emergency authorities for NSA (Recommendation 15), and cybersecurity measures, to the extent they relate to legal authorities (Recommendation 30, 31, 33, 34).

Answer: The 28 recommendations of the Review Group to which this question refers raise a number of difficult and complex issues. As the President announced in his January 17 speech, the Administration plans to end the 215 program as it currently exists, while working on alternatives that will preserve the valuable capabilities it provides. In addition, to implement President's directives, the Administration is currently working to: ensure that nondisclosure for National Security Letters does not last indefinitely; increase transparency through the declassification of FISC opinions; allow private companies to disclose more information than ever before about the orders they receive; and look for opportunities to revise our procedures regarding the government's ability to retain, search, and use in criminal cases U.S. person information incidentally collected when targeting non-U.S. persons overseas under Section 702. If confirmed, I will continue working on all of these efforts, which aim to, as the President said in January, "protect ourselves and sustain our leadership in the world, while upholding the civil liberties and privacy protections that our ideals and our Constitution require."

QUESTION 11: 28 C.F.R. § 0.72(6) provides that the Assistant Attorney General for National Security shall administer the FISA. Based on your experiences within the NSD,

what improvements, if any, would you make to this administration, in terms of policies, resources, technology and record keeping, and relations with both the FISA Court and elements of the Intelligence Community?

Answer: In my time at NSD, I have found extremely valuable the increasingly close consultation between lawyers at NSD and lawyers and operators at NSA, ODNI, FBI, and elsewhere. Our regularized, frequent interactions have helped to facilitate compliance with the Constitution, FISA, orders of the FISC, and other applicable sources of law. If I am fortunate enough to be confirmed, I will look for additional ways to ensure that such consultation continues and increases. NSD also has an interactive relationship with the FISC. We work diligently to ensure that our representation before the Court is of the highest quality and provides the Court with accurate and timely information on the programs it authorizes. Of course, as the programs change, and as the need for oversight increases, I will, if confirmed, continue to monitor NSD's policies, resources, technology, and record keeping, as they pertain to the FISC and elements of the Intelligence Community, to identify any opportunities to strengthen these areas in the coming years.

QUESTION 12: You testified to the Senate Judiciary Committee that, "in terms of the Foreign Intelligence Surveillance Court, there are certain cases that involve significant interpretations of the law where the court may decide that it would benefit from the view of another party." Authority for the Foreign Intelligence Surveillance Court to appoint *amicus curiae* would be established by S. 1631, the *FISA Improvements Act of 2013*, reported by the Senate Select Committee on Intelligence on October 31, 2013. Please describe your views on how this reform should be implemented.

Answer: As the President stated in his January 17 speech at the Department of Justice, the Executive Branch supports "the establishment of a panel of advocates from outside government to provide an independent voice in significant cases before the Foreign Intelligence Surveillance Court." An amicus would need to hold the requisite security clearance and be provided access to the necessary classified information. The amicus should be charged with providing independent views on issues, rather than being required as a general matter to assert or advocate for any particular position.

Declassification of FISA Opinions and Other Legal Matters

QUESTION 13: In recent months, numerous opinions of the FISA Court, as well as government certifications and pleadings, have been declassified. You testified to the Senate Judiciary Committee that "additional steps" need to be taken to assure the public about the court's interpretation of law and the government's use of its authorities.

- a. Please describe what additional information, or documents, should be declassified.

Answer: I support the recent, unprecedented steps to enhance transparency with respect to the FISC. If I am fortunate enough to be confirmed, I will work diligently with the DNI and Intelligence Community in implementing the President's call "to review

annually for the purposes of declassification any future opinions of the court with broad privacy implications.” I also support the ongoing declassification review of FISC opinions.

- b. What process do you believe should be established to review and declassify FISA court opinions and associated certifications and pleadings going forward? Please describe the priority that you would give to this effort.

Answer: There is an already-established process for declassification review of FISC opinions, which has been described to this Committee. I support using that process for declassification review of future FISC opinions, and if I am fortunate enough to be confirmed, I am committed not only to making it a priority, but also to making every effort to expedite that process.

- c. How do you view the difference between “secret law” and “sources and methods”? How does this view inform your position on declassification of FISA Court opinions and associated government certifications and pleadings, opinions of the Office of Legal Counsel, and other classified legal opinions?

Answer: We should strive to provide interpretations of the law wherever possible, while protecting classified sources and methods. As the President stated in his January 17 speech, we must approach these issues in a way that will allow us “to protect ourselves and sustain our leadership in the world, while upholding the civil liberties and privacy protections that our ideals and our Constitution require . . . not only because it is right, but because the challenges posed by threats like terrorism and proliferation and cyber-attacks are not going away any time soon.”

With regard to FISC opinions, as recent declassification efforts have demonstrated, it is possible in some cases to share with the public portions of those rulings, consistent with the imperatives of national security. To that end, in his January 17 speech the President directed the Director of National Intelligence, in consultation with the Attorney General, to “annually review for the purposes of declassification any future opinions of the court with broad privacy implications.” I support those transparency efforts and, if confirmed, would continue to support the efforts of the DNI and the Intelligence Community to strike the proper balance between protecting sources and methods, on the one hand, and informing the American public about the state of the law, on the other. With regard to other opinions, while I am not in a position to offer commitments as to how the Department may respond to particular requests for documents created by another Department component, I understand that it is important for the Committee to receive information on the legal basis for intelligence activities or covert actions.

- d. What is the role of the NSD in ensuring that the classification of and declassification of information is conducted consistent with Executive Order [13526]?

Answer: Under Executive Order 13526, each agency that classifies information has specific responsibility to identify its equities and the level of classification appropriate to protect the information. NSD bases its classification determinations on the classification of the information provided to NSD by such agencies. Therefore, the Intelligence Community components are generally responsible for classifying and declassifying information that NSD handles. The Division coordinates with the appropriate equity holders when there are any requests for declassification of information, whether under the Executive Order, in response to Freedom of Information Act requests, or pursuant to court orders to review information for declassification.

Protection of Classified Information

QUESTION 14: Describe the personnel resources, both attorneys and others, within the NSD that are devoted to the prosecution of unauthorized disclosures of classified information, and how the NSD divides responsibility on these matters with the Criminal Division. Please describe any recommendations related to prosecutions connected to unauthorized disclosures of classified information with regard to policies and resources.

Answer: NSD's Counterespionage Section supervises the investigation and prosecution of violations of the Espionage Act and related statutes, and provides coordination and advice on cases involving unauthorized disclosures of classified information. Currently, the Counterespionage Section has 21 attorneys and 11 non-attorneys on staff.

If NSD is recused from a case, matters may be handled through DOJ's Criminal Division. The Criminal Division also retains responsibility for some cases which predate NSD's formation.

Effective enforcement with respect to unauthorized disclosures of classified information is vital to protecting our national security. NSD works with a number of agencies to investigate and prosecute those matters.

QUESTION 15: Please provide up-to-date information on the status of major prosecutions related to unauthorized disclosure of classified information during the last two years.

Answer: There have been a number of significant prosecutions in the past two years wherein NSD or the Criminal Division, working in conjunction with the relevant United States Attorney's Office, has charged individuals in connection with the unlawful disclosure of classified information. These include: *United States v. Kiriakou*, in which the defendant pleaded guilty to 18 U.S.C. § 421(a) and was sentenced to 30 months; *United States v. Sachleben*, in which the defendant pleaded guilty to violating 18 U.S.C. § 793(d) and (e) and was sentenced to 43 months; *United States v. Kim*, in which the defendant pleaded guilty to a violation of 18 U.S.C. § 793(d) with an agreed upon sentence of 13 months (sentencing is scheduled for April 2, 2014); and *United States v. Sterling*, which is pending trial.

QUESTION 16: Please describe how the NSD ensures the protection of information within the NSD itself, including the use of auditing and monitoring of information technology systems. Recommendations 37-46 of the President's Review Group on Intelligence and Communications Technologies address the protection of classified information. Do any of these recommendations apply to the NSD? If so, please describe.

Answer: NSD employs multiple practices, procedures, and layers of physical and technical security to safeguard information within the organization. All Justice Department employees, including NSD employees, must complete annual training on information security. Furthermore, all NSD attorneys must possess and maintain a Top Secret security clearance, which must be updated every five years and includes non-disclosure requirements. All NSD employees also receive mandatory initial and refresher briefings on the proper handling of classified information from Department security officials. FBI and Intelligence Community officials also provide additional counterintelligence awareness training to new NSD attorneys and paralegals, including information on safeguarding classified information.

In addition to vetting and training its personnel, NSD has its own dedicated security staff to coordinate the oversight of information security within the Division. NSD security staff members conduct random, periodic inspections of all sections within NSD and provide regular, recurring security briefings to NSD employees.

Furthermore, NSD maintains Sensitive Compartmented Information Facilities (SCIFs) as well as secure classified computer networks, safes, faxes, and telephone and video equipment for the proper handling of classified information. With respect to information technology systems, NSD is required to comply with regulations set forth by the Office of Management and Budget as well as the Committee on National Security Systems regarding the security of information technology systems that process national security information. NSD information technology systems are also subject to annual reviews by information technology security officials in the Justice Department's Justice Management Division as well as periodic audits and reviews by the Justice Department's Office of Inspector General.

With regard to recommendations 37-46 of the Review Group's Report, most issues related to personnel vetting in connection with security clearances, to which Recommendations 37-41 pertain, are not handled directly by NSD. With regard to network security of classified systems, to which Recommendations 42-46 pertain, NSD works closely with the Justice Management Division and others throughout the cybersecurity community within the Executive Branch to implement cybersecurity best practices and implement procedures that combat insider threats.

QUESTION 17: On July 12, 2013, the Administration announced ten revisions to the Department of Justice's policies related to investigations involving members of the news media. Please describe how the Department has implemented each of these ten revisions. What is your view on whether modifications to these revisions should be made or whether additional changes are appropriate.

Answer: In the wake of concerns about certain investigations that involved members of the news media, at the President's direction, the Attorney General led a comprehensive review of Department policies and practices governing how law enforcement tools can be utilized to obtain information and records from or concerning the news media in criminal and civil investigations. This review produced significant revisions to Department policies, intended to ensure that the government strikes the appropriate balance between protecting the American public by investigating alleged criminal activity and safeguarding the essential role of a free press. Specifically, DOJ now requires additional review by senior Department officials. The changes also clarified and expanded the presumption of negotiations with, and notice to, the news media when the Department requests authorization to seek records relating to newsgathering activities. Additionally, the changes provide more formal safeguards for the handling of communications records of the media.

QUESTION 18: The July 12, 2013, Report on Review of News Media Policies reiterated the Administration's continued support for a media shield law, which would codify the principles implemented by the Administration while establishing a statutory basis for measures the Administration cannot adopt unilaterally. In particular, the report, noted that a media shield law would provide a new mechanism for advance judicial review of the use of investigative tools such as subpoenas when they involve the news media. Please describe your views on this and other provisions of a media shield law.

Answer: This Administration has long supported appropriate media shield legislation, and continues to do so. The Attorney General expressed his support for S. 987, the Free Flow of Information Act of 2013, in a letter to Senate Judiciary Committee Chairman Leahy on July 29, 2013. While the Administration continues to review the bill reported by the Senate Judiciary Committee in November 2013 to ensure that it fulfills the specific objectives the Administration seeks to accomplish, the Administration supports the goals and principles behind the bill.

The FBI's Domestic Investigations and Operations Guide (DIOG)

QUESTION 19: On October 15, 2011, then-FBI Director Robert Mueller III approved revisions and updates to the FBI's Domestic Investigations and Operations Guide (DIOG). Please describe the most important changes included in those revisions and how they have been implemented. Do you believe further revisions or updates are warranted?

Answer: The Attorney General's Guidelines for Domestic FBI Operations (AGG-Dom) were issued on September 29, 2008. The FBI issued its Domestic Investigations and Operations Guide (DIOG) in December 2008 in order to implement the AGG-Dom and other guidelines and to standardize policy so that criminal, national security, and foreign intelligence investigative activities would be conducted in a consistent manner, whenever possible, including the same approval, notification and reporting requirements. The FBI periodically updates the DIOG. In 2011, the FBI made more extensive revisions after experienced FBI agents and lawyers, in consultation with the Department, conducted an in-depth review of the FBI's activities. Many of the changes involved reorganizing or restructuring the DIOG to make it easier for FBI personnel to use in light of the FBI's experience with the 2008 version. More substantive changes affected

areas such as the FBI's interview and *Miranda* policies, undisclosed participation in certain kinds of organizations, and the use of certain techniques or FBI personnel in assessments. NSD recognizes that additional revisions to the DIOG may be needed in light of ongoing experience and in an effort to ensure that FBI investigative activity is performed with care to protect individual rights, that investigations are confined to matters of legitimate government interest, and that FBI's policies adequately respond to the nature of the threats facing the nation.

Interrogations

QUESTION 20: What is your assessment of the effectiveness of the High Value Detainee Interrogation Group (HIG)? What lessons have been learned from IDG deployments and resulting intelligence production with regard to effective interrogation methods, and how do those lessons apply to other FBI interrogations? What other lessons have been learned from the IDG, with regard to preparations for interrogations, inter-agency coordination, and dissemination of intelligence?

Answer: The High Value Detainee Interrogation Group (HIG) was developed as a result of an interagency task force that included representatives from across the Intelligence Community. A central purpose of the HIG is to integrate the most critical resources from across the government – including experienced interrogators, subject matter experts, intelligence analysts, and linguists – to conduct interrogations of terrorists, wherever they are encountered, with the best expertise focused on targets of the most intelligence value. Elements of the HIG have been deployed both internationally and domestically, and the HIG has contributed to the productive interrogation of terrorists suspects in all these settings.

QUESTION 21: Please describe your view on when, and under what circumstances, terrorist suspects, inside and outside the United States, should be provided *Miranda* warnings. Under what circumstances do you believe the public safety exception established in *New York v. Quarles* applies?

Answer: The policy issued by the FBI and incorporated into the DIOG makes clear that the first priority for interrogation of terrorists is to gather intelligence. The policy also directs agents to use, to the fullest extent, the public safety exception to the *Miranda* rule, as articulated by the Supreme Court in *New York v. Quarles*, in order to gather immediate threat information. The policy recognizes that the terrorism threat we face is complex and evolving, and that agents must exhaust all appropriate avenues of inquiry to identify imminent threats posed by an operational terrorist whom they may confront. I believe that is sound policy.

There is no legal requirement to provide a terrorist suspect with *Miranda* warnings prior to custodial interrogation. The consequence of not doing so is that the statements received may not be admissible in court if the questions exceed the scope of the *Quarles* exception, and this consequence is a factor to consider in determining whether to provide *Miranda* warnings in a given case.

Because we face an adaptable and evolving terrorist threat, we must use all tools at our disposal to detect and disrupt that threat. This includes using the public safety exception to *Miranda* in order to gather intelligence and to identify any imminent threat posed by that individual or others with whom they may be working. If I am confirmed, I would make it a priority to ensure that we bring all tools to the table to detect and disrupt national security threats – including prosecution in the civilian justice system, and military, intelligence, and diplomatic tools.

QUESTION 22: Please describe your view on the efficacy of debriefings after the issuance of *Miranda* warnings. Please describe the efficacy of debriefings after detainees are charged in the criminal justice system, including the role of proffer agreements and plea bargaining negotiations in eliciting additional information.

Answer: We have had great success in obtaining intelligence information from terrorists even after they have been read their *Miranda* rights. Similarly, proffer agreements and plea bargaining, with the assistance of defense counsel, can also be an important incentive in obtaining intelligence information from criminal defendants.

QUESTION 23: What role should the HIG or the NSD play with regard to the debriefings of individuals who have been charged in the criminal justice system and the dissemination of information obtained from those debriefings?

Answer: The HIG has the capability to elicit intelligence information domestically or overseas from persons charged in the criminal justice system in connection with our counterterrorism efforts. The HIG also has the ability to disseminate information obtained in questioning conducted by its personnel. NSD plays an important role in making sure that those debriefings and any disseminations are handled appropriately and in a way that is consistent with the government's national security interests, including in intelligence collection and criminal prosecution.

Counterterrorism Prosecutions

QUESTION 24: 28 C.F.R. §0.72(a)(8) assigns to the Assistant Attorney General for National Security the responsibility to prosecute and coordinate prosecutions and investigations targeting individuals and organizations involved in terrorist acts at home or against U.S. persons or interests abroad, or that assist in the financing of or providing support to those acts.

- a. Describe the personnel resources, both attorneys and others, within the NSD that are devoted to the prosecution of terrorism cases.

Answer: NSD's Counterterrorism Section (CTS) supervises a coordinated national counterterrorism enforcement program through close collaboration with Justice Department leadership, the National Security Branch of the FBI, the Intelligence Community and the 93 U.S. Attorneys' Offices around the country. Currently, the CTS has 46 attorneys and 12 non-attorneys on staff.

- b. Please provide up-to-date information on the status of major terrorism prosecutions during the last two years.

Answer: Below are examples of major public terrorism prosecutions during the past two years:

- Ahmed Abdulkadir Warsame: On December 21, 2011, Warsame pleaded guilty, pursuant to a cooperation agreement, to a nine-count indictment charging him with providing material support to al Shabaab and al Qaeda in the Arabian Peninsula (AQAP), as well as conspiring to teach and demonstrate the making of explosives, possessing firearms and explosives in furtherance of crimes of violence, and other violations. The guilty plea was unsealed on March 25, 2013. This prosecution remains pending.
- Mustafa Kamel Mustafa: On October 5, 2012, Mustafa (a/k/a Abu Hamza al Masri) was extradited to the Southern District of New York from the United Kingdom on an indictment charging multiple crimes, including conspiracy to take hostages and hostage-taking, and conspiracy to provide and providing material support to terrorists and al Qaeda. Mustafa is charged in connection with his alleged role in a hostage-taking in Yemen in 1998 that resulted in four deaths; a conspiracy to establish a terrorist training camp in Bly, Oregon; and supporting violent jihad in Afghanistan and 2000 and 2001. This prosecution remains pending.
- 1998 Embassy Bombing: Three defendants – Adel Abdel Bary, Khaled al Fawwaz, and Anas al Liby – are being prosecuted in the Southern District of New York in connection with the 1998 bombings of the U.S. Embassies in Kenya and Tanzania, which caused the deaths of 224 individuals and injured thousands more. Fawwaz and Bary were extradited from the United Kingdom on October 5, 2012. On October 12, 2013, Anas Al-Liby was arrested by the FBI on the indictment after his overseas transfer of custody from the Department of Defense. Since 2001, five other co-conspirators have been convicted of various offenses in connection with their roles in the al Qaeda conspiracies that culminated in the Embassy bombings and sentenced to life imprisonment. This prosecution remains pending.
- Sulaiman Abu Ghayth: Abu Ghayth has been charged with conspiracy to kill U.S. nationals and conspiracy to provide and providing material support to terrorists. According to court documents, from at least May 2001 up to around 2002, Abu Ghayth allegedly served alongside Usama bin Laden, appearing with bin Laden and his then-deputy Ayman al-Zawahiri, speaking on behalf of the terrorist organization and in support of his mission, and warning that attacks similar to those of September 11, 2001, would continue. This prosecution remains pending.
- Ibrahim Harun: On October 4, 2012, Harun was extradited from Italy to the Eastern District of New York on an indictment charging several terrorism-related

crimes, including conspiracy to murder American military personnel in Afghanistan, conspiracy to bomb American diplomatic facilities in Nigeria, conspiracy to provide and providing material support to al Qaeda, and related firearms and explosives counts. According to court documents, he allegedly arrived in Afghanistan shortly before the September 11, 2001 attacks. He then joined al Qaeda, received military-type training at al Qaeda training camps, and ultimately fought against United States and Coalition forces in Afghanistan with an al Qaeda fighting group based in Pakistan. In 2003, Harun traveled to Africa with the intent to conduct attacks on U.S. diplomatic facilities in Nigeria. After the arrest of a co-conspirator, Harun traveled to Libya, *en route* to Europe, but was apprehended in early 2005. He remained in Libyan custody until June 2011, when he was released and then arrested by Italian authorities. This prosecution remains pending.

- Dzhokhar Tsarnaev: On April 19, 2013, Tsarnaev was arrested in the District of Massachusetts in connection with his alleged role in the bombing attack on the Boston Marathon on April 15, 2013, the murder of MIT police officer Sean Collier, and the carjacking of a vehicle in Watertown, Massachusetts. On June 27, 2013, a federal grand jury subsequently returned a 30-count indictment that includes use of a weapon of mass destruction resulting in death and conspiracy, use of a firearm in during and in relation to a crime of violence causing death, and carjacking resulting in serious bodily injury. On January 30, 2014, the Attorney General determined that the United States would seek the death penalty in this matter. This prosecution remains pending.
- c. What is your view of the effectiveness of the Classified Information Procedures Act (CIPA) and the federal courts generally in protecting classified information while prosecuting terrorist suspects?

Answer: CIPA has proven to be a useful tool in the prosecution of national security cases and provides a carefully crafted balance between the Government's need to protect classified information and the rights of the accused to mount a full, vigorous defense. CIPA has been used extensively in the last thirty years in a variety of criminal cases; and while unauthorized disclosure cases present particular challenges, without CIPA the Government simply could not obtain criminal convictions in certain cases involving national security matters while simultaneously protecting the classified information necessarily involved in such matters.

Counterespionage Prosecutions

QUESTION 25: 28 C.F.R. §0.72(a)(7) assigns to the Assistant Attorney General for National Security the responsibility to prosecute federal crimes involving national security, foreign relations and terrorism, including espionage statutes.

- a. Describe the personnel resources, both attorneys and others, within the NSD that are devoted to the prosecution of espionage cases.

Answer: As noted in response to question 14, NSD's Counterespionage Section supervises the investigation and prosecution of espionage and related statutes. Currently, the Counterespionage Section is composed of 21 attorneys and 11 non-attorneys.

- b. Please provide up-to-date information on the status of major counterespionage and related prosecutions during the last two years.

Answer: Below are examples of major public counterespionage and related prosecutions during the past two years:

- United States v. Underwood, in which the defendant pleaded guilty to attempting to communicate national defense information in violation of 18 U.S.C. § 794 and was sentenced to 9 years;
- United States v. Soucid, in which the defendant was convicted at trial of violating 18 U.S.C. § 951 and was sentenced to 18 months;
- United States v. Mascheroni, in which the defendant pleaded guilty to numerous violations, including 42 U.S.C. § 2274 and 18 U.S.C. § 793, and has not yet been sentenced;
- United States v. Hoffman, in which the defendant was convicted of attempting to communicate national defense information in violation of 18 U.S.C. § 794 and has not yet been sentenced;
- United States v. Liew, in which the defendant was charged with numerous violations, including 18 U.S.C. § 1831, and the trial is ongoing;
- United States v. Corezing et al., in which numerous defendants were charged with conspiracy to defraud the United States through the illegal shipment of military antennas to the People's Republic. Defendants Hia Soo Gan Benson, also known as "Benson Hia," and Lim Kow Seng, also known as "Eric Lim," pleaded guilty to conspiracy to defraud the United States by dishonest means, in violation of 18 U.S.C. § 371, and were sentenced to 37 and 34 months respectively.
- United States v. Pratt & Whitney Canada, in which Pratt & Whitney Canada Corp. (PWC), a Canadian subsidiary of the Connecticut-based defense contractor United Technologies Corporation (UTC), pleaded guilty to violating the Arms Export Control Act and making false statements in connection with its illegal export to China of U.S.-origin military software used in the development of China's first modern military attack helicopter, the Z-10. In addition, UTC, its U.S.-based subsidiary Hamilton Sundstrand Corporation (HSC), and PWC agreed to pay more than \$75 million as part of

a deferred prosecution agreement in connection with the China arms export violations and for making false and belated disclosures to the U.S. government about these illegal exports.

- United States v. Ming Suan Zhang, in which Zhang pleaded guilty to violating the International Emergency Economic Powers Act by attempting to illegally export massive quantities of aerospace-grade carbon fiber from the United States to China and was sentenced to 57 months.
- United States v. Fishenko, in which 11 defendants were charged in a conspiracy to illegally ship high-tech microelectronics components to Russia. Defendants are pending trial.

OLC Opinions on Matters Within the Responsibility of the National Security Division

QUESTION 26: With respect to OLC opinions on matters related to the responsibilities of the NSD, or, if preceding the establishment of the NSD, were related to such matters as electronic surveillance, physical searches, or other methods of national security investigations that would now be of interest to the NSD, will you, if confirmed, undertake to do the following:

- a. Provide to the Committee a comprehensive list and description of OLC opinions on these subjects, particularly opinions that remain in force or are of significant historical value in understanding the development of the Government's legal theories;
- b. Provide to the Committee copies of those opinions, for handling in accordance with their classification, which are identified by or on behalf of the Committee as useful to it in the performance of its legislative and oversight responsibilities; and
- c. Promptly update the list and description as new opinions are issued and provide such new opinions to the Committee on request?
- d. If your answer to any part of Question 26 is no, or is qualified, please describe the basis, if any, for the Department of Justice to decline to provide information or material requested by the Committee under sections 502 or 503 of the *National Security Act of 1947* for the purpose of being fully and currently informed about the legal basis for intelligence activities or covert actions. Please identify in any such description the level of authorization in the Executive Branch required for any such refusal.

Answer: I appreciate the importance of the Committee's oversight role and its interest in the legal basis for intelligence activities or covert actions. However, I am not in a position to offer commitments as to how the Department may respond to particular requests for documents created by another Department component. I

understand that it is important for the Committee to receive information on the legal basis for intelligence activities or covert actions. If confirmed, I will consider it my responsibility to ensure that requests to the National Security Division for information over which it has control receive a timely and respectful response.

State Secrets

QUESTION 27: The Attorney General's September 23, 2009 memorandum on state secrets states, "[t]he Department will provide periodic reports to appropriate oversight committees of Congress with respect to all cases in which the Department invokes the privilege on behalf of departments or agencies in litigation, explaining the basis for invoking the privilege." Do you agree to fully comply with this obligation, including with regard to pending litigation?

Answer: I understand that the Department's policy remains to provide periodic reports to appropriate oversight committees of Congress regarding invocations of the State Secrets Privilege in litigation, and the Department provided its initial report to Congress on April 29, 2011. I believe that the Department plans to submit another report in the near future.