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**SELECT COMMITTEE ON  
INTELLIGENCE**

**UNITED STATES SENATE**



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

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***CIA IG Access to Information***

**QUESTION 1:** By statute (50 U.S.C. § 3517(e)(2)), the Central Intelligence Agency (CIA) Inspector General (IG) “shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section.”

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

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

To be clear, it is my understanding that the provision grants the CIA IG broad and unencumbered access to any and all CIA employees and contractors, as well as to any and all records, things or other Agency materials needed by the IG to perform and/or complete any of its statutory duties and responsibilities. Notably, the provision contains no limitations on the IG’s authority to access those persons and materials, with the exception set forth in 50 U.S.C. §3517(b)(3), which grants the Director the authority to prohibit the IG from carrying out his or her duties when necessary to protect the vital national security interests of the United States.

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

If a member of the IG’s staff, in the performance of his or her official duties, were refused access to an Agency employee or Agency contractor, or was refused access to any relevant documents or materials, I would first seek to determine the reason for the refusal. I would ask the assigned IG staff member to advise the refusing party of the legal authorities granting the IG unrestricted access to the information



requested. If necessary, either I or a supervisory member of the IG's Office would speak directly with the refusing party's supervisor. In the event these interventions failed to resolve the problem, I would personally inform the Director of the CIA of the violation and request assistance in obtaining the access needed. In the unlikely event that the Director failed to provide help, and the IG's Office was still being refused access to the employee or relevant information, I would inform the intelligence committees of the disagreement and request their assistance. In fact, 50 U.S.C. § 3517(d)(2) and (3)(E) require that the IG inform the Director of a significant problem or abuse and that the IG notify the intelligence committees when unable to obtain significant documentary information in the course of an audit, inspection or investigation, respectively.

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

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

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

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

I understand that the work of the CIA OIG complies with the standards published by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), of which I understand the CIA OIG is a member. I further understand that published CIGIE standards address the subject of independent verification and types of evidence gathered during the course of a project. If confirmed, I would continue to

be guided by CIGIE standards and best practices with regard to balancing independent verification of information against accepting CIA representations to OIG personnel and caveats regarding information not independently confirmed.

***Sources of Complaints and Protection of Whistleblowers***

**QUESTION 2:** By statute (50 U.S.C. § 3517(e)(3)(A)), the CIA IG “is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety.”

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

I have not had the opportunity to examine and evaluate the procedures and policies currently in place to inform CIA employees and others, within and outside government, of the avenues available to them for filing complaints or otherwise providing information to the CIA IG. However, it is my understanding that the CIA and the IG’s Office currently employ a number of outreach methods and procedures to inform individuals of their opportunity to report information to the IG, including: OIG Hotline, speaking engagements, training sessions with all employees, and the posting and dissemination of informational materials.

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

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



While I am aware of the procedures and policies listed in my answer to Question 2(a), I have not had the opportunity to fully review and evaluate all of the formal policies and procedures currently in place to inform CIA employees and contractors of their right to provide information to the CIA IG, and to detect and protect against reprisal for making complaints or disclosing information to the IG. However, I understand that Agency regulations designate the IG as the point of contact for employees to report allegations of reprisal for making lawful disclosures pursuant to whistleblower laws and regulations; and that the IG is tasked with reviewing and investigating such allegations pursuant to applicable law and regulations, including Presidential Policy Directive (PPD)-19 and Intelligence Community Directive (ICD)-120. Additionally, I understand that leadership in the Office of Congressional Affairs, along with the IG, serves as a channel through which employees and contractors of the Agency may communicate with members of Congress.

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

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

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

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

**QUESTION 3:** What are your views of a whistleblower's ability to communicate with Congress?

I recognize the important function that whistleblowers have in identifying waste, fraud, and abuse, as well as the importance of ensuring that the Congressional intelligence committees are kept appropriately informed in accordance with applicable law. Specifically, pursuant to 50 U.S.C. § 3517(d)(5), a CIA employee or contractor, who intends to report to Congress a complaint or information with respect to an "urgent concern", may report such complaint or information to the CIA IG. The IG, if it determines that the matter fits the statutory definition of an "urgent concern" and the complaint or information appears credible, must inform the Director of the complaint or information, and ultimately the intelligence committees. The IG also has the responsibility of notifying the reporting employee or contractor of every action taken by the Agency with regard to the complaint or information received. I commit to ensuring that any complaint or information submitted to CIA OIG under 50 U.S.C. § 3517(d)(5) is handled in accordance with those statutorily prescribed procedures.

***CIA IG Review of Covert Actions***

**QUESTION 4:** Under an arrangement between the CIA IG and the congressional intelligence committees begun in 2001, the CIA IG conducts a detailed review on each authorized covert action program every three years, which has been extremely helpful for our congressional oversight.

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

Yes, I intend to continue this practice. I believe regularly reviewing each covert action is important work which helps promote effective oversight and enhance accountability.

- b. Are there other CIA programs or practices of which you are aware that should have the same kind of regular, periodic, oversight from the CIA IG's Office?

It is my understanding that, in addition to covert action reviews, CIA OIG also conducts the regular and periodic oversight work related to the Federal Information Security Modernization Act, the Payment Integrity Information Act, risk



assessments of purchase and travel card programs, and oversees the audit of the CIA's financial statements.

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

### ***Personnel and Budgetary Resources***

**QUESTION 5:** Pursuant to 50 U.S.C. § 3517(e)(7)(B), the CIA IG has “final approval of . . . the selection of internal and external candidates for employment with the Office of Inspector General; and . . . all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of other Central Intelligence Agency offices.” In addition, pursuant to 50 U.S.C. § 3517(f)(2), the CIA IG “shall transmit a budget estimate and request through the Director to the Director of National Intelligence” specifying certain amounts requested for each fiscal year.

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

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

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

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

***Government Accountability Office (GAO)***

**QUESTION 6:** Pursuant to Section 348 of the *Intelligence Authorization Act for Fiscal Year 2010* (P.L. 111-259), the Director of National Intelligence has issued a directive on the access of the Comptroller General to information in the possession of an element of the Intelligence Community.

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

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

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

- b. Please describe your views on what coordination between the CIA IG and GAO would be desirable to assure full coverage of oversight



requirements while avoiding conflict or duplication, and while assuring the protection of classified information from inappropriate disclosure.

When appropriate, the CIA IG should coordinate activities with the GAO to avoid conflicts and duplicative efforts. Otherwise please see my answer to Question 6.a.

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

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

### ***CIA IG Work Plan***

**QUESTION 7:** If confirmed, how will you determine the investigations and reports that are necessary or desirable to complete each year?

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

**QUESTION 8:** Will you develop an annual work plan for the CIA IG’s Office?

Yes, I anticipate developing an OIG work plan. I also anticipate consulting with the intelligence committees in advance of finalizing the annual work plans.

- a. If confirmed, would you review with the intent to revise the annual work plan already submitted?

If confirmed, I plan to review and consult with OIG staff regarding the current annual work plan. However, because it is reasonable to assume that some of the projects

listed in the work plan would already be in progress, I would not be reviewing the work plan with the specific intent to significantly revise it. Nevertheless, should the need arise, as a result of changing circumstances or priorities, or in response to emerging or unanticipated issues, I would consider whether it would be appropriate to add new projects or re-prioritize current projects and proceed accordingly.

- b. Will you consult with the intelligence oversight committees in Congress in advance on your work plan? Why or why not?

It is my belief that a strong line of communication should be maintained between the OIG and Congress, and that a trusted professional working relationship is of critical importance to the OIG mission.

### *Consultations about Reports*

**QUESTION 9:** Under what circumstances, if any, do you believe it would be appropriate for the CIA IG to consult with officials in the CIA, or other officials of an IC element (outside of an IG office), before issuing a report, regarding the findings and recommendations in the report?

It is my understanding that it is the practice of the CIA IG to provide copies of draft reports of audits, inspections and certain reviews to appropriate Agency personnel prior to formal issuance of those reports. I also understand that this practice, which is consistent with CIGIE standards, permits the OIG to review and, when appropriate, reflect and/or incorporate comments and factual corrections, provided by the appropriate CIA element, into the report.

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

**QUESTION 10:** To the extent that you believe such consultation is appropriate, what steps, if any, do you believe the IG should take to keep a record of the consultation and record the results in the text of the report?

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



**QUESTION 11:** Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the CIA IG not investigate or review a particular matter, as provided in 50 U.S.C. § 3517(b)(3)?

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

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

**QUESTION 12:** Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the CIA IG not issue a report on a particular matter, as provided in 50 U.S.C. § 3517(b)(3)?

Consistent with my answer to Question 11, I can imagine there might be circumstances where a senior CIA official believes it would be appropriate to request that the OIG not issue a report where the official believes doing so would threaten the national security interests of the United States. Certainly, such a request would be appropriate if it met the standards set forth in 50 U.S.C. § 3517(b)(3).

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



appropriate steps, in the case of national security concerns, to protect the information as required by law and CIA regulations.

**QUESTION 13:** Under what circumstances, if any, do you believe it would be appropriate for senior officials to request that the CIA IG change findings, recommendations, or other pertinent material in a report on a particular matter?

As I explained in my answer to Question 9, it is my understanding that CIA IG, consistent with CIGIE standards, routinely provides copies of draft reports of audits, inspections and certain reviews to appropriate Agency personnel so that they have ample opportunity to review the report and provide comments, including recommendations and factual corrections, prior to the report becoming final. Allowing such input by the Agency is a positive and constructive process which does not undermine the integrity of the report or the independence of the OIG, which appropriately takes the Agency's comments into account before exercising its independent authority and issuing the report in final form. To be clear, the CIA IG retains the ultimate authority to independently determine a report's final conclusions, findings, and recommendations.

**QUESTION 14:** Do you commit to working directly with the congressional intelligence committees and providing information directly to the committees, rather than through the CIA's Office of Congressional Affairs?

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

**QUESTION 15:** Do you commit to notifying the congressional intelligence committees of any effort to obstruct or curtail an OIG investigation, delay the issuance of an OIG report, or otherwise interfere in the functioning of the OIG, irrespective of the source of that interference?

As explained below, and similar to the approach I described in response to Question 1.b., if such a circumstance were to arise, I would first attempt to resolve the problem by speaking with the obstructing, delaying, or interfering party's supervisor. In the event these interventions failed to resolve the problem, I would personally inform the Director of the CIA of the problem. In fact, 50 U.S.C. §3517(d)(2) requires that the IG inform the Director of a significant problem or abuse. In the unlikely event that consultations with the Director failed to resolve the matter, and the IG's Office was still being obstructed, delayed, or interfered with, I would inform the intelligence committees of the disagreement and request their assistance in



accordance with 50 U.S.C. §3517(d)(3)(A), which requires that the IG notify the intelligence committees when unable to resolve differences affecting the execution of the IG's duties or responsibilities.

**QUESTION 16:** What is your position on the role of the CIA IG to monitor CIA adherence to congressional intent and direction?

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

**QUESTION 17:** Do you commit to consult with the congressional intelligence committees to help determine CIA adherence to congressional intent and direction? Why or why not?

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

**QUESTION 18:** If you do commit to consulting with the congressional intelligence committees, what would your approach be in making these congressional consultations, and how would these consultations inform or revise your annual work plan?

My understanding is that CIA IG's current practice is to regularly communicate directly with the congressional intelligence committees, to include consultation regarding CIA IG's annual work plan. It is my intent to continue this practice as long as it complies with federal law and regulations. I believe that CIA IG and the congressional intelligence committees should continue to be partners in the oversight process, consistent with our respective constitutional and legal responsibilities.

**QUESTION 19:** Please describe your views on the appropriate relationship between the CIA IG and the CIA Office of General Counsel with regard to legal issues. Do you commit to independently analyzing legal issues related to the role, responsibilities, and functions of the IG's Office?

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

***Major Challenges, Problems, and Priorities***

**QUESTION 20:** In your view, what are the major challenges, problems, and priorities facing the CIA IG's Office?

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

**QUESTION 21:** If confirmed, how do you plan to address those challenges, problems, and priorities?

As I explained in Question 20, once confirmed, after assessing the major challenges and problems facing the OIG, I look forward to working with the OIG leadership team to identify resolutions and action plans to properly address those challenges and problems.



### ***Whistleblowers***

**QUESTION 22:** To your knowledge, have you ever been the subject of a whistleblower complaint? If yes, please provide dates and content of each complaint of which you are aware.

No, not to my knowledge.

**QUESTION 23:** What is your view of the role of the CIA IG in managing and investigating whistleblower complaints? How much of a priority will you make managing and investigating whistleblower complaints if confirmed as the CIA IG?

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

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

In addition to the above, pursuant to 50 U.S.C. §3517(d)(5), where the OIG finds flagrant or particularly serious problems, or “urgent concerns” as the term is legally defined, it is obligated to report them to the Director, and assure that the intelligence committees are notified as required by law. Further, a CIA employee

or contractor, who intends to report to Congress a complaint or information with respect to an “urgent concern”, may report such complaint or information to the CIA IG. The IG, if it determines that the information is credible, must inform the Director of the complaint or information, and ultimately the intelligence committees. The IG also has the responsibility of notifying the reporting employee or contractor of every action taken by the Agency with regard to the complaint or information received.

**QUESTION 24:** Will you seek to strengthen the CIA IG’s role relative to whistleblower protections? If yes, how will you strengthen the whistleblower protection activities of the CIA IG?

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

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

### *Independence*

**QUESTION 25:** In general, what would be your approach to ensuring the IG’s independence, if you are confirmed as the next CIA IG?

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

Therefore, if confirmed, my approach to ensuring the independence of the CIA OIG would be to approach and conduct all work within the IG’s Office in an



honest, impartial and unbiased manner, free of any individual or political agendas, influences or pressures, regardless of source or magnitude; and to always speak truth to power, whether that “power” be the Director, the White House, this Committee, or anyone else; and, consistent with the principles of Lady Justice, to always professionally and ethically follow the law and facts wherever they might lead.

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

### *Professional Experience*

**QUESTION 26:** Please describe specifically how each of your professional experiences will enable you to serve effectively as the IC IG. Please include within each response a description of issues relating to the position that you can identify based on those experiences.

As more fully discussed in response to Questions 10 and 14 of the Biographical Background Questionnaire, I have broad experience working as a federal prosecutor investigating fraud, waste, and abuse in a variety of contexts by conducting and supervising numerous criminal investigations and prosecutions in a wide variety of cases, to include corruption, theft, embezzlement, money-laundering, fraud, drug-trafficking, and other white-collar crimes. I also have extensive experience as a former prosecutor working closely with forensic investigators, auditors, analysts, and accountants in reviewing, auditing, and analyzing voluminous amounts of data and records related to criminal investigations. Additionally, I have substantial experience in criminal cases and investigations involving confidential informants, undercover operations, electronic surveillance, and other sensitive investigative techniques, as well as national security equities. Further, as a private law practitioner, I have conducted internal investigations on behalf of individual and business clients. Each of these experiences will inform how I follow the facts and faithfully apply the law in an independent, unbiased, and objective manner.

**Question from Senator Warner**

**QUESTION 27:** Under what circumstances, if any, do you believe it would be appropriate for the Director of the CIA to terminate the employment of personnel within the CIA IG's Office other than pursuant to a security-based determination?

My understanding is that 50 U.S.C. § 3036(e)(1) specifies that, notwithstanding other provisions of law, the Director of the CIA, may, in his discretion, terminate the employment of any officer or employee of the CIA whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

I also understand that 50 U.S.C. § 3517(e)(7)(A) requires that the Inspector General select, appoint, and employ such officers and employees as may be necessary to carry out the IG's functions. The IG also is required to ensure that OIG officers and employees have sufficient training to perform effectively, and to create a career cadre of sufficient size to provide appropriate continuity and objectivity to perform the OIG's duties. Further, 50 U.S.C. § 3517(e)(7)(B) specifies that, consistent with the budgetary and personnel resources allocated by the Director, the Inspector General has final approval of the selection of internal and external candidates for employment with OIG, and all other personnel decisions concerning personnel permanently assigned to OIG, other than security-based determinations. These provisions are important to enabling OIG to perform its important oversight mission and help to maintain OIG's independence and objectivity, by insulating OIG personnel from improper pressure and undue influence from outside OIG.

Therefore, if a circumstance were to arise in which the Director was considering exercising his discretion under 50 U.S.C § 3036(e)(1) with respect to an OIG officer, I would expect to consult with the Director in an effort to ensure that OIG's independence and statutory authorities are maintained, as well as the IG's personnel authorities and responsibilities, in accordance with applicable law.

**Questions from Senator Wyden*****Whistleblowers***

**QUESTION 28:** During her confirmation process, Director Gabbard wrote: "Whistleblowers are essential to ensuring accountability and oversight within the IC, and they must have clear, protected channels to report concerns, including the



unauthorized transmittal of classified information to appropriate entities such as Members of Congress, Inspectors General (IGs), and other authorized recipients.” During her confirmation hearing, Director Gabbard was asked if she agreed “that IC whistleblowers must have a clear path to this committee and that they don’t need permission from agencies to talk to [the committee],” to which Director Gabbard responded, “the answer is clearly yes.” Do you agree?

I certainly agree with the DNI’s description of the importance of providing clear protected channels so that IC employees can report concerns to authorized recipients, including the Congressional Intelligence Committees. I have not had the opportunity to examine and evaluate all of the procedures and policies currently in place for CIA officers and contractors applicable to whistleblower reporting. However, my understanding is that the Intelligence Community Whistleblower Protection Act establishes a means by which IC employees may report to Congress complaints or information pertaining to urgent concerns, including classified information, without concern for reprisal. Additionally, as noted in my responses to Questions 2, 3, 23, and 24, there are other statutes and policy documents that provide further protection for engaging in lawful whistleblowing activity.

**QUESTION 29:** During your previous confirmation process, you wrote: “Drawing from my experience as a federal prosecutor, the OIG should strive to protect the identities of whistleblowers who seek such protection with the same vigor and commitment as federal prosecutors and agents who protect confidential informants.” What criminal, administrative, or other sanctions or punishments should apply to individuals who compromise the identities of whistleblowers?

Although I have not had the opportunity to examine and evaluate all of the procedures and policies currently in place that might be applicable, I would consider the improper disclosure of whistleblower identities to be a serious matter and there should be appropriate penalties or sanctions for such misconduct. Based on my experience as a federal prosecutor, however, the type of sanction or punishment applicable in a particular case must be based upon the facts and circumstances of that case. Further, the unauthorized disclosure of a whistleblower’s identity is such a serious matter, in part, because of the potential for reprisal against the whistleblower, and because such disclosures can discourage others with information concerning fraud, waste, abuse, or misconduct from coming forward. Ultimately, the unauthorized disclosure of whistleblower identities can be disruptive to CIA OIG’s ability to maintain a trusted means for bringing wrongdoing and other problems to light within the Agency, and to Congress. For these reasons, I am fully committed to protecting whistleblower confidentiality and will vigorously investigate alleged

unauthorized disclosures of a whistleblower's identity. In conducting such investigations, I will follow the facts and apply the law, and if the investigation results in a finding of misconduct, I will seek the appropriate sanction under the circumstances and in accordance with applicable law, rule, regulation, or other policy directive.

### *Independence*

**QUESTION 30:** During your previous confirmation process to be CIA Inspector General, you wrote: "Pursuant to 50 U.S.C. §3517(e)(8)(A), the CIA IG must appoint his or her own counsel who shall report directly to the IG; or, alternatively, the IG may obtain the services of a counsel appointed by and directly reporting to another IG. Although I can envision there might be circumstances in which the CIA IG and OGC have to consult with one another, the CIA IG must be counseled and advised independently on OIG-related legal matters by attorneys who are answerable only to the IG." Is that still your position?

Yes. Please see my response to Question 19.

**QUESTION 31:** 50 USC § 3517(e)(7)(B) states: "Consistent with budgetary and personnel resources allocated by the Director, the Inspector General has final approval of the selection of internal and external candidates for employment with the Office of Inspector General; and all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security-based determinations that are not within the authority of a head of other Central Intelligence Agency offices."

a. How would you ensure the independence of IG employment decisions?

If confirmed, I would ensure the independence of IG employment decisions by exercising the IG's authority in the manner specified in 50 U.S.C. § 3517(e)(7)(A) and (e)(7)(B). I have not had the opportunity to review and evaluate the specific mechanisms, policies, and procedures used by the IG's to ensure that IG employment decisions are made in accordance with the statute. However, if I am confirmed, I will certainly review and evaluate whether the current processes and procedures are sufficient to ensure that IG employment decisions are being made in accordance with 50 USC § 3517(e)(7), and take any appropriate actions to ensure compliance with the statute.



- b. How would you protect OIG personnel from firing, transfer or involuntary administrative leave not approved by the Inspector General?

Similar to my response Question 31.a., I have not had the opportunity to review and evaluate the specific mechanisms, policies, and procedures that might be applicable to a circumstance in which an official seeks to take an adverse personnel action against an OIG officer without the IG's approval. However, generally speaking, if such a circumstance were to arise, I would first attempt to ascertain the basis for such an action and attempt to resolve the problem by speaking with the official seeking to take the adverse personnel action without my approval. In the event this effort failed to resolve the problem, I would personally inform the CIA Director of the problem pursuant to 50 U.S.C. § 3517(d)(2), which requires that the IG inform the Director of a significant problem or abuse. In the unlikely event that consultations with the Director failed to resolve the matter, and the adverse personnel action was still being pursued without my approval, I would inform the intelligence committees of the disagreement and request their assistance in accordance with 50 U.S.C. §3517(d)(3)(A), which requires that the IG notify the intelligence committees when unable to resolve differences affecting the execution of the IG's duties or responsibilities.

Additionally, as I indicated in response to Question 27, if a circumstance were to arise in which the Director was considering exercising his discretion under 50 U.S.C. § 3036(e)(1) with respect to an OIG officer, I would expect to consult with the Director in an effort to ensure that OIG's independence and statutory authorities are maintained, as well as the IG's personnel authorities and responsibilities, in accordance with applicable law.