

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE



**Additional Prehearing Questions for
Joshua Simmons upon his nomination to be
General Counsel of the Central Intelligence Agency**

Relations with the Congressional Intelligence Committees

1. 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 to the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities.

a. What is your understanding of the standard for meaningful compliance with the obligation of the Director of the Central Intelligence Agency (CIA) to keep the congressional intelligence committees, including all their Members, fully and currently informed of intelligence activities?

I understand that the obligation of the CIA to keep the congressional intelligence committees “fully and currently informed,” as outlined in the National Security Act of 1947, sets the standard for meaningful compliance as the provision of timely, accurate, and complete information about the Agency's intelligence activities “[t]o 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.” 50 U.S.C. 3092(a)(1). This includes significant anticipated intelligence activities, any significant intelligence failure, and additional information about intelligence activities as requested by the committees to enable them to carry out their oversight responsibilities. I recognize the importance of the committees’ oversight function, and if confirmed, I commit to working with Agency leadership and personnel to adhere to these statutory obligations and to support the Agency in maintaining a strong relationship with the committees.

b. Section 503(c)(2) of the National Security Act (50 U.S.C. § 3093(c)(2)) describes the “Gang of Eight” briefings to the Chairman and Vice Chairman in the context of covert action. Are there circumstances in which the “Gang of Eight” briefings can apply to other than time-sensitive tactical matters? If so, please elaborate.

Section 503 of the National Security Act provides that the President may determine that “it is essential to limit access” to a finding or notification about covert action “to meet extraordinary circumstances affecting vital interests of the United States,” and in those circumstances allows for reporting only to the chairmen and ranking minority members of the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, the majority and minority leaders of the

Senate, and such other member or members of the congressional leadership as may be included by the President. 50 U.S.C. § 3093(c)(2). That provision is not specifically limited to time-sensitive tactical matters. I have not yet been briefed on the circumstances in which more limited notifications may be used, but if confirmed, I commit to working with Agency leadership and personnel to ensure that the CIA meets its obligations to keep Congressional oversight fully and currently informed of intelligence activities.

c. Are there circumstances in which the CIA can limit briefings to the Chairman and Vice Chairman on intelligence activities that are not covert action? If so, what would be the statutory basis for such limited briefings?

There may be circumstances in which it could be appropriate to limit such briefings consistent with Section 502 of the National Security Act. Section 502 requires that congressional notification on intelligence activities other than covert action be “consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods and other exceptionally sensitive matters.” 50 U.S.C. § 3092. That provision contemplates more limited notification of other intelligence activities in appropriate circumstances. If confirmed, I look forward to learning how the Agency has applied this principle and ensuring that the CIA meets its obligations to keep Congressional oversight fully and currently informed of intelligence activities.

d. Are there any circumstances in which briefings limited to the Chairman and Vice Chairman would be intended to or have the effect of concealing from the full Committee significant legal analyses? If so, please elaborate.

Section 502(a)(2) specifically requires that the CIA “furnish the congressional intelligence committees any information or material concerning intelligence activities (including the legal basis under which the intelligence activity is being or was conducted),” so legal analysis is presumptively included in CIA’s briefings and notifications. 50 U.S.C. § 3092(a)(2). Sections 502 and 503 also contemplate, however, limited notifications to protect highly sensitive information such as sensitive sources and methods, either in the context of extraordinary circumstances affecting vital interests of the United States or in relation to the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods and other exceptionally sensitive matters. I have not yet been briefed on the

particular circumstances in which more limited notifications have been provided, but withholding information from the full Committee without justification consistent with the law and solely for purposes of concealing significant legal analysis would not be permissible.

2. Sections 502 and 503 of the *National Security Act* (50 U.S.C. §§ 3092-93) obligate the Director of the CIA to furnish the congressional intelligence committees with the legal bases for intelligence activities, as requested by the committees. In addition to adhering to this requirement, do you agree to affirmatively notify the committees of any novel legal analyses underlying CIA programs and activities?

Yes, 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, and in accordance with any Presidential determination to limit access to covert action-related information under Section 503. Under Section 510 (50 U.S.C. § 3109), the CIA General Counsel is responsible for providing timely notification to the intelligence committees of significant legal interpretations of the U.S. Constitution or federal law affecting intelligence activities conducted by the CIA. If confirmed, I would view this as an important part of my role.

3. According to the CIA Inspector General, in January 2014, CIA personnel improperly accessed Senate Intelligence Committee staff files and records. To the extent CIA manages or operates systems used by the congressional intelligence committees, will you ensure, if you are confirmed, that no such intrusions occur in the future?"

If confirmed, I will work to ensure that appropriate steps are taken to prevent any improper access to Committee staff files and records.

4. Title 50, section 3349 requires notification to the congressional intelligence committees in the event of an authorized disclosure to the press or the public of classified information. If confirmed, will you ensure that the congressional intelligence committees receive timely notification of authorized disclosures, as required by the law?

Yes, if confirmed, I will work to ensure such timely notification in accordance with the law.

Priorities of the Director of the Central Intelligence Agency

5. Have you discussed with the Director of the CIA his specific expectations of you, if confirmed as General Counsel, and his expectations of the Office of the General Counsel as a whole? If so, please describe those expectations.

Yes, Director Ratcliffe and I have discussed his expectations for me, if confirmed as General Counsel. He expects that I will serve ably as the CIA's chief legal officer and provide effective leadership of the Office of General Counsel. Consistent with Director Ratcliffe's commitment to follow the rule of law, he expects that I will provide accurate, clear, and timely legal advice, including about the scope of the CIA's authorities and obligations under applicable law.

Office of the General Counsel

6. What is your understanding of the responsibility of the General Counsel of the CIA in ensuring that all activities of the CIA are undertaken in accordance with the U.S. Constitution, U.S. treaty obligations, the laws of the United States, and relevant executive orders and associated guidelines?

The General Counsel of the CIA is the Chief Legal Officer, as defined in the CIA Act of 1949, and performs the functions that the Director of the CIA prescribes. The General Counsel provides legal advice to the Director and Agency personnel on the full range of Agency activities, working with the attorneys, paralegals, and other staff in the Office of General Counsel. The General Counsel is responsible for ensuring that all CIA activities are conducted in accordance with the Constitution and applicable law.

7. The Office of the General Counsel of the CIA has a myriad of roles and responsibilities. What are your expectations for the Office?

I expect the Office of General Counsel to provide accurate, clear, and timely legal advice to help the Agency carry out its critical work to the fullest extent permitted by applicable law. I also expect the Office of General Counsel to distinguish legal requirements from policy matters, and to do so without undue delay that could encumber operations; and to play an integral role in the Agency's compliance functions, including matters involving congressional oversight.

a. Do you have any preliminary observations on the Office's responsibilities, performance, and effectiveness?

Based on my limited interactions with the Office of General Counsel to date, I have observed that the office is composed of highly dedicated and capable professionals. My experience in the Office of the Legal Adviser at the Department of State leading over 300 attorneys has prepared me well to lead an office of this size, and if confirmed, I plan to make the management of the Office of General Counsel a priority. I look forward to getting to know the attorneys and other staff in the Office of General Counsel and ensuring they are able to effectively carry out their duties and responsibilities to the Agency and its workforce.

b. If confirmed, will you seek to make changes in the number or qualifications of attorneys in the Office, or in the operations of the Office?

I have not yet had the opportunity to be briefed on the operations or demands of the Office of General Counsel. If confirmed, I look forward to understanding more about the Office of General Counsel and working to ensure that it is adequately resourced with the necessary expertise and training to meet the CIA's needs, as informed by the Director's priorities.

c. What do you understand your responsibility to be to manage and oversee the legal work of the attorneys from the Office of the General Counsel who are assigned to the various components of the CIA and how would you carry out this responsibility, if confirmed?

As noted in the response to question 6, the General Counsel is, by statute, the chief legal officer of the CIA. In that capacity, the General Counsel is responsible for the management and oversight of all Office of General Counsel attorneys at the CIA, including those who are assigned to directly advise components of the CIA. If confirmed, I would prioritize effective management and oversight of the Office of General Counsel, including by enhancing collaboration among lawyers who are assigned to different components.

Relationships with Other Elements of the U.S. Government

8. Describe your understanding of the responsibilities of the Director of National Intelligence and the General Counsel of the Office of the Director of National Intelligence in reviewing and providing legal advice on the programs and activities of the CIA, including covert actions.

Pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004, the Director of National Intelligence (DNI) serves as the head of the Intelligence Community and the principal advisor to the President for intelligence matters related to the national security. In this capacity, the DNI generally coordinates and provides guidance on activities that affect multiple intelligence community elements. This contemplates both an oversight role and a collaborative role with the CIA and helps to ensure that the CIA's activities are considered together with the broader intelligence community strategy. For example, the National Security Act provides that the DNI shall "determine requirements and priorities for, and manage and direct the tasking of, collection," including by "approving requirements...for collection" and "resolving conflicts in collection requirements and in the tasking of national collection assets" of intelligence community elements. 50 U.S.C. § 3024(f)(1)(A)(ii). With respect to the ODNI General Counsel, there is a clear statutory framework setting out respective roles, and if confirmed, I would seek to develop a strong, collaborative relationship with the General Counsel of the ODNI.

9. Describe your understanding of the responsibility of the General Counsel of the CIA to bring issues of legal significance to the attention of the Office of the General Counsel of the Director of National Intelligence.

The CIA and the Office of the Director of National Intelligence are both well served when their General Counsels foster a close working relationship characterized by open communication and collaboration. If confirmed, I would expect to work productively with my counterpart at ODNI on significant matters of legal policy and interpretation, as well as legal issues and requirements that impact the Intelligence Community more broadly.

10. Under what circumstances is it appropriate or necessary for the CIA to seek guidance from the Department of Justice Office of Legal Counsel before initiating, continuing, modifying, or ending an intelligence program or activity?

It can be appropriate or necessary to seek guidance from the Department of Justice's Office of Legal Counsel (OLC) to resolve particularly complex, significant, or novel matters of law, or to resolve conflicting legal positions among agencies. I understand that the CIA's Office of General Counsel maintains a positive working relationship with OLC, which I would intend to carry forward if confirmed.

Covert Action

11. Under what circumstances must covert action involving the use of force comply with treaties to which the United States is a party, including the United Nations Charter and the Geneva Conventions?

Section 503(a)(5) of the National Security Act of 1947 makes clear that covert action must be conducted in accordance with the Constitution and any statute of the United States, which can include relevant treaty obligations that have been implemented in such a statute. I understand that, as a general matter, the United States complies with international law to the extent possible in the conduct of covert action.

12. Section 503 of the National Security Act (50 U.S.C. § 3093) places limits on the activities that may be conducted as "covert actions." In particular, covert actions do not include "traditional... military activities or routine support to such activities."

- a. What is your understanding of the definition of traditional military activities?**
- b. What is your understanding of the definition of routine support to traditional military activities?**
- c. What factors would you use in testing whether a proposed covert action involves traditional military activities or routine support to such activities? Please provide one or two illustrative examples.**

Section 503(e) of the National Security Act defines the term “covert action” to mean “an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.” 50 U.S.C. § 3093(e). While Congress has not defined the term “traditional military activities,” it has in other statutes identified particular activities that fall within it. *See* 10 U.S.C. § 394 (“clandestine military activity or activity in cyberspace”); 10 U.S.C. § 397 note (“clandestine military operation in the information environment”). If confirmed, I would look to principles of statutory interpretation and historical practice, in consultation with counsel at the CIA and other agencies, to apply the term to any given set of facts.

13. Section 104A(d)(4) of the *National Security Act* (50 U.S.C. § 3036) includes, among the duties of the Director of the CIA: “perform such other functions and duties related to intelligence affecting the national security as the President or the Director of National Intelligence may direct.” The Director’s duties related to the CIA’s collection and analytical missions are described in 50 U.S.C. § 3036(d)(1)-(3). All covert action is governed by Section 503 (50 U.S.C. § 3093) of the Act. Please describe any “other functions and duties” that could be authorized under 50 U.S.C. § 3036(d)(4).

I have not yet been briefed on the kinds of activities that have been authorized under this particular provision of the National Security Act. If confirmed, I look forward to learning more about how this provision has been applied and ensuring that the Office of General Counsel appropriately advises on its scope.

Rendition

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

a. To what extent does U.S. compliance with this obligation depend on diplomatic assurances provided by countries to which detainees may be extradited or rendered?

b. Should those assurances be conveyed in writing, so that a record of their

provision and receipt is established?

- c. Should such assurances be accepted from countries with established records of committing torture?**
- d. What is the role of the Office of General Counsel in ensuring that “diplomatic assurances” that detainees will not be subject to torture are credible?**

Section 2242(a) of the Foreign Affairs Reform and Restructuring Act of 1998 states that it is policy of the United States “not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.” Diplomatic assurances, as well as assessments of the reliability and credibility of such assurances, are important in determining whether the legal standards for return or extradition have been satisfied. As Director Ratcliffe has stated, this would require a case-by-case assessment, taking into account all relevant factors and information known to the CIA at the time. I am not yet familiar with the role that the Office of the General Counsel typically plays in such matters at the CIA, but, if confirmed, I will help ensure that the Office of General Counsel supports the U.S. Government in complying with all applicable law.

Chief of Mission Authority

15. Title 22, section 3927 states that: “Under the direction of the President, the chief of mission to a foreign country... shall have full responsibility for the direction, coordination, and supervision of all Government executive branch employees in that country....” Absent direction from the President, is the CIA obligated to cease intelligence activities that do not have the approval of the chief of mission?

Pursuant to 22 U.S.C. § 3927, CIA personnel fall under the responsibility of the Chief of Mission and are required to keep the Chief of Mission fully and currently informed with respect to all activities and operations within that country, and to comply fully with all applicable directives of the Chief of Mission. Director Ratcliffe has emphasized the importance of the relationship between the CIA and the Department of State, and I agree based on my experience at the State Department. In the event that the Chief of Mission disagrees on an intelligence activity, that activity should be

referred back to the CIA and the State Department for resolution.

Intelligence Collection

16. As defined in Title 50, “the term ‘intelligence’ includes ‘foreign intelligence’ and ‘counterintelligence.’” Title 50 defines “national intelligence” as referring “to all intelligence, regardless of the source from which derived and including information gathered within or outside the United States that – (A) pertains, as determined consistent with any guidance issued by the President, to more than one United States Government agency; and (B) that involves (i) threats to the United States, its people, property, or interests; (ii) the development, proliferation, or use of weapons of mass destruction; or (iii) any other matter bearing on United States national or homeland security.”

- a. Do you interpret the term “intelligence” to include anything beyond “foreign intelligence” or “counterintelligence?” If so, what other kinds of intelligence do you believe falls under the term “intelligence?”**
- b. What are the differences between “intelligence” and “national intelligence?” Please provide examples of something you would consider to be “intelligence” that is not “national intelligence,” and something that is “national intelligence” but not “intelligence.” Your examples can be included in a classified annex.**

The National Security Act, 50 U.S.C. § 3003(1), includes both foreign intelligence and counterintelligence within the definition of “intelligence.” The Act also defines “national intelligence” as all intelligence that, regardless of its source and whether it was “gathered within or outside the United States,” pertains to more than one U.S. Government agency and involves (i) “threats to the United States, its people, property, or interests;” (ii) “the development, proliferation, or use of weapons of mass destruction;” or (iii) any other matter bearing on United States national or homeland security.” 50 U.S.C. § 3003(5). Intelligence that does not satisfy these criteria—which would require fact-specific analysis—would not be considered “national intelligence” for purposes of the statute.

Foreign Intelligence Surveillance Act

17. Last year, Congress passed the Reforming Intelligence and Securing America Act (RISAA), which extended Title VII of the Foreign Intelligence Surveillance Act (FISA) until April 2026 and enacted other reforms.

a. Do you support reauthorization of Title VII of FISA?

I understand that Section 702 of the Foreign Intelligence Surveillance Act (FISA) is a vital national security tool that provides significant and uniquely valuable intelligence. During my time at the Department of State, I have seen Section 702 provide such intelligence. At a time when America faces many critical threats, Section 702 helps ensure that the CIA can provide timely and accurate intelligence to President Trump and his administration to protect our national security. In 2024, Congress implemented significant reforms designed to enhance compliance and oversight mechanisms in the FISA Section 702 program. Also, based on reports published by the Office of the Director of National Intelligence, I understand that the CIA has an excellent track record in implementing Section 702 in compliance with the law. For those reasons, I support reauthorization of this indispensable national security tool.

b. What RISAA reforms do you view as most critical to our national security? What additional reforms, if any, do you believe are necessary to FISA?

During the last reauthorization, Congress implemented several reforms designed to enhance compliance and oversight mechanisms, including limitations on the FBI, as well as enhanced congressional oversight of proceedings before the Foreign Intelligence Surveillance Court. Congress also expanded the definition of foreign intelligence and refined the definition of electronic communication service providers. If confirmed, I look forward to evaluating how those reforms have been implemented and to working with Congress, the Intelligence Community, and the Attorney General to determine whether any additional changes may be necessary.

18. What responsibilities does the CIA General Counsel have with regard to FISA, and specifically regarding the implementation of RISAA and in supporting the oversight functions of the CIA and the Department of Justice's National Security Division?

The CIA Office of General Counsel plays an important role in supporting the

Agency's compliance with FISA requirements and oversight. I understand that CIA attorneys conduct regular FISA training, including on the minimization and querying procedures, and are embedded with CIA components to answer any questions that may arise. CIA lawyers report any identified incident of noncompliance to the Department of Justice and the Office of the Director of National Intelligence. CIA lawyers also participate in those agencies' frequent oversight reviews of the CIA's implementation of FISA. By law, any compliance incident is also reported to Congress and to the Foreign Intelligence Surveillance Court. If confirmed, I will work with Agency leadership and personnel to continue this important work.

19. During RISAA's floor action, there was much debate about whether to require a warrant for a query of U.S. person information within lawfully collected Section 702 data. What is your position on whether to include a warrant requirement for U.S. person queries of Section 702 data?

I support efforts to ensure that the FISA authorities that are vital to our national security are implemented in a way that protects privacy and civil liberties. My understanding is that a warrant requirement to query lawfully collected information may not achieve its intended objectives and would hinder national security efforts and cause unreasonable delays in what are often extremely time-sensitive and complex national security matters. I agree with Director Ratcliffe's statement that there will often be a lack of information to obtain the warrant, and that these are "national security issues where sometimes minutes matter and the ability to disrupt or interdict the bad actors or to act upon the intelligence that you can gain from that."

20. In addition to the Foreign Intelligence Surveillance Court, the legislative and executive branches have oversight of FISA's Title VII authorities. Please describe your understanding of CIA's and the IC's oversight to ensure the CIA's implementation of FISA's authorities – and specifically, Section 702 – is constitutional and ensure U.S. persons' legal rights are protected. Are there adequate oversight protocols in place? If not, what additional protocols would you recommend, if confirmed?

Section 702 includes multiple layers of oversight and privacy protections. For example, each selector targeted for collection is individualized and documented, approved by a multi-step interagency process, and reviewed for compliance with the Foreign Intelligence Surveillance Court ("FISC")-approved targeting procedures. At the CIA, implementation of FISA authorities is subject to ongoing internal oversight by CIA's FISA Program Office, the Office of General Counsel, and the Office of

Privacy and Civil Liberties. The Inspector General's Office has also conducted programmatic oversight of the program. Further, agencies that receive unminimized Section 702 collection, including the CIA, must comply with their FISC-approved minimization and querying procedures, and such compliance is subject to external oversight by the Department of Justice, the Office of the Director of National Intelligence, the FISC, the congressional intelligence and judiciary committees, independent Inspectors General, and the Privacy and Civil Liberties Oversight Board.

I understand that, within the CIA, the Office of General Counsel reports all incidents on non-compliance to the Department of Justice and the Office of the Director of National Intelligence, and by law, any compliance incident is also reported to the Congress and to the Foreign Intelligence Surveillance Court. Further, the Executive Branch provides regular reports to Congress, the Privacy and Civil Liberties Oversight Board, the Intelligence Oversight Board, and even the public to ensure both external oversight and public transparency of the Section 702 program. If confirmed, I commit to working with elements of the Intelligence Community, the Department of Justice, the Office of the Director of National Intelligence, and Congress to determine whether any changes are necessary to improve the protection of privacy and civil liberties without compromising national security.

21. Section 702 of FISA prohibits “reverse targeting” of U.S. persons. Given that the CIA can both nominate foreign targets and conduct U.S. person queries intended to return communications of or about U.S. persons, how should the Office of General Counsel guard against any instances of reverse targeting?

FISA Section 702 prohibits “reverse targeting” – i.e., intentionally targeting a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States. 50 U.S.C. § 1881a(b)(2). I understand that the Office of General Counsel, in coordination with the CIA's FISA Program Office, provides training on the reverse-targeting prohibition, and that extensive internal and external oversight mechanisms help ensure that CIA's nomination of Section 702 targets does not violate the prohibition. Moreover, my understanding is that the Office of General Counsel and the FISA Program Office both review all U.S. person queries conducted by CIA officers. This review is in addition to the review that is conducted by the Department of Justice and the Office of the Director of National Intelligence. I understand that any instances of non-compliance are reported. These measures appear to be effective, as reflected in the CIA's strong compliance record. If confirmed, I will work with

Agency leadership and personnel to continue this important work.

Executive Order 12333

22. What differences, if any, exist regarding CIA access to, queries of, and use, dissemination and retention of U.S. person communications and metadata collected pursuant to Executive Order 12333 as compared to communications and metadata collected pursuant to Section 702 of FISA?

The “Central Intelligence Agency Intelligence Activities: Procedures Approved by the Attorney General pursuant to Executive Order 12333” (Attorney General Guidelines) are posted online and are relevant here. The Attorney General Guidelines govern the CIA’s collection, handling, retention, and dissemination of U.S. person communications and metadata collected pursuant to Executive Order 12333. The Attorney General Guidelines also incorporate the requirements set forth in Section 309 of the Intelligence Authorization Act for Fiscal Year 2015 regarding the protection of U.S. person communications. For U.S. person communications and metadata collected pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Foreign Intelligence Surveillance Court approved minimization and querying procedures apply. These documents have also been redacted and provided publicly.

23. Please describe the rules, guidelines, or other authorities under which the CIA would approve requests for the unmasking of U.S. person identities in CIA intelligence.

The CIA’s Attorney General Guidelines set forth detailed restrictions on the CIA’s retention, use, and dissemination of information concerning U.S. persons. Before disseminating information containing unmasked U.S. person identities outside of the Intelligence Community, these guidelines generally require the CIA to determine: (1) that the information is necessary, or it is reasonably believed that the information may become necessary, to understand, assess, or act on the information being disseminated, and (2) that either the information fits within one of the specific categories enumerated in the Attorney General Guidelines or additional internal approvals have been obtained which require concurrence from the General Counsel. *See* Attorney General Guidelines, Section 8.2. Additional protections or prohibitions may apply in some circumstances, such as information collected pursuant to the Foreign Intelligence Surveillance Act.

24. Do you believe the CIA should be authorized to monitor U.S. persons' social media activities? If so, under what authorities and subject to what limitations?

The restrictions set forth in the CIA's Attorney General Guidelines and Executive Order 12333 include a prohibition against collecting information concerning U.S. persons solely for the purpose of monitoring activities either protected by the First Amendment or the lawful exercise of other rights secured by the Constitution or other U.S. law. Given the CIA's foreign intelligence mission, the CIA's role with respect to the collection of U.S. person information is significantly limited by law.

25. Section 7 of CIA's Attorney General-approved guidelines under Executive Order 12333 (the AG Guidelines) provides for limitations on the retention of information concerning U.S. persons. However, Section 6 of the AG Guidelines states that the CIA may retain "unevaluated information when it is impracticable, infeasible, or detrimental to the CIA mission to determine promptly whether the information qualifies for retention under the criteria of Section 7."

- a. How would you define "impracticable, infeasible, or detrimental"?**
- b. What is the role of the CIA General Counsel in ensuring that unevaluated U.S. person information is retained only under those circumstances?**

If confirmed, I commit to working with subject matter experts to learn how these sections have been interpreted and applied to data retention at the CIA. The Office of General Counsel has a critical role to play in ensuring the workforce understands and complies with these guidelines, thereby ensuring appropriate protections for U.S. person information.

26. Section 6.2.1(b) of the AG Guidelines requires exceptional handling requirements for "unevaluated information that is anticipated to contain [U.S. Person Identifying Information] that is significant in volume, proportion, or sensitivity."

- a. How would you define "significant in volume, proportion, or sensitivity"?**

b. What is the role of the CIA General Counsel in identifying unevaluated information that is “significant in volume, proportion, or sensitivity” and ensuring adherence to the exceptional handling requirements?

The Office of General Counsel is responsible for interpreting and helping to ensure compliance with the exceptional handling requirements set forth in Section 6.2.1(b) of the Attorney General Guidelines. If confirmed, I look forward to learning how this section has been interpreted and applied at the CIA.

27. Section 4.4.1 of the AG Guidelines describes “special collection techniques” for use outside the United States, specifically electronic surveillance and physical searches. Section 4.4.2 states that: “Any special collection technique directed at a U.S. person outside the United States (including a U.S. person’s property or premises outside the United States) must be forwarded through the General Counsel for concurrence and approved by the D/CIA or designee, the Attorney General (as required by Section 2.5 of Executive Order 12333), and where applicable, the Foreign Intelligence Surveillance Court.” Are there any circumstances in which the CIA could employ a special collection technique directed at a U.S. person outside of FISA authorities?

Special collection techniques must be carried out consistent with the Constitution, relevant federal statutes, Executive Order 12333, presidential directives, and the CIA’s Attorney General Guidelines. For example, Section 4.4.2 of the Attorney General Guidelines requires an official approving the use of a special collection technique in some circumstances to “document in writing that, under existing facts and circumstances, the official has determined that there is probable cause to believe that the person or entity at whom the special collection technique is directed is an agent of a foreign power, or an officer or employee of a foreign power, and that the information sought is significant foreign intelligence or counterintelligence.” If confirmed, I would seek to thoroughly understand the nature of the technique and intended use before advising whether a legal basis beyond FISA exists for a special collection technique directed at a U.S. person.

Classification and Transparency

28. What is the role of the Office of the General Counsel in ensuring that CIA classification decisions are consistent with Executive Order 13526?

The Office of General Counsel's role is to advise CIA personnel on the proper interpretation and application of Executive Order 13526.

29. Executive Order 13526 provides that: "In no case shall information be classified, continue to be classified, continue to be maintained as classified, or fail to be declassified in order to: (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of national security."

a. Do you agree with these prohibitions?

Yes.

b. What is the role of the General Counsel in ensuring adherence to these rules?

The General Counsel's role is to work with the Office of General Counsel to advise on the interpretation of these rules and help ensure compliance at the CIA.

30. The Office of the Director of National Intelligence releases to the public its *Annual Statistical Transparency Report Regarding the Intelligence Community's Use of National Security Surveillance Authorities*. That report includes quantitative data on the impact of FISA collection and National Security Letters on U.S. persons. Do you agree that the American public also has an interest in quantitative data related to U.S. person information collected pursuant to EO 12333, including the amount of information collected; U.S. person queries; disseminations, maskings and unmaskings; and use in criminal proceedings?

I generally support providing the American public with significant transparency, consistent with the need to protect sensitive intelligence sources and methods. I have not yet been briefed on the classified equities that may make such quantitative data challenging to release to the public. If confirmed, I look forward to working with the Office of the Director of National Intelligence to determine whether there are any additional opportunities for transparency.

Whistleblowers and the Inspector General

31. Do you believe that CIA whistleblowers have all the protections they need to interact directly with the congressional intelligence committees?

If confirmed, I will carefully consider this question with the benefit of greater insight into the CIA's current and past practices regarding whistleblower protections. Should I identify any necessary reforms, I will work with the Inspector General and this Committee to ensure appropriate protections for whistleblowers.

32. Title 50, section 3517(d)(5) states that a CIA whistleblower may contact the congressional intelligence committees directly only if the employee "obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices." Do you agree that this provision does not permit the Director to deny whistleblowers direct access to Congress altogether?

Section 3517(d)(5)(D)(ii)(II) seems intended to facilitate, not hinder, individuals' access to Congress. If confirmed, I would review this statute more closely in light of how the CIA's Office of General Counsel and Office of the Inspector General have traditionally interpreted and applied it in practice.

33. Please describe your understanding of the role of the CIA Inspector General, and the role of the CIA General Counsel in protecting the independence of the Inspector General.

As set forth in Section 17 of the CIA Act of 1949, the CIA Inspector General's duties and responsibilities include providing policy direction for and carrying out independently the inspections, investigations, and audits of Agency programs and operations to ensure they are conducted efficiently and in accordance with applicable law. If confirmed, I look forward to working with Inspector General Thomson, while respecting the independence of the Office of the Inspector General.

34. How would you resolve differences in the interpretation of law between the Office of General Counsel and the Inspector General?

While the CIA's General Counsel serves as the Agency's chief legal officer, the Inspector General has his own independent statutory responsibilities. If the two offices were to disagree on matters of legal interpretation, I would work

collaboratively with counsel for the Office of the Inspector General to resolve any issues and identify an appropriate path forward.

Analysis

35. The CIA’s website states that the Agency’s mission is “to preempt threats and further U.S. national security objectives by... producing objective all-source analysis...”

- a. Is it appropriate for the CIA to produce subjective intelligence analysis advocating for policy positions in interagency and presidential decision processes?**
- b. How would you, if confirmed, ensure that CIA remains objective and apolitical in its analysis and production?**

Director Ratcliffe has made clear that objectivity is a core value of the CIA. As he said, the CIA “will produce insightful, objective, all-source analysis, never allowing political or personal biases to cloud our judgment or infect our products.” If confirmed, I would work to support and reinforce that guiding principle, which is reflected in a variety of statutory and policy requirements.

Questions from Senator Wyden

Liaison relationships and human rights

36. In an August 16, 2015, public letter, then-CIA Director John Brennan wrote that: “While we neither condone nor participate in activities that violate human rights standards, we do maintain cooperative liaison relationships with a variety of intelligence and security services around the world, some of whose constituent entities have engaged in human rights abuses.”

- a. Please describe your understanding of the legal issues associated with CIA liaison relationships with services whose constituent entities have engaged in human rights abuses.**
- b. Under what circumstances would the CIA be legally obligated to discontinue the liaison relationship?**

I understand that the CIA takes allegations of human rights abuses by liaison services seriously, particularly when allegations involve the misuse of CIA resources or information. In accordance with current legal requirements, such incidents would involve review by the Office of General Counsel and senior Agency leaders, and congressional notification, and potentially a pause or termination of the relationship if assessed to be credible. I understand that the CIA must balance the risks and benefits of its relationships with liaison services, and if confirmed, I would work with Agency leadership and personnel to ensure that proposed strategies to mitigate the risk that CIA resources will be misused are legally sufficient.

Detention, interrogation and rendition

37. Section 1045 of the *National Defense Authorization Act (NDAA) for Fiscal Year 2016* prohibits the use of any interrogation technique or approach or treatment related to interrogation not authorized by the Army Field Manual (AFM) or any modifications to the AFM, and states that the AFM may not authorize techniques that “involve the use or threat of force.”

a. Is this provision of law absolutely binding on the CIA and the President?

Yes, this provision of law is binding on the United States Government, including the CIA.

b. Do you agree that the CIA’s former “enhanced interrogation techniques” would violate the AFM?

If confirmed, I would follow the law concerning any detention, interrogation, and transfer practices, and in particular, would work with Agency leadership and personnel to ensure that any such CIA activities are conducted in accordance with applicable law, including the Army Field Manual as incorporated in 42 U.S.C. § 2000dd-2.

c. To the extent the CIA participates in discussions related to any updates of the AFM, do you agree to oppose any techniques that involve the use or threat of force?

Section 1045 of the National Defense Authorization Act for Fiscal Year 2016 requires that any revisions to the AFM do not permit practices for interrogation that “involve the use or threat of force.” 42 U.S.C. § 2000dd-2. I would therefore advise that any

such updates would be inconsistent with statutory requirements.

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

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

Given that Executive Order 13491 prohibits the CIA from operating detention facilities, other than those used only to hold people on a short-term transitory basis, if confirmed, I would carefully consider this question and any related CIA activities in context, recognizing that this would be an inherently fact-specific determination that warrants close review.

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

As noted above, all CIA activities concerning detention, interrogation, and transfer must be conducted in accordance with applicable law, and if confirmed it would be my responsibility to advise on and ensure compliance with those requirements.

40. Section 1045 states that: “The head of any department or agency of the United States Government shall provide the International Committee of the Red Cross with notification of, and prompt access to, any individual detained in any armed conflict in the custody or under the effective control of an officer, employee, contractor, subcontractor, or other agent of the United States Government or detained within a facility owned, operated, or effectively controlled by a department, agency, contractor, or subcontractor

of the United States Government, consistent with Department of Defense regulations and policies.” Is this provision of law absolutely binding on the CIA and the President?

Yes, this provision of law is binding on the United States Government, including the CIA.

41. Executive Order 13491 prohibits the CIA from operating any detention facilities other than “facilities used only to hold people on a short-term transitory basis.”

a. Do you support this prohibition?

Executive Order 13491 sets forth the goals “to improve the effectiveness of human intelligence-gathering,” “to promote the safe, lawful, and humane treatment of individuals in United States custody and of United States personnel detained in armed conflicts,” and “to ensure compliance with the treaty obligations of the United States.” If confirmed, I would work with Agency leadership and personnel in support of the goals and requirements of Executive Order 13491.

b. How would you define “short-term” and “transitory”?

I would interpret the terms “short-term” and “transitory” consistent with their ordinary, commonly understood meaning.

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

I agree with Director Ratcliffe’s position, which aligns with applicable law, that CIA officers should not participate in a liaison service’s debriefings of detainees if CIA officers have witnessed the liaison service torture or mistreat a detainee, or if the CIA receives credible information that detainees in custody of that service are subjected to torture or mistreatment.

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

- a. To what extent should written “diplomatic assurances” be required for extraditions and renditions?**
- b. Should such assurances be accepted from countries with established records of committing torture?**

Section 2242(a) of the Foreign Affairs Reform and Restructuring Act of 1998 states that it is policy of the United States “not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.” Diplomatic assurances, as well as assessments of the reliability and credibility of such assurances, are important in determining whether the legal standards for return or extradition have been satisfied. As Director Ratcliffe has stated, this would require a case-by-case assessment, taking into account all relevant factors and information known to the CIA at the time.

- c. Is the United States prohibited from extraditing or rendering individuals to third countries if the United States has reason to believe they will subsequently be removed to countries where they would be in danger of being subjected to torture?**

I understand that the CIA complies with obligations under the Convention Against Torture. To determine whether the United States may extradite or render individuals to any particular third country, I would consult with the Department of Justice and the Department of State, among others, to determine whether the U.S. Government’s obligations have been satisfied.

- d. What responsibility does the CIA have not to provide support to operations conducted by other elements of the United States government that violate this obligation?**

I understand that in the conduct of operations under its own authorities, Section 2.12 of Executive Order 12333 and Section 3.3 of the CIA’s Attorney General Guidelines prohibit the CIA from requesting “any person or entity to undertake any activity” that is prohibited by law. With respect to operations or activities conducted by other U.S. Government agencies under their own authorities, I understand that the CIA provides support, where appropriate, with the expectation that those agencies will act in accordance with applicable law.

Section 702 of FISA

44. During his confirmation process, Assistant Attorney General for National Security John Demers was asked about the prohibition on reverse targeting in Section 702 of FISA. He responded: “As I understand it, determining whether a particular known U.S. person has been reverse-targeted through the targeting of a Section 702 target necessitates a fact specific inquiry that would involve consideration of a variety of factors. For example, as the Privacy and Civil Liberties Oversight Board noted in its 2014 report, if a Section 702 tasking resulted in substantial reporting by the Intelligence Community regarding a U.S. person, but little reporting about a Section 702 target, that might be an indication that reverse targeting may have occurred.” How would you ensure that this fact specific analysis is applied to the nomination of and ongoing collection on Section 702 targets?

My understanding of how the Intelligence Community makes reverse-targeting determinations is consistent with the response that Assistant Attorney General Demers provided. Determinations as to whether a particular known U.S. person has been reverse-targeted are fact-specific and require the evaluation of a variety of factors. If confirmed, I would work with Agency leadership and personnel, including the CIA’s FISA Program Office, to ensure compliance with the law and FISC-approved procedures that require that Section 702 only be used to target non-U.S. persons located overseas, and to report non-compliance. I would also support the additional layers of review conducted by the Department of Justice and the Office of the Director of National Intelligence.

Executive Order 12333

45. Do you believe that the privacy interests of Americans should depend on whether their information is purchased or obtained voluntarily by the government, as opposed to compelled through legal process?

The privacy interests of Americans must be respected and carefully protected, regardless of how their information is obtained by the government. If confirmed, I look forward to reviewing the CIA’s collection procedures in more detail, with a focus on ensuring applicable privacy protections are being applied.

46. Can the CIA ask a foreign entity or any other third party to undertake an activity that the CIA is not authorized to undertake itself?

No, Section 2.12 of Executive Order 12333 and Section 3.3 of the CIA's Attorney General Guidelines prohibit the CIA from requesting "any person or entity to undertake any activity" that is prohibited by law.

47. The CIA maintains public policies and procedures related to signals intelligence. How does the CIA define signals intelligence and determine which of its activities do and do not fall under that definition?

I have not yet had experience with how the CIA implements its procedures governing signals intelligence activities. If confirmed, I will consult with the appropriate Agency experts on signals intelligence activities, and I will work with Agency leadership and personnel to ensure that all such activities are conducted in full compliance with applicable law.

Lethal authorities

48. Please describe your view of the legal implications of targeting or otherwise knowingly killing a U.S. person in a U.S. government lethal operation. What additional transparency do you believe would be warranted in that situation?

Should an extraordinary circumstance arise requiring the U.S. government to take action against a U.S. person outside of the normal criminal process, the National Security Council and relevant Executive Branch agencies would work in coordination to ensure compliance with applicable law and that any use of force by the U.S. Government against a U.S. person is contemplated only in the most narrow of circumstances. I believe that continued transparency on these matters is important.

Transparency

49. The CIA currently publicly posts *Central Intelligence Agency Activities: Procedures Approved by the Attorney General Pursuant to Executive Order 12333, and Policy and Procedures for CIA Signals Intelligence Activities*. Will you ensure that the CIA continues to post these procedures as well as any modifications or superseding policies and procedures?

The public posting of these guidelines is an excellent example of transparency without

compromising intelligence sources and methods. I expect the practice of making these procedures publicly available will continue, to the extent future modifications are unclassified, and I would support such efforts.

50. What is your view on “secret law,” meaning classified legal interpretations that are inconsistent with the public’s reading of the law as informed by the plain meaning of statutes, jurisprudence, executive orders and associated guidelines, and public testimony?

- a. If confirmed, how would you approach any such inconsistencies?**
- b. Would you support the declassification and public release of any legal interpretation that provides a basis for intelligence activities but is inconsistent with the public’s understanding of the law?**

Transparency with the American public is a key priority for Director Ratcliffe and the Trump Administration. In furtherance of that priority, if confirmed, I would support efforts to enhance the accessibility of the CIA’s legal frameworks, consistent with the need to protect sensitive intelligence sources and methods information.

Competitive Advantage

51. According to CIA’s policies and procedures related to signals intelligence:

“The collection of foreign private commercial information or trade secrets is authorized only to protect the national security of the United States or its partners and allies. It is not an authorized foreign intelligence or counterintelligence purpose to collect such information to afford a competitive advantage to U.S. companies and U.S. business sectors commercially. Certain economic purposes, such as identifying trade or sanctions violations or government influence or direction, shall not constitute competitive advantage.”

- a. Do you agree that these limitations should also apply to CIA’s non-SIGINT activities?**

I understand that limitations described in CIA’s policies reflect longstanding Executive Branch norms and policy directions that have shaped intelligence collection

for many years. If confirmed, I look forward to learning more about how these policies are implemented at the CIA.

b. Since this is public policy, will you commit to informing the public of any modifications?

Yes, consistent with the Agency's obligation to protect intelligence sources and methods.

Whistleblowers

52. Are CIA employees who contact the Office of Congressional Affairs in an effort to communicate with Congress protected from reprisals for doing so?

My understanding is that, in accordance with CIA regulations, CIA personnel who follow the appropriate procedures for securely reporting concerns to Congress will not be subject to disciplinary action, admonishment, reprimand, or adverse contractual action for making such reports.

53. 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 agree that whistleblowers play an important role in furthering accountability for and oversight of the Intelligence Community. As Director Ratcliffe expressed during his confirmation process, he intends to rigorously protect whistleblowers from reprisal in accordance with the law, and I would support such protections.

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

assured?

Safeguarding the confidentiality of whistleblowers' protected disclosures is important to maintaining trust in the reporting process. If confirmed, I look forward to learning more about the CIA's insider threat program and understanding how whistleblower protections are managed.

55. Do you believe that appropriately cleared attorneys representing Intelligence Community whistleblowers should have access to classified information related to the complaint and that, as a general matter, whistleblowers should have access to cleared attorneys?

I agree that whistleblowers should have access to cleared attorneys as appropriate and to the extent consistent with applicable law.

Personnel actions

56. During his confirmation process, Director Ratcliffe stated that internal CIA regulations governing termination actions taken pursuant to 50 U.S.C. 3036(e) include "robust and detailed procedures generally granting employees due process and the option to appeal depending on the circumstances of the action." Director Ratcliffe further stated that the regulations preserve the Director's authority to "summarily terminate an employee, and that such actions have been rare in the past."

a. Under what circumstances do you believe it is appropriate to summarily terminate an employee without due process or the option to appeal?

In accordance with 50 U.S.C. § 3036(e), the Director of the CIA has broad discretionary authority to terminate an Agency employee. I understand this reflects the CIA's unique need to act in the interests of the United States, including where there are security or counterintelligence concerns, to immediately address personnel issues and respond to rapidly evolving mission requirements. If confirmed, I look forward to learning more about the CIA's personnel practices, including its implementation of the Director's termination authority.

b. Will you provide the Committee with data and descriptions of any incidents in which the Director exercised this option?

If confirmed, I will keep the Committee informed of the CIA's activities as required by law.

Encryption

57. During her confirmation process, Director Gabbard wrote: “From a civil liberties perspective, there are serious constitutional concerns about the government being granted unrestricted access to America’s private digital property. Mandating mechanisms to bypass encryption or private technologies undermines user security, privacy, and trust, and poses significant risks of exploitation by malicious actors.” She reiterated that position during her confirmation hearing, saying, “these back doors lead down a dangerous path that can undermine Americans’ Fourth Amendment rights and civil liberties.” Do you agree?

If confirmed, I commit to upholding the CIA’s legal obligations that protect the privacy and civil liberties of Americans in the conduct of the CIA’s national security mission.

Classification and declassification

58. Executive Order 13526 provides that: “In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to: (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of national security.” Do you commit to fulfilling both the letter and spirit of these prohibitions?

Yes.

59. What process do you believe should accompany the declassification of information? For example, do you believe there should be a written record of declassifications? When should the Committee be notified?

Executive Order 13526 prescribes a uniform system for the classification, declassification, and safeguarding of national security information, and requires agency heads to ensure the proper implementation of the classification management program. To that end, I understand that the CIA has an established process to ensure that declassification reviews are conducted in accordance with the Executive Order and applicable implementing guidance. If confirmed, I look forward to learning more

about this process at the CIA and commit to notifying the committee of declassification actions consistent with applicable law.

Espionage Act and journalists

60. During her confirmation process, Director Gabbard wrote:

“In my book, I expressed concerns about aspects of the Espionage Act that could be interpreted as overly broad or vague, potentially infringing on First Amendment rights and due process protections under the Constitution. These concerns primarily relate to its application in cases involving whistleblowers and journalists, where the Act may criminalize the dissemination of information in ways that could suppress legitimate public discourse or accountability. The Espionage Act also does not allow for due process and the right of an American to defend themselves against such charges in a court of law.”

During his confirmation process, ODNI General Counsel Dever agreed with Director Gabbard’s concerns. Do you also agree?

Director Gabbard’s testimony raises important issues that merit careful consideration. It is important to balance safeguarding constitutional rights and leveraging every tool to protect our nation’s most sensitive national security information from unauthorized disclosure. If confirmed, I will work with Agency leadership and personnel to ensure that the CIA maintains an appropriate balance between these important priorities.

61. During her confirmation process, Director Gabbard wrote that she supports the October 2022 Department of Justice policy restricting use of compulsory process to obtain reporter information, calling the policy “essential to protecting press freedoms and maintaining the critical balance between national security and upholding the First Amendment.” During his confirmation process, ODNI Dever agreed. Do you also agree?

I support the First Amendment, and I would defer to my colleagues at the Department of Justice on the specifics of any policy relating to law enforcement and investigation.

Congress

62. In December 2024, the Department of Justice Office of the Inspector General released: “A Review of the Department of Justice’s Issuance of Compulsory Process to Obtain Records of Members of Congress, Congressional staffers, and Members of the News Media.” During her confirmation process, Director Gabbard wrote the following with regard to the OIG review:

“The collection of communications records of congressional Members and staff, particularly when based solely on their constitutionally authorized oversight duties, is a significant breach of the constitution and separation of powers. Such actions risk chilling legitimate oversight and creating the appearances of executive branch interference in legislative activities.

Safeguards must ensure that intelligence and investigative activities respect the independence of co-equal branches of government.

“I support the policy changes outlined in the OIG Review that aim to address these concerns and ensure appropriate checks in place. Further policy adjustments, such as heightened internal review and oversight, may be necessary to strengthen protections for congressional communications.

“Any effort to collect such records should undergo the most rigorous scrutiny, including notifying Congress when appropriate, balancing security and transparency concerns, and informing the issuing judge that the targets are congressional Members or staff so constitutional implications can be fully considered. If confirmed, I would work to uphold these principles while safeguarding national security and civil liberties.”

- a. Do you agree with Director Gabbard’s concerns and would you likewise work to uphold these principles?**
- b. Do you support the policy changes described in the OIG Review?**
- c. Do you agree that Congress should be notified prior to any collection of communications or communications records of Members or staff? If**

yes, who in Congress should be notified?

- d. Do you agree that the government should inform the judge issuing an order for compulsory process or a non-disclosure order that the targets are congressional Members or staff so that the judge can consider the constitutional implications?**

While I have limited insight into the Department of Justice Office of Inspector General report and the policies it reviewed, I agree that any collection activity conducted by the CIA must be accomplished in accordance with applicable law. I would defer to the Department of Justice on their attorneys' obligations during judicial proceedings.

63. In February 2014, the then-Acting CIA General Counsel filed a crimes referral with the Department of Justice against Senate Intelligence Committee staff. According to the CIA Inspector General, the referral was based solely on information provided by two Office of General Counsel attorneys and that the information was "inaccurate" and had "no factual basis."

- a. What accountability should there be for drafting and filing a false crimes report against congressional staff?**
- b. How would you respond should a request or proposal for a crimes referral against Members of Congress or congressional staff come to you?**

If confirmed, I would personally review and devote serious attention to any crimes referral implicating a Member of Congress or their staff. The officers who are responsible for preparing crimes referrals must adhere to all applicable procedures and make every effort to ensure accuracy.

Caribbean vessel strikes

64. You currently serve as Principal Deputy Legal Advisor at the U.S. Department of State. Please provide a detailed description of the legal basis for the September 2 and September 15, 2025, U.S military strikes against vessels in the Caribbean.

- a. Please include in your analysis the fact pattern referenced by Secretary**

Rubio with regard to the September 2 strike, namely: "Instead of interdicting it, on the president's orders, we blew it up"; and "These particular drugs were probably headed to Trinidad or some other country in the Caribbean, at which point they just contribute to the instability these countries are facing."

- b. Please include an analysis of the Law of Armed Conflict as it applies to the strikes.**

The President explained the legal basis for these strikes in his letter consistent with the War Powers Resolution (Public Law 93-148) dated September 4, 2025, including that, "[i]n the face of the inability or unwillingness of some states in the region to address the continuing threat to United States persons and interests emanating from their territories, we have now reached a critical point where we must meet this threat to our citizens and our most vital national interests with United States military force in self-defense." Further questions related to the U.S. military strikes should be directed to the Department of War.

Congressional authorities

65. USAID is established by statute and its operations are authorized and appropriated by Congress. What is the legal basis for the administration's effective closure of the Agency?

USAID and the Department of State notified Congress of plans to reorganize USAID consistent with applicable requirements.

Fallon Smart Policy

66. On May 5, 2025, I wrote to Secretary Rubio requesting an update on the implementation of the Fallon Smart Policy, which requires the State Department to identify and revoke visas of any foreign official helping foreign criminal suspects evade prosecution by absconding from the United States. As Principal Deputy Legal Advisor, will you ensure that the Department provides a substantive response to my letter prior to your confirmation hearing?

I understand that the Department of State transmitted a response to your letter on May 21, 2025. To the extent you have additional questions regarding the Department's

implementation of the Fallon Smart Policy with the Department, I will work with the Department to address them while I remain in my current position.

Alien Enemies Act

67. The declassified April 7, 2025, National Intelligence Council Sense of the Community Memorandum on Venezuela and Tren de Aragua (TDA) assessed that the “Maduro regime [is] probably not directing TDA activities.” Please address how this assessment informs whether the Alien Enemies Act applies to Venezuela.

The application of the Alien Enemies Act remains subject to litigation, and questions related to its interpretation and related assessments should be directed to the Department of Justice.

Foreign Terrorist Organizations

68. 8 U.S.C. 1189 authorizes the Secretary of State to designate organizations as foreign terrorist organizations (FTOs).

- a. On what basis can an organization that has a significant presence in and conducts significant operations inside the United States be designated a “foreign” terrorist organization?**
- b. Please describe the full scope of investigative, intelligence, financial and other authorities that derive from an FTO designation. Does an FTO designation create any new military or lethal authorities?**

In order to be designated by the State Department as a Foreign Terrorist Organization (FTO) under 8 U.S.C. § 1189, groups must, among other criteria, primarily be foreign organizations, which is an assessment that can take into account factors such as the base of operation and the nationality and location of leaders and members. There are several legal consequences of FTO designations, including sanctions, immigration and visa restrictions, and criminal liability for knowingly providing material support or resources to an FTO. FTO designations do not themselves create or affect any authority to use military force.

Third country deportations

69. Please list all countries with which the State Department has entered

into agreements for third-country deportations.

The Department of State has entered into legally binding international agreements regarding third-country deportations with Canada, Ecuador, Guatemala, Honduras, Paraguay, and Uganda. The Department of State reports all legally binding international agreements and qualifying non-binding instruments entered into by the United States, including those instruments related to third-country deportations, in accordance with the Case-Zablocki Act. Some commitments from foreign countries related to third-country deportations do not take the form of international agreements.