

**OPEN HEARING:
NOMINATION OF JOHN BRADFORD WIEGMANN
TO BE GENERAL COUNSEL OF THE OFFICE OF
THE DIRECTOR OF NATIONAL INTELLIGENCE**

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

—————
JUNE 5, 2024
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**OPEN HEARING: ON THE NOMINATION OF
JOHN BRADFORD WIEGMANN TO BE GEN-
ERAL COUNSEL OF THE OFFICE OF THE DI-
RECTOR OF NATIONAL INTELLIGENCE**

WEDNESDAY, JUNE 5, 2024

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

The Committee met, pursuant to notice, at 2:31 p.m., in Room SH-216 in the Hart Senate Office Building, Hon. Mark R. Warner, Chairman of the Committee, presiding.

Present: Senators Warner (presiding), Rubio, Wyden, Heinrich, King, Casey, Gillibrand, Ossoff, Kelly, Risch, Cornyn.

**OPENING STATEMENT OF HON. MARK R. WARNER, A U.S.
SENATOR FROM VIRGINIA**

Chairman WARNER. Good afternoon, I want to call this unclassified nomination hearing to order.

I welcome John Wiegmann, President Biden's nominee to be the general counsel for the Office of the Director of National Intelligence. And I want to welcome, too, your family. I had a chance to meet your wife, Theresa, along with your kids, Nicole, and Nat—you look intensely focused already—and your mother, Carol. I'd like to extend my appreciation to each of you because as somebody who's been in public service, I know the family has to make sacrifices as well. And I'm grateful that you're all here showing support for your son, husband, and dad. I have to tell you, I was going to be very supportive, but I was told that you actually part-time write the crossword puzzles for the New York Times.

Mr. WIEGMANN. That's right, Senator.

Chairman WARNER. As somebody who's never been able to finish one of them, I won't hold that against you in this nomination hearing.

JOHN WIEGMANN. Well, sadly if I get this job, I have to give up that career because of ethics rules.

Chairman WARNER. The one good thing though is: No more crosswords for me.

One thing that will balance that out—I know, clearly a conflict—that you were born and grew up in Richmond.

Mr. WIEGMANN. That's right. I'm a Richmond native.

Chairman WARNER. Your mom reminded me that she actually worked for a while in the General Assembly when I had a previous job.

Mr. WIEGMANN. That's right.

Chairman WARNER. That will more than outdo the crossword puzzle piece.

I want to congratulate you on your nomination. You obviously have a distinguished record as a nonpartisan career servant in the field of national security. While you currently serve as senior advisor at the ODNI, I know you've also served as principal deputy assistant attorney general at DOJ, as assistant legal adviser at the Department of State, as deputy legal adviser at the National Security Council under President Bush, and as a law clerk for Judge Patrick Higginbotham of the Fifth Circuit.

I highlight all this because the issues with which you will wrestle—intelligence, national security, and the law—must remain free from partisan politics. You and thousands of dedicated public servants, both in and out of the Intelligence Community, have chosen to dedicate yourselves to work tirelessly on the behalf of the people of the United States.

For that, I thank you and the countless other men and women who give the best of themselves as public service.

As you know, the general counsel of the ODNI is the Intelligence Community's top lawyer. This position carries with it the responsibility of making some tough calls, especially in today's increasingly complicated security environment. One perfect example is the debate that many of us on this dais had recently during the 702 reauthorization about how we can continue to preserve this critical tool for America's ability to spy on foreign adversaries, while still preserving America's civil liberties and in the field of evolving telecommunications technologies.

At the end of the day, our intelligence professionals will often turn to you for guidance on what they can do and more importantly what they cannot do. To do this, you will need your judgment and ethical compass to make the right decisions, even in the face of political policy pressure. In recent years, we have seen patriotic individuals come forward as whistleblowers who have then been sidelined, fired, or even retaliated against.

I'd like to hear your thoughts on how you will work to ensure that such IC whistleblowers are going to be protected regardless of who's in the White House. More broadly, we have seen what happens when the expertise and judgment of America's civil servants and intelligence professionals are discounted, belittled, and outright ignored. When honest analysis is not welcomed by policymakers regardless of party, the result is often bad policy based on faulty analysis. I'd also like to hear your thoughts on how we will work to continue to install the utmost level of integrity in the IC workforce and ensure that they continue to be able to speak truth to power.

No matter, again, who's in the White House, or for that matter, who's in the DNI seat, should you be confirmed, fulfilling this Committee's oversight obligations will require transparency and responsiveness. And we'll expect you to constantly deal with us in an honest, complete, and a timely fashion. We also, though, encourage you to come to the Committee when partnership is needed. You'll always count on us to hear you out, treat you fairly—and usually without partisanship you may see elsewhere. Now after the Vice

Chairman and I've given my opening statements, Members will be given five minutes in order of seniority. In open hearings, go by seniority rather than order of arrival.

And before I turn it over to the Vice Chairman, I would like to submit for the record a letter of endorsement from a whole series of intelligence and legal professionals from the Bush, Obama, Trump, etc., Administrations, for the record, in support of Mr. Wiegmann.

Without objection, so ordered.

With that I'll turn to the Vice Chairman.

June 1, 2024

The Honorable Mark Warner
Chairman, Select Committee on Intelligence
United States Senate
211 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Marco Rubio
Vice Chairman, Select Committee on Intelligence
United States Senate
211 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Warner and Vice Chairman Rubio:

We write to express our enthusiastic support for the nomination of J. Bradford Wiegmann to be the General Counsel for the Office of the Director of National Intelligence. We have held positions in the U.S. Intelligence Community (IC), the Department of Justice (DOJ) and other government agencies in Democratic and Republican administrations, and we have served with Brad or are otherwise familiar with his work. We hold him in the highest regard.

Brad has immense experience in the field of intelligence law and related areas. As the Director of National Intelligence stated in connection with Brad's nomination, he has served as "the Deputy Assistant Attorney General for National Security at the Department of Justice; Assistant Legal Advisor at the Department of State; Deputy Legal Advisor at the National Security Council; and Special Counsel to the General Counsel at the Department of Defense. Additionally, in private practice, Brad has worked on civil litigation."

During more than 30 years of practicing law in and out of government, Brad Wiegmann has earned a well-deserved reputation for acumen, integrity, and sound judgment. We strongly urge his confirmation.

Sincerely,

Michael Allen
Former Special Assistant to the President for National Security Affairs, NSC

Stewart Baker
Former General Counsel, National Security Agency

Aditya Bamzai
Former Attorney, Office of Legal Counsel and National Security Division, Department of Justice

John B. Bellinger
Former Legal Adviser, National Security Council

David Bitkower
Former Principal Deputy Assistant Attorney General, Criminal Division, Department of Justice

James Clapper
Former Director of National Intelligence

Ashley Deeks
Former Deputy Legal Advisor at the National Security Council

John Demers
Former Assistant Attorney General for National Security

Mary B. DeRosa
Former Deputy Counsel to the President and National Security Council Legal Adviser

Brian Egan
Former Deputy Asst to the President and Legal Advisor to the National Security Council

Steven A. Engel
Former Assistant Attorney General for the Office of Legal Counsel

Bishop Garrison
Former Senior Advisor to the Secretary of Defense

Glenn S. Gerstell
Former General Counsel, National Security Agency

Adam S. Hickey
Former Deputy Assistant Attorney General, National Security Division

Todd Hinnen
Former Acting Assistant Attorney General for National Security

Joseph ("Jody") Hunt
Former Assistant Attorney General, Civil Division, Department of Justice

Alex Joel
Former Civil Liberties Protection Officer, Office of the Director of National Intelligence

Jason Klitenic
Former General Counsel for the Office of the Director of National Intelligence

David Kris
Former Assistant Attorney General for National Security

Martin S. Lederman
Former Deputy Assistant Attorney General, Office of Legal Counsel

Douglas N. Letter
Former Director, Civil Division, Appellate Staff, Department of Justice
Former General Counsel, U.S. House of Representatives

Stuart Levey
Former Under Secretary of Treasury for Terrorism and Financial Intelligence

Robert S. Litt
Former General Counsel of ODNI

Mark Martins
Brig General, USA, Ret

Mary B. McCord
Former Acting Assistant Attorney General for National Security

Trevor W. Morrison
Former Associate White House Counsel

Harvey Rishikof
Former Senior Advisor, National Counter Intelligence Executive

J. Patrick Rowan
Former Assistant Attorney General for National Security

David Schanzer
Former Democratic Staff Director, House Select Committee on Homeland Security

Stephen B. Slick
Former NSC Senior Director for Intelligence Programs and Reform

Suzanne E. Spaulding
Former Undersecretary, DHS

Megan H. Stifel

Former Director for Cyber Policy, National Security Division, Department of Justice

Donald Vieira

Former Chief of Staff, National Security Division, Department of Justice

Thomas S. Warrick

Former Department of Homeland Security Deputy Assistant Secretary for Counterterrorism Policy

Matthew C. Waxman

Former Deputy Assistant Secretary of Defense

Raul F. Yanes

Former Assistant to the President

**OPENING STATEMENT OF HON. MARCO RUBIO, A U.S.
SENATOR FROM FLORIDA**

Vice Chairman RUBIO. Thank you, Mr. Chairman. Thank you, Mr. Wiegmann, to you, to your family. Congratulations on your nomination. Thank you for your willingness to continue to serve, since you've been serving in various capacities for a number of years. I think it's working. The work of intelligence is probably unique in all of our government.

It is the one place where the American people basically say and admit our government needs to collect secrets and keep them secret, not so much because they don't want us to know, but because if they divulge those secrets they would divulge how they acquired it, they would divulge who gave it to them, and they would not be able to collect anything in the future.

And it's an extraordinary power, given the technical advances today. We don't just operate in the realm of human intelligence, we operate in the realm of technical intelligence and the analysis of all kinds of things that are out there in the open and the media. Suffice it to say the power that we now have deployed in the pursuit of foreign secrets that apply to our national security is an extraordinary power.

And the only way that that bargain with the American people works is if they trust that that power will be used in three ways. The first, in a way that the information is as accurate as possible. Sometimes it's analysis, and analysis can be wrong. But there's a difference between analysis that's wrong because the analysis just made a wrong guess, an educated guess. And the other trust they have to have, and that is they have to have the trust that it's not being manipulated. That someone is not going in and saying: I am going to either analyze intelligence, or I'm going to manipulate the intelligence that we pay attention to, in order to support a policy outcome that a policymaker may want or that may be popular. And the third trust is that it's not being weaponized. That it's not being used as a tool to target, for example, domestic political opponents.

You made reference, I believe—you made reference certainly in your written comments—at the opening about the Church Committee, which is ultimately what gave rise to the existence of this very Committee and that—and it unraveled and disclosed and revealed and uncovered all kinds of operations within the Intelligence Community that almost destroyed our intelligence agencies in this country. And part of that was that there were Administrations in both political parties that had used our intelligence agencies to conduct either domestic political activities or to interfere in certain domestic political activities. So, suffice it to say that this has been going on for a while, but it was the reason why this Committee was created, hence the role of general counsel, which should be—especially now that the DNI didn't exist back in the day—it acts as the conductor, the DNI that is basically the conductor of the orchestra and it's a tough orchestra. Some of the instruments in that orchestra are bigger and more powerful than others, for example, the CIA. But it's an incredibly important role in that regard. And I also think, and I mentioned this to you in our meeting, although I'm not sure it's within your purview, one of the things that most disturbs me is when I go out and people say—and it bothers me because of

what it implies to the trusts that I raised—people will say to me: You know, the CIA or the intelligence agencies interfered in this or did that. And I remind people that often most of the time what they're referring to are former officials who have left the service of our country and then used that title as credibility when they make statements that may have political purposes, and in some cases do have political purposes behind them. There's not much you can do about it, but it has eroded trust in our intelligence agencies. And I fear what that means, because we do face a lot of threats in this country—to our country, to our national security. And the day cannot come—I hope the day never comes—where, when a real stark warning is made about some threat to our country, that people don't just dismiss it because they don't believe who it is that's telling them.

And so, that is why it's so critical that above everything else, people can always have—we can preserve and build the confidence that people can have in our agencies. That the work they're doing is about our national security, not a tool for internal, politics, not as a way to spy and abuse on Americans. It's one of the resistances we have to the reauthorization of 702, as people are convinced it's being used to target Americans and not because they think the information that's being provided to policymakers or to the public is selectively chosen to further one narrative or one political viewpoint versus another.

And so, I do think that to the extent, as a general counsel, you will be in a role to sort of see how agencies conduct their activities, what they're allowed to do, what they're permitted to do under the law, that will also keep in mind not just what the law allows, but what the spirit of that law should be about and that you will, as I know the Chairman will ask you the routine questions we always do, but that you'll always be cooperative and responsive with this Committee. Because we and our House counterparts are literally the only eyes and ears the American public has between them and the secrets our government holds. And for us to be able to do our job effectively and with confidence, we need to have that level of cooperation.

So, thank you for your willingness to serve and we look forward to your testimony and your answers.

Chairman WARNER. Thank you, Mr. Vice Chairman.

And now will the witness please stand and raise his right hand.

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

Mr. WIEGMANN. I do.

Chairman WARNER. Please be seated.

Before we move to your opening statement, the Vice Chairman made reference to this, we've got five standard questions. They are routine, but they are critically important for the record and in terms of the commitment you will make in your answers.

They just require a simple yes or no. And again, for the record.

First, do you agree to appear before the Committee here or in other venues when invited?

Mr. WIEGMANN. Yes.

MARK WARNER. Number two, if confirmed, do you agree to send officials from your office to appear before the Committee and designated staff when invited?

Mr. WIEGMANN. Yes.

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

Mr. WIEGMANN. Yes.

Chairman WARNER. Will you ensure that your office and your staff provide such materials to the Committee when requested?

Mr. WIEGMANN. Yes.

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

Mr. WIEGMANN. Yes.

Chairman WARNER. Thank you very much. We'll now proceed to your opening statement, which again, I'll then recognize Members by seniority for up to five minutes each.

Mr. Wiegmann.

STATEMENT OF JOHN BRADFORD WIEGMANN, NOMINEE TO BE GENERAL COUNSEL, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Mr. WIEGMANN. Thank you. Chairman Warner, Vice Chairman Rubio, Members of the Committee, thank you for having this hearing today to consider my nomination. I want to thank President Biden and Director Haines for giving me this opportunity, as well. I'd also like to thank my family, who are here with me today. My mom Carol, my wife Theresa, my kids Nicole and Nat, whose love and support means so much to me. I'd also like to recognize my dad, who we all miss very much, but who's with us in spirit.

So exactly 40 years ago this week I was graduating from high school. It was 1984. And so, like thousands of other students that year who were perhaps lacking in imagination, I had written a college application essay on Orwell's famous novel. I don't remember much about that essay, but it was something about the benefits and risks of modern technology and what the prospects were for an authoritarian surveillance state.

I was just 17, and so I expressed great optimism that the human spirit would prevent Orwell's vision from being realized. Now as fate would have it about a dozen years later, I wound up becoming a national security lawyer for the federal government. And over the last 30 years, I've worked at the Pentagon, on the NSC staff at the Department of State, and the National Security Division at the Department of Justice.

Many of the issues I've worked on have to do in some way with that same subject as that essay: technology and its benefits and risks whether in the hands of our government, the private sector, adversary nations, or criminal groups. Figuring out how the law should address issues at the intersection of technology and national security is a huge challenge and one that's important for the ODNI general counsel and for this Committee.

Since 1984, technological advances have catapulted forward at an incredible speed. They've raised many tough but by now familiar issues for national security policy and law. How should the IC protect privacy and civil liberties regarding vast quantities of data that are now commercially available to anyone? And how do we prevent foreign adversaries from exploiting this same data of U.S. persons? How should the law address the challenges that encryption poses for law enforcement and intelligence, while preserving privacy and cybersecurity? And how should the law regulate the government's use of artificial intelligence in ways that support national security while ensuring it will not be misused? And how do we defend against our adversaries' use of AI? These questions are just the tip of the iceberg. Gene editing, quantum computing, autonomous, drones, synthetic media, many other advances also present novel questions. So, in wrestling with these issues, one of the challenges for lawyers is that the law often doesn't keep pace with the changing technological and threat landscape.

Traditional sources of law often don't provide clear answers. So, national security law in this area is messy. The policy implications can be major. No one wants a government that operates like Big Brother, and you don't have to read dystopian novels to be worried about this risk. As the Chairman and Vice Chairman alluded to, you can just read the Church Committee report.

At the same time, we all want a government that's effective at protecting us from an array of very serious threats, which this Committee knows very well. Our commitment to liberty will be hollow if we can't rise to meet the challenges posed by authoritarian regimes like China and Russia, and terrorists and criminals, and others bent on wreaking havoc around the world.

So, national security law plays a major role in reconciling these objectives. It both empowers us and constrains us as we make decisions that affect the security and freedoms of the American people. In my career, I've been privileged to work with hundreds of dedicated lawyers and policymakers in the Executive Branch to help our government both follow the law and adapt it to meet new challenges.

If I'm confirmed, I hope to help the Intelligence Community continue to perform its vital mission in a way that is fully consistent with our Constitution and laws as well as our values.

Unfortunately, I'm not 17 anymore, but I'm still optimistic that the human spirit and, critically, our legal institutions will allow us to continue to thrive as a society that's both free and secure. I also strongly believe in the value of public service. Promoting greater public confidence in our law enforcement and intelligence agencies is a crucial objective today, when such confidence appears to be eroding.

If I'm confirmed, I look forward to working closely with this Committee, which has a uniquely important role to play in overseeing the Executive Branch and thus helping us promote that confidence.

Thanks again for having this hearing, and I'm happy to answer your questions.

**Statement for the Record of John Bradford Wiegmann
Nominee for General Counsel of the Office of the Director of National Intelligence
Before the Senate Select Committee on Intelligence June 5, 2024**

Chairman Warner, Vice Chairman Rubio, and members of the Committee, thank you for having this hearing today to consider my nomination as General Counsel for the Office of the Director of National Intelligence (ODNI). I want to thank President Biden and Director Haines for giving me this opportunity.

I'd also like to thank my family who are with me today: my Mom Carol, my wife Theresa, and my kids Nicole and Nat, whose love and support mean so much to me and who make my life possible. And finally I'd also like to recognize my Dad who we all miss very much but who is always with us in spirit.

Exactly forty years ago this week, I was graduating from high school. It was 1984, and no doubt like thousands of students across the country that year, I had written an essay on Orwell's dystopian novel. I don't remember much about that essay, but it was something about the benefits and risks of modern technology for our society and what the prospects were for technology enabling an authoritarian surveillance state. I professed optimism that the human spirit would ultimately prevent Orwell's vision from being realized.

As fate would have it, a dozen years later I wound up becoming a national security lawyer for the federal government. Over the last thirty years I've worked at the Pentagon, on the NSC staff, at the Department of State, and in the National Security Division of the Department of Justice. I've worked on a wide range of issues in my career but many of them have to do in some way with the same subject as that high school essay: technology and its benefits and risks, whether in the hands of our government, the private sector, adversary nations, or criminal organizations.

Figuring out how the law should address issues at the intersection of technology and national security today is a huge challenge, and one that is important for the ODNI General Counsel. Since 1984, technological advances have catapulted forward at an unimaginable speed and have raised many tough but by now familiar questions for national security policymakers and lawyers:

- How should the intelligence community protect privacy and civil liberties regarding vast quantities of data that are now publicly or commercially available to anyone? And how do we prevent foreign adversaries from exploiting this same data of U.S. persons?
- How should the law address the challenges that increasingly sophisticated encryption poses for law enforcement and intelligence agencies while preserving privacy and cybersecurity?
- How should the law regulate the government's use of increasingly powerful artificial intelligence in ways that support national security while ensuring it will not be misused? And how do we defend against our adversaries' use of AI?

These questions are just the tip of the iceberg: gene editing, quantum computing, autonomous drones, synthetic media and many other revolutionary advances also present novel questions for national security policy and law.

In wrestling with these issues, one of the challenges for lawyers is that the law often doesn't keep pace with a rapidly changing technological and threat landscape. We can look to the

Constitution, federal laws, court decisions, and Executive orders and regulations. But those sources often don't provide clear answers. So national security law in this area can be messy. The policy implications can be momentous. No one wants a government that operates like Big Brother. You don't have to read novels to be worried about this risk; you can just read the Church Committee report. At the same time, we all want a government that is effective at protecting us from an array of very serious, complex, and technologically-enabled threats – threats which this Committee knows all too well. Our commitment to liberty will be hollow if we cannot rise to meet the challenges posed by authoritarian regimes like China and Russia, terrorists, criminals, and others bent on wreaking havoc across the world.

National security law plays a major role in reconciling these objectives insofar as it both empowers us and constrains us as we make decisions that affect the security and freedoms of the American people. All three branches of government have a major role in shaping this evolving body of law. I've been privileged to work closely over the years with hundreds of dedicated lawyers and policymakers in the Executive Branch to help our government both follow and interpret the law and adapt it to meet new challenges caused by changing global conditions. If I'm confirmed, I hope to help the intelligence community continue to perform its vital mission in a way that is fully consistent with our Constitution and laws as well as our values.

I'm still optimistic that the human spirit -- and our legal institutions -- will allow us to continue to thrive as a society that is both free and secure, and I am hopeful that, despite recent dispiriting trends, authoritarian regimes ultimately will not endure. I also strongly believe in the value of public service. Promoting greater public confidence in our institutions of government -- and particularly our intelligence and law enforcement agencies -- is a crucial objective in current times, when such confidence appears to be fast eroding. Greater transparency about the work we are doing, where operationally possible, is one way to help us meet this goal.

If I'm confirmed, I look forward to working closely with this Committee, which has a uniquely important role to play in overseeing the Executive Branch and thus helping promote public confidence in our intelligence community. I also appreciate the nonpartisan spirit in which this Committee has customarily operated and would hope to follow suit. If confirmed, I will of course provide my best advice to the Director on all legal issues confronting the office. And I look forward to collaborating with the talented lawyers and professionals throughout the government whose work is so important to achieving the objectives I've talked about today.

Thanks again for having this hearing and I am happy to answer your questions.

Chairman WARNER. Thank you very much, Mr. Wiegmann.

And again, for Members and staff, if you want to submit questions for the record after the hearing, please do so by 5:00 p.m. on Friday, June 7.

Let me get at it. Many of us on this Committee have worked on a topic that candidly, before I got on the Committee, I didn't think I'd be spending as much time on which is classification reform. In your response to the questions the Committee put forward, you pointed out, I think, some of the harms from over-classification. And what that does, as Senator Rubio mentioned, we lose the public trust. The value of not only our Committee but frankly of the IC's work is greatly undermined.

You acknowledge that a White House-led process that is currently underway is one way. One of the things we have argued—some of us have argued—that the rules governing classification and declassification must be also dealt with by Congress, although at the end of the day, the President does have the ability to do some of this on executive order.

Do you believe that Congress has a role in establishing the rules that govern classification and declassification of information?

Mr. WIEGMANN. Thank you for that question. So, as you alluded to, I know the DNI and I both share the concern about over-classification; and as you said, there is a process underway to work on, to try to address that problem. But it's been a longstanding problem though, an intractable problem for as long as I've been in government.

You can just look back at the old—there's a law passed in 2010. I know about the Over-Classification Act that Congress passed at that time. And it goes back farther than that. So, it's a huge challenge. I do think that historically, as you know, the basis—the underlying legal basis for classification has laid with the Executive: the series of Executive Orders that successive Presidents have issued governing classification. And that has a Constitutional basis underlying it because of the President's role as Commander-in-Chief and Chief Executive. But I don't think that that means that Congress has no role. There are a number of places where Congress has legislated in this area, including the Atomic Energy Act including FOIA, for example, where exemption B(1) talks about how and when the government can withhold information; and that's an area that Congress has spoken to on classification.

There's a number of other laws where Congress has directed specific declassification reviews. Congress created the Public Interest Declassification Board. So, I think there's a lot of examples in place for Congress to assist the executive in dealing with the over-classification problem.

Chairman WARNER. I would just hope we took another crack at this in the Intel Authorization Bill of 2025 that I think, again, had huge broad bipartisan support.

Before you formally become a Senate-confirmed member of the Executive Branch, I'd like to have your commitment to continue to work with the Committee on this legislation, rather than simply when confirmed opposed for separation of powers reasons.

Mr. WIEGMANN. Absolutely, we'll work with you on it.

Chairman WARNER. Okay, great. Thank you.

Next question. One of the things the Committee has really taken on, both in a closed hearing and we'll shortly be doing an open hearing, the question of foreign malign influence. I believe very strongly that it is appropriate and responsible to have communications between the intel community and the social media platforms on a voluntary basis focused on foreign malign influence—not on anybody's ability to limit First Amendment rights. We're talking about foreign interference. This Committee has spent an awful lot of time on that.

What are your views on the appropriate role that government officials should play in engaging voluntarily with social media platforms and other technology companies to make sure that we are able to monitor and, if need be, report and inform the American public about foreign malign influence?

Mr. WIEGMANN. I think this is an area that it's important for the government to act. The key is what you had just said, Senator Warner, which is that we can't coerce companies to remove First Amendment protected content. We can't be in the position of censoring First Amendment protected speech online. But that doesn't mean that we can't engage with the companies when we see foreign governments or others engaging in malign conduct on social media platforms. And so, I know the FBI has a program to be able to flag accounts that we think are used by our adversary governments to engage in foreign malign influence activities, as long as they're making clear to the company that what action, if any, they choose to take with respect to those accounts is strictly voluntary and it's their choice as to whether to do anything about it. Then, I think that is an important dialog to have between the Executive Branch and the companies. And it's one that we've engaged in for a number of years, not only in the foreign malign influence context, but also for terrorism and other ills as well.

So, yes, I think it's an important activity.

Chairman WARNER. My last question is this. You know we just had a spirited debate about section 702 reauthorization. I was proud to have it reauthorized and I appreciate Committee Members who support us, but also Committee Members who opposed who raised some of the past problems we've had with compliance. We're only two months in, but since we only got a two year reauthorization, it's not that far in the future that we will have to go through the reauthorization process again.

One of the reasons I think there was pushback was we didn't do as good a job after the prior reauthorization on making sure of compliance. Do you commit that if confirmed that you will make 702 compliance one of your top priorities?

Mr. WIEGMANN. Absolutely, I mean, we're viewing this as, some of us joking in the Executive Branch about continuous reauthorization. In other words, because we don't want to take apart the good work that we've done over the last couple of years, both in persuading people of the value of 702 collection, but also in working to ensure that we're on the top of our game for compliance purposes.

And so, we're going to keep the mechanisms I have in place to keep doing that and want to keep working with the Committee and to report to you all as we go along about how it's going.

Chairman WARNER. Well, thank you, Mr. Wiegmann. Thank you for your service and I look forward to hearing the rest of your answers.

Mr. WIEGMANN. Thank you.

Chairman WARNER. Senator Rubio.

Vice Chairman RUBIO. You were in the DOJ's National Security Division when the China Initiative was dissolved in 2022.

Mr. WIEGMANN. Yes, Sir.

Vice Chairman RUBIO. And I think you indicated that you were not involved in the decision to terminate the initiative, but you likely participated in discussions explaining the rationale for the decision. What was the rationale?

Mr. WIEGMANN. The rationale was that essentially the problems that China posed were not unique to China. They were—the malign activities that China engages in are also engaged in by Iran, Russia, in terms of the theft of technology, the malicious cyber activity, the transnational repression. Those are all activities that a number of nation-states engage in. And so, rather than have something focused only on China, we wanted to broaden the focus to a number of different countries.

But it was intended in no way—no way—to signal a lack of resolve towards continuing to pursue investigations of malicious Chinese activity. And I think if you look at the FBI and DOJ's record since that time, they've continued to pursue bad actors in China with the same zeal.

Vice Chairman RUBIO. So, the rationale was that all the things that China does that are a threat to national interests and national security of the United States are also activities undertaken by other adversaries?

Mr. WIEGMANN. That's right.

Vice Chairman RUBIO. And therefore, we should just have a big bucket that doesn't distinguish by country, but by activity?

Mr. WIEGMANN. That's right. We generally speaking haven't most often had programs focused only on specific countries.

Vice Chairman RUBIO. Do you recall in those conversations—and you don't have to tell us who it was—anybody mentioning that the scale, scope of Chinese efforts on multiple fronts dwarfs that of any other actor? For example, the commercial espionage conducted by the Chinese has no precedent among any other nation-state power.

Mr. WIEGMANN. I don't disagree with that. I think China is the number one CI threat. Absolutely.

Vice Chairman RUBIO. And certainly, their ability to use supposedly private companies to sort of act as cutouts for the government of China, be they running a port or providing telecommunication services. I mean, there is no Russian Huawei, there is no Iranian ZTE.

Do you recall anybody making those points in that discussion that the Chinese threat is quite unique in both its scale and reach?

Mr. WIEGMANN. I don't remember that. I mean, I do know that, for example Russia, we have had a number of cases. There's a new task force set up since the China Initiative. The name was changed about disruptive technology theft, and certainly there have been a lot of cases of Russia stealing technology—military technology to

advance its efforts in Ukraine. So, I think there are some of other countries, but I don't disagree with you that China is number one.

Vice Chairman RUBIO. All right the other question I had is you've been on detail to the general counsel's office to ODNI since April, right? And you're also nominated to this position on the 18th. So, when did you start the detail position?

Mr. WIEGMANN. April 1st.

Vice Chairman RUBIO. Okay. I assume when you went over, you had some inkling that you would be nominated to this post. It almost sounds like some transitional phase. What would you, and I think just reading your biography, but I just want to hear it from you, it would be accurate to characterize all of your prior positions in government including in the Department of Justice's career positions rather than political positions?

Mr. WIEGMANN. That's right.

Vice Chairman RUBIO. Okay. So, your current title and detail to a senior adviser in the office of the general counsel, so what exactly—not a trick question or hostile one—what exactly does the senior advisor—will you have a replacement, will the new—

Mr. WIEGMANN. No. This is just—. There's not much to that title. I'm just doing essentially special projects as assigned by the general counsel and the DNI on different issues.

Vice Chairman RUBIO. Are there any of those—just give us a general understanding of what work you do.

Mr. WIEGMANN. What kind of things I'm doing? So, for example, as Senator Warner referred to, you all just gave us the 702 reauthorization. There's a lot of work that needs to be done to implement that, including some of the kind of new operational authorities that we have. That's one of the projects that I'm working on.

Another is the DNI has initiative focused on kind of harmonizing the pre-publication review process, if you know what that is. The process whereby former government officials have to come in and if they're going to write something, write an article or give a speech, or whatever they have—to have it reviewed for classification. And the different agencies have different standards and so forth. And so, there's an effort to come up with a new directive to govern that.

So, those are examples of the types of things that I've been working on.

Vice Chairman RUBIO. Okay, all right. Thank you.

Chairman WARNER. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

And Mr. Wiegmann, I enjoyed our conversation a couple of days ago. It was very helpful, and I want to pick up, and I think we can do it quickly, on some of the questions I asked you with respect to gaps in FISA protection for law-abiding Americans—that's my concern. So, current FISA law prohibits the Intelligence Community from collecting GPS information on Americans overseas without a warrant. Is there any reason why that protection should not be extended to Americans in the United States?

Mr. WIEGMANN. No, Senator. As we talked about when we spoke, if, for example, under 704 of FISA, if that authority requires a warrant under 704 to obtain geolocation data for an American abroad, then if the government is also trying to compel a company to

produce geolocation information in the United States and that should also require a warrant in my view.

Senator WYDEN. So, following up on that, current FISA law would require a warrant to search an American's apartment overseas. But if that American visits the United States, it's not clear that those provisions apply. Is there any reason why a warrant shouldn't be required to search that American's apartment overseas regardless of where that American is at that moment?

Mr. WIEGMANN. I agree with that as well. That is a gap I think in the law. We sometimes refer to that as the vacation home gap. But yes, I don't have any objection in principle to requiring a warrant to search an American's home overseas for foreign intelligence purposes.

Senator WYDEN. We're making good progress. Let me now go to this question of secret law and my colleagues here have heard me describe this on a number of occasions. But, you know, I feel very strongly that sources and methods have got to be secret and that has got to be a sacrosanct principle in the Intelligence Community.

I think the laws have got to be public, and that means basically someone ought to be able to sit in a coffee shop somewhere and read a public law because that's what our system depends on, is people having knowledge of public laws.

And as you know, we had something that we Jewish people call a kerfuffle with respect to some of the definitions in 702. Because on its face, it could allow the government to force just about any American with access to a Wi-Fi or a cable to participate in warrantless surveillance. That to me is what it said on its face. Now to me, this isn't how legislation should be written, and it adds to distrust. So, my question here is, would you agree that the public has a significant interest in knowing the boundaries, and I choose that word specifically, of these authorities?

Mr. WIEGMANN. I couldn't agree with you more. I think in a democracy it's important that our laws be transparent and public to the maximum extent possible. In the intelligence area, as you know, that can pose challenges because the activities are secret. And so, the legal basis for those activities, we want that to be public to the maximum extent that we can. But there can be challenges in doing so, while to—in order to protect the activities that we need to keep secret.

So, I think with respect to the specific issue that you're referring to, which is the revision in the most recent reform to the definition of electronic communications service provider I think we've tried to do, working with the Committee and working with the Chairman, is to make as much information as possible public about what that new definition is intended to mean.

It's a narrow change in the law to really address a change in how the communications architecture has evolved since ECPA was adopted in the 90s. And it was in response to a very specific FISA Court decision that said that a particular type of company was beyond the jurisdiction of the law. And so, we've done as much as possible, including working with the Chairman, to make clear that it was intended to be a very narrow technical fix and my understanding is that in the draft Intel Authorization Act, we're going to go another step farther to try to link that definition to that court

decision in a way that will try to provide as much as we can possibly while protecting the source of methods, as you said, Senator, that we need to protect.

Senator WYDEN. Let me get to my last question.

Mr. WIEGMANN. Sure.

Senator WYDEN. Because I work closely with the Chairman and the Vice Chairman. And I think we made some progress on the definition.

Mr. WIEGMANN. Yes.

Senator WYDEN. But this is still, as you and I talked, this is a balancing act. So, here's my question. Under the Executive Order that controls classification, the DNI is supposed to weigh whatever sensitivities might exist against the public interest in the information. Now, if you're confirmed, you're going to be advising the DNI. I would like to know whether you believe that when it comes to public law, those specific words, the public has got a strong interest in knowing what it means?

Mr. WIEGMANN. I absolutely think the public has a strong interest. I know the DNI also believes in transparency, so I certainly would advise her on that. But it can be challenging sometimes given the interest in protecting our equities.

Senator WYDEN. There's no question it's going to be challenging, that's why I thought you were a smart guy at the beginning, and I appreciated the questions. I just want to have somebody in that room who's going to understand the difference and I think you do. And this is going to be an ongoing kind of process between, you know, sources and methods—got to be secret—and public law so people can sit in a coffee shop and figure out what in the world is going on back here.

Mr. WIEGMANN. I get it. I understand.

Senator WYDEN. Thank you. Thanks, Mr. Chairman.

Chairman WARNER. Thank you, Senator Wyden. Senator Risch agreed to pass on his time and move to Senator Cornyn.

Senator CORNYN. Congratulations, Mr. Wiegmann, on your nomination.

Mr. WIEGMANN. Thank you.

Senator CORNYN. And thank you for your service to our Nation in various capacities before this.

I want to talk to you a little bit about 702 since it's come up and that you're intimately familiar with it as well as the operation of the Foreign Intelligence Surveillance Court. Unlike a traditional adversarial process, a criminal trial, for example, where you have a prosecution and defense, the Foreign Intelligence Surveillance Court largely operates on an ex parte basis, correct?

Mr. WIEGMANN. That's right.

Senator CORNYN. And what does that mean?

Mr. WIEGMANN. That means that the government is there, but there's no party on the other side.

Senator CORNYN. And that means that the target of a, let's say, warrant, somebody overseas or other interested party whose rights may be involved, they're not invited to present an argument to the court that's decided in a what I would call traditional adversarial process, right?

Mr. WIEGMANN. That's right, although I would point out that that's the same in the criminal context if you were doing a Title 3 wiretap or a search warrant. The other side doesn't know about that in that context either.

Senator CORNYN. Thank you for pointing that out. Yes, this is standard operating procedure in the criminal courts where the government seeks a search warrant or a wiretap or something of that nature. Of course those can be reviewed on appeal—

Mr. WIEGMANN. That's right.

Senator CORNYN [continuing]. In the event of a conviction.

Mr. WIEGMANN. Right.

Senator CORNYN. But, as you know, the current law on the amicus curiae, friend of the court, allows the Foreign Intelligence Surveillance Court to consult with an amicus on novel questions of law. That is a process where the court initiates it, asks the amicus, would you care to weigh in to help us make a better decision? Is that what you understand to be the current state of the law?

Mr. WIEGMANN. Yes, that's right.

Senator CORNYN. And you're aware of the fact that there were discussions leading up to the last authorization. And in fact, those discussions continue about a, let's say, a more amicus role that is much more of the nature of an adversary as opposed to just a friend of the court. Are you familiar with that?

Mr. WIEGMANN. Yes, I am.

Senator CORNYN. For example, in the provisions that were not included, but are now included in the Intelligence Authorization Act, which is a public document, would allow the amicus to actually appeal, from some of the decisions of the Foreign Intelligence Surveillance Court. Is that right?

Mr. WIEGMANN. I know that that's been proposed before.

Senator CORNYN. And, well, I would invite you to look at what passed out of the Committee on the Intelligence Authorization Act. I think you'll find that some of the proposals that were not included were now included, which provide for an amicus role, which basically makes them a party to litigation and enables them to appeal, to an appellate court, the decisions of the Foreign Intelligence Surveillance Court.

But let me just ask you about the practical operation. Frequently in an intelligence operation, is there a need for speed?

Mr. WIEGMANN. Yes, Sir.

Senator CORNYN. And would the prospect of a protracted litigation, including an appeal to an appellate court, of decisions made by the Foreign Intelligence Surveillance Court that ordinarily would be made on an ex parte basis to allow those appeals to proceed and perhaps slow down the collection of national security intelligence. Is that a concern of yours?

Mr. WIEGMANN. Yes, it would be, Sir.

Senator CORNYN. So, years ago, General Hayden, who was head of the National Security Agency and, of course, CIA Director, wrote a book, which I enjoyed quite a bit. The title of it was called "Playing to the Edge." And of course, it's your job to say what the edge is, to the people that you work for. But unfortunately, we've also seen a political consequence where intelligence officials play to the edge that is based on sound legal advice given to them, by people

like you and others in the national security interest, to try to get all the information they can legally get under the current authorities.

And then, our leaders held to account, or I would say, hung out to dry by the political branches, when maybe it turns unpopular later on. Are you familiar with some of what I'm referring to?

Mr. WIEGMANN. Yes, Sir, unfortunately.

Senator CORNYN. And so, what's your view of playing to the edge?

Mr. WIEGMANN. So—

Senator CORNYN. The appropriate way to play to the edge as a chief counsel for the director of National Intelligence.

Mr. WIEGMANN. So, look, I see my job as a lawyer is providing my best view of the law. Sometimes there are gray areas. And when you can make legal arguments that you think are supportable, that's something that becomes a policy choice essentially for the client to make. If you have a good and defensible legal argument that people may disagree with, and if national security requires it, then that may be something that you—that they can have discretion to do so. But there are other cases where it's like there's really not an argument here.

And it might advance your interest, you may have to do it, or you may have to come back to this Committee or Congress to get additional authorities or something different. So, that's kind of how I see my job as making clear when the law draws a red line and says that's just not something you could do and when you have space to make a decision.

Senator CORNYN. Thank you.

Chairman WARNER. Senator King.

Senator KING. I want to follow up on that exact line of questioning. My note says: is your role as a facilitator or a watchdog? In other words, lawyers in their private practice want to tell their clients how to legally do what they want to do.

In this situation, it seems to me there's a little bit of a difference because you're in a secret agency and you're one of the only people watching whether your policy folks are following the law. Ruminates on that distinction for me.

Mr. WIEGMANN. So, I guess you could probably use a little bit of both of those terms. It's a little bit of both. And I have that in my current job. You're both an oversight official to make sure that they're following the law and doing what they need to do, but you're also trying to work creatively with your client to come up with solutions to the very real world problems that they have and the threats that we're trying to confront.

Senator KING. The question is whether working creatively with your client facilitates illegal action? The classic example that this Committee dealt with some years ago was the torture—

Mr. WIEGMANN. Yeah.

Senator KING. Which was justified by, you'll pardon the expression, some pretty tortured legal opinions.

Mr. WIEGMANN. Yeah.

Senator KING. Talk to me about that experience.

Mr. WIEGMANN. So, that's when your judgment comes in. You don't want to distort the law beyond all recognition. You have to

follow the law. In my experience, you want to collaborate with other lawyers. One of my concerns back then was that those decisions were made by a very small number of lawyers kind of in secret. That wouldn't be my approach in general.

We have groups of lawyers that get together. We have something led by the National Security Council legal adviser. It's called The Lawyers Group. Includes lawyers from ODNI, from the Office of Legal Counsel at DOJ, the Chairman's Legal, also the military lawyers, the State Department lawyers. You know, we get together to talk about hard issues and national security law. And usually these are some of the most experienced lawyers in the Executive Branch. And we come to kind of good conclusions about what the law is and what arguments we can make. And I feel like that's an effective process. But the key is that it's collaborative, and you have a bunch of lawyers bringing the best minds together on an issue.

Senator KING. Well, you're going into one of the most important positions in our government, and that is the legal adviser to the Director of National intelligence. And the question is, are you willing to say no to the Director of National Intelligence or the President of the United States if they're intent on a policy that you believe is in conflict with the law?

Mr. WIEGMANN. Absolutely.

Senator KING. That's the right answer. Thank you. Thank you, Mr. Chairman.

Chairman WARNER. Senator Kelly.

Senator KELLY. Thank you, Mr. Chairman.

Mr. Wiegmann, congrats again on your nomination. We talked a little bit about technology issues. And it's clear to me that advancements in tech, you know, drive our national security, including our intelligence capabilities from the rapid advancement of AI and facial recognition and space-based systems.

These technologies and the countries who excel at deploying them determine the security landscape that we're going to live in, and they're changing very quickly. You know, sometimes—I mean a matter of weeks or months—we see today, we see dramatic changes in technology. And I think a challenge that we face here in Congress is grappling with the ability to legislate effectively on a topic that requires a lot of technical expertise. And sometimes the stuff is hard to understand, and I imagine that's similar in the legal profession.

So, can you share with us a little bit about how you overcome that kind of challenge when presented with some novel legal questions on emerging or evolving technologies?

Mr. WIEGMANN. So, it can be challenging for lawyers. I mean, certainly. You're an engineer and astronaut. It's probably a lot easier for you to assess these issues than lawyers who sometimes really are wrestling with technologies that they don't understand. And so, artificial intelligence is a good example of that, at least to me. It's a new technology. Understanding how a large language model works and what the implications are for privacy and national security is difficult. There are going to be questions, for example, that we're wrestling with right now.

Under the Attorney General guidelines that govern intelligence activities and how they would apply to the Intelligence Community's use of large language models and artificial intelligence.

So, generally speaking, in other words, the goal in the Intelligence Community is to try to minimize your collection of U.S. person information and get as little information as possible consistent with your mission. A large language model is the opposite premise, right? You need to have as much information as possible to make that model effective and to have the answers that it produces be the correct ones.

And so, how are we going to reconcile that kind of opposing impulse? The way the guidelines are written right now, they don't take into account—they weren't written with artificial intelligence in mind. So, we're going to have to wrestle with that and maybe come up with different guidelines as to how that works.

So, we see in the Executive Branch, similar to what the Congress would be facing, because we have our own rules and regulations that we set for the Intelligence Community as an Executive Branch matter, and face many of the same challenges that this Committee or others in Congress would confront.

Senator KELLY. So, it sounds like you have a little bit of experience in the AI field that you can use here in your new role. But what other policies and legal issues that you worked on at DOJ do you anticipate are going to be a continued focus in your job in the Intelligence Community?

Mr. WIEGMANN. Well, I mentioned the 702 reauthorization, so that's one that we clearly will be working on closely with DOJ. Another big issue that I partnered closely with ODNI on, I don't know how familiar the Committee is with it, is the fallout from the European Court of Justice's Schrems decision from a few years back. This was a decision that basically held that companies operating in Europe could not transfer data to the United States because of concern that our surveillance laws, whether those be FISA or under EO 12333, did not adequately protect European citizens' privacy. So, we had to go back to the drawing board in terms of our laws, come up with a new executive order which ended up the—President Biden ended up issuing EO 14086 to kind of provide new privacy protections. It even included a new data privacy court that we established at DOJ to hear claims of European nationals who believe they're being unlawfully surveilled. So, those kinds of a creative solutions. It's going to be an ongoing issue though because I'm sure it's being challenged already in the European courts again, and we're going to have another round of litigation. And so, that's an issue that I think ODNI is going to have to continue to work on.

Senator KELLY. With the exception of that example and maybe FISA, do you have an example of maybe what you think another really challenging legal issue is that the Intelligence Community is going to face here going forward?

Mr. WIEGMANN. I think if I could flag counternarcotics. I know that an area of deep concern to the Congress is Fentanyl and all the deaths that are resulting from Fentanyl and other synthetic opiates in the United States. And I think it's an area that the IC has always worked, in the counternarcotics space. But we're going

to be doing more in that space and how to kind of merge and have law enforcement and the IC work together on the counternarcotics threat in maybe ways that are similar to how we've dealt with the counterterrorism threat. It looks good on paper but is going to be a challenge in practice to kind of translate some of those lessons that learned in the terrorism context over to the counternarcotics context.

So, I think that's one that's going to be an ongoing project for a number of years.

Senator KELLY. Well, thank you. And thank you, Mr. Chairman.

Chairman WARNER. Does any member wish to ask a second round?

[No response.]

Well, Mr. Wiegmann, one, congratulations. We got through this, and you have 45 minutes. Two, I think you heard maybe on 702, and one of the things I appreciate about this Committee is Members feel very strongly in figuring out a way to get it right. And as you've heard from other colleagues, how we sort through things like AI is going to be enormously challenging.

You know, I look forward to supporting your nomination and I want to, again, thank your family for being here and supporting you in this. And I will, again, remind Members—and for those Members who are not here—if they have questions for the record, please get them in by 5:00 on Friday.

We are adjourned.

[Whereupon the hearing was adjourned at 3:17 p.m.]

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**SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE**

**QUESTIONNAIRE FOR COMPLETION BY
PRESIDENTIAL NOMINEES**

PART A - BIOGRAPHICAL INFORMATION

1. FULL NAME: John Bradford Wiegmann
OTHER NAMES USED: Brad
2. DATE AND PLACE OF BIRTH: 5/24/1966
CITIZENSHIP: U.S.
3. MARITAL STATUS: Married
4. SPOUSE'S NAME: Theresa Lauerhass Wiegmann
5. SPOUSE'S MAIDEN NAME IF APPLICABLE: Theresa Lauerhass
6. NAMES AND AGES OF CHILDREN:

REDACTED

7. EDUCATION SINCE HIGH SCHOOL:

<u>INSTITUTION</u>	<u>DATES ATTENDED</u>	<u>DEGREE RECEIVED</u>	<u>DATE OF DEGREE</u>
Duke University	1984-88	A.B.	1988
Harvard Law School	1988-91	J.D.	1991

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

<u>EMPLOYER</u>	<u>POSITION/TITLE</u>	<u>LOCATION</u>	<u>DATES</u>
Southern Title Insurance Co.	Office assistant/driver	Richmond, VA	Summer 1988
Hunton & Williams	Summer Associate	Richmond, VA	June-July 1989
Robinson, Bradshaw & Hinson	Summer Associate	Charlotte, NC	July-August 1989

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Shea & Gardner	Summer Associate	Washington, DC	June-August 1990
Harkbox Café (Harvard Law School)	Clerk/barista	Cambridge, MA	Various times 1990-91
Department of Justice (Office of Solicitor General)	Intern	Washington, DC	June-July 1991
Environmental Protection Agency (Office of General Counsel)	Intern	Washington, DC	July- August 1991
Judge Patrick E. Higginbotham (U.S. Court of Appeals for the Fifth Circuit)	Law Clerk	Dallas, TX	August 1991- July 1992
Shea & Gardner	Associate	Washington, DC	October 1992 – September 1996
Department of Defense (Office of General Counsel)	Special Counsel	Arlington, VA	October 1996 – July 2000
National Security Council	Deputy Legal Adviser	Washington, DC	August 2000 – September 2006
Department of State (Office of the Legal Adviser)	Assistant Legal Adviser	Washington, DC	October 2006 – February 2009
Department of Justice (National Security Division)	Principal Deputy Assistant Attorney General/Deputy Assistant Attorney General/ Senior Counsel	Washington, DC	March 2009 – Present
Office of General Counsel, Director of National Intelligence (on detail from DOJ)	Senior Adviser	Washington, DC	April 2024 - Present

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

See answer to question 8.

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

I have worked on a wide variety of national security law and policy issues through most of my nearly 28 years in the Executive Branch, including in senior legal positions at the Departments of Justice, State, and Defense and at the National Security Council. I began my government career as a Special Counsel to the General Counsel at the Pentagon, where I worked on a diverse range of policy and litigation matters confronting the Office of the Secretary of Defense, including issues associated with armed conflict, defense contracting, military personnel matters, military justice issues, intelligence issues, and many others. After that, I worked for about six years on the National Security Council staff as a Deputy Legal Adviser, working on many national security law and policy issues of importance to the entire government.

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I was working as an attorney on the NSC staff when the September 11 attacks occurred and as a result I lived through many of the momentous national security legal and policy developments that occurred in the wake of those attacks, including the evolution of our counterterrorism policies and authorities, the creation of the Department of Homeland Security, intelligence reforms and the creation of the Office of Director of National Intelligence, and many others. I also helped address many legal and policy issues arising from the war in Iraq, gained invaluable experience with the interagency process managed by the National Security Council staff, and worked closely with and learned a great deal from senior lawyers across the government in the interagency process, including the intelligence community.

I next spent more than two years at the Department of State, first as Assistant Legal Adviser for Management and then as Assistant Legal Adviser for Diplomatic Law and Litigation. In this time, I learned a lot about international law as well as the many important domestic law issues that routinely confront any agency counsel from a management perspective, such as fiscal law, administrative law, personnel law, federal records law, and the like. I also gained critical experience managing and leading a legal office and understanding how lawyers can help support the day-to-day operations of federal agencies.

Next, I joined the National Security Division (NSD) at the Department of Justice as Principal Deputy Assistant Attorney General, the second most senior attorney in the division that is responsible for managing the full range of national security issues for the Department of Justice. Later I became Deputy Assistant Attorney General overseeing NSD's Office of Law and Policy. In almost fifteen years at DOJ, I have deepened my knowledge of important national security authorities such as FISA and Executive Order 12333 while also learning first-hand how criminal justice authorities are used to help protect our country from national security threats, whether they be from terrorists, spies, malicious cyber actors, or hostile nation states. For most of my time at DOJ I have managed an office in NSD responsible for providing advice and support on national security laws and policies; participating in, as well as supporting and advising senior DOJ leadership on, the National Security Council process; preparing and considering national security-related legislation; handling appeals in national security criminal prosecutions; coordinating with the Civil Division on civil litigation related to national security; serving as the principal liaison with the intelligence community on many policy matters; developing Attorney General-approved guidelines governing intelligence community elements' activities as they relate to U.S. person information; handling a number of international issues relating to national security at the Department, including facilitating cross-border access to data with our allies; addressing a range of privacy and civil liberties issues relating to the national security work of the department; and others.

I have often worked extensively with the Office of the Director of National Intelligence (ODNI) and successive General Counsels of ODNI on a wide range of issues over the years. Since April of this year, I have served on detail as a Senior Adviser in the Office of General Counsel in the Office of the Director of National Intelligence and have started to gain a greater understanding of the activities of ODNI and the legal and policy issues ODNI confronts in the course of this detail assignment.

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

Angier B. Duke Scholarship (full tuition scholarship to attend Duke University)

Phi Beta Kappa
Summa cum laude, Duke University
Magna cum laude, Harvard Law School
Member, Harvard Law Review

Navy Meritorious Civilian Service Medal
Attorney General's Distinguished Service Award 2018
Intelligence Community Team of the Year Award 2017, 2021, 2022, 2023

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

<u>ORGANIZATION</u>	<u>OFFICE HELD</u>	<u>DATES</u>
District of Columbia Bar	Member	1993 – present
Virginia Bar	Member	1992 -- present

13. PUBLISHED WRITINGS AND SPEECHES (LIST THE TITLES, PUBLISHERS, BLOGS AND PUBLICATION DATES OF ANY BOOKS, ARTICLES, REPORTS, OR OTHER PUBLISHED MATERIALS YOU HAVE AUTHORED. ALSO LIST ANY PUBLIC SPEECHES OR REMARKS YOU HAVE MADE WITHIN THE LAST TEN YEARS FOR WHICH THERE IS A TEXT, TRANSCRIPT, OR VIDEO). IF ASKED, WILL YOU PROVIDE A COPY OF EACH REQUESTED PUBLICATION, TEXT, TRANSCRIPT, OR VIDEO?

Congressional Testimony

Testimony before Senate Committee on Homeland Security and Government Affairs in hearing on “Protecting the Homeland from Unmanned Aircraft Systems” (July 14, 2022)

Testimony before House Oversight and Reform Subcommittee on Civil Rights and Civil Liberties in hearing on “Confronting Violent White Supremacy: Examining the Biden Administration’s Counterterrorism Strategy” (September 29, 2021)

Testimony before House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies in hearing on “Violent Extremism and Domestic Terrorism in America: The Role and Response of DOJ” (April 29, 2021)

Testimony before Senate Judiciary Committee in hearing on “Reauthorizing the USA Freedom Act of 2015” (November 6, 2019)

Testimony before House Judiciary Committee in hearing on “Oversight of the Foreign Intelligence Surveillance Act” (September 18, 2019)

Testimony before House Homeland Security Committee in hearing on “Confronting the Rise of Domestic Terrorism in the Homeland” (May 8, 2019)

Testimony before Senate Judiciary Committee, Subcommittee on Crime and Terrorism, in hearing on “Law Enforcement Access to Data Stored Across Borders: Facilitating Cooperation and Protecting Rights” (May 24, 2017)

Testimony before House Oversight and Government Reform Committee, Subcommittee on National Security, in hearing on “Seeking Justice for Victims of Palestinian Terrorism in Israel” (February 2, 2016)

Testimony before Senate Judiciary Committee, Subcommittee on Privacy, Technology and the Law, in hearing on “The Surveillance Transparency Act of 2013” (November 13, 2013)

Testimony before House Judiciary Committee in hearing on “Implementation of Certain International Nuclear and Maritime Terrorism Agreements” (October 5, 2011)

Testimony before House Armed Services Committee, Subcommittee on Oversight and Investigations, in hearing on “Guantanamo Detainee Transfer Policy and Recidivism” (April 13, 2011)

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Testimony before Senate Foreign Relations Committee, Subcommittee on International Operations and Organizations, Democracy and Human Rights in hearing on "Closing Legal Loopholes: Prosecuting Sexual Assaults and Other Violent Crimes Committed Overseas by American Civilians in a Combat Environment" (April 9, 2008)

Speaking Engagements

Remarks on "FISA and the Future of Section 702" at conference sponsored by Georgetown Law Center on National Security and the American Bar Association's Standing Committee on Law and National Security (April 26, 2023)

Remarks on "A Critical Intersection: U.S. Tech Policy and National Security" at Duke University, Program in American Grand Strategy and Center on Science & Technology Policy (February 3, 2021)

Remarks on Encryption at Government Surveillance & Privacy Conference held at the Cato Institute (December 6, 2019)

Remarks on Section 702 of FISA at Hearing of Privacy and Civil Liberties Oversight Board, Government Officials Panel (March 19, 2014)

Remarks on Proposed Changes to NSA Data Collection & Surveillance Programs at Hearing of Privacy and Civil Liberties Oversight Board (November 4, 2013)

Remarks on "Executive Updates on Developments in National Security Law" at American Bar Association's 23rd Annual Review of the Field of National Security Law (October 31, 2013)

Articles

Note, Agreements to Arbitrate Claims Under the Age Discrimination in Employment Act, 104 HARV. L. REV. 568 (1991).

Other

Over the last several years, in my personal capacity, I have created and sold more than a dozen crossword puzzles that have been published by various news outlets – the New York Times, the Wall Street Journal, and the Los Angeles Times, as well as one puzzle on the Lawfare blog. For each of the half dozen or so puzzles published by the New York Times, I also authored brief (ostensibly humorous) commentary on the puzzles that was published in the New York Times "Wordplay" column/blog as well as the "XWordInfo" blog.

If asked, I will provide copies of any of these materials as available.

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE AS THE GENERAL COUNSEL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE).

As noted above, I have spent almost 28 years working principally on national security legal and policy issues in multiple agencies in the Executive Branch, including the Departments of Justice, State, and Defense, and the National Security Council. I have worked closely and collaboratively with senior attorneys in the intelligence community, including the General Counsel for the Director of National Intelligence, on many different legal and policy issues throughout my career. I have substantial experience addressing the complex and sensitive issues that often arise in national security law and policy in the federal government, including intelligence law issues, and providing advice and support to senior policy makers. I also have substantial experience managing legal offices and leading the work of other government lawyers. I believe this experience has prepared me to serve as General Counsel for the Director of National Intelligence. See also answer to question 10 for more information concerning my qualifications.

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PART C - POLITICAL AND FOREIGN AFFILIATIONS

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

I dimly recall donating \$100 to one of President Obama's presidential campaigns but can find no record of the donation and am not sure whether I ever did.

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

None.

17. FOREIGN AFFILIATIONS

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

- A. HAVE YOU OR YOUR SPOUSE EVER REPRESENTED IN ANY CAPACITY (E.G. EMPLOYEE, ATTORNEY, OR POLITICAL/BUSINESS CONSULTANT), WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.

No.

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

No.

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

No.

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

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No.

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

From 1998 to 2016, my wife worked in various capacities, including General Counsel and Director of Public Policy, for the American Association of Blood Banks, now known as the Association for the Advancement of Blood and Biotherapies (AABB), a non-profit association. In connection with this work, she sometimes lobbied for legislation and government policies promoting a safe and available blood supply, access to cellular therapies, and biomedical research funding. She was registered as a lobbyist during much of this time period.

PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

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

None.

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

I don't have any such business connections as a current federal employee.

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

None.

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

No.

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

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I don't have any employment plans for the period after I complete government service.

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

Not that I recall.

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

No.

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

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

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

None.

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

<u>DESCRIPTION OF PROPERTY</u>	<u>VALUE</u>	<u>METHOD OF VALUATION</u>
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See OGE form 278.

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

<u>NATURE OF OBLIGATION</u>	<u>NAME OF OBLIGEE</u>	<u>AMOUNT</u>
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None.

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

No.

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

REDACTED

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

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Yes.

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

In addition to our federal taxes, we also file tax returns in the District of Columbia and California.

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

No.

35. GIVEN YOUR ROLE AS AN ATTORNEY, PLEASE LIST ALL CLIENTS AND CUSTOMERS WHOM YOU BILLED MORE THAN \$200 WORTH OF SERVICES DURING THE PAST FIVE YEARS. ALSO, LIST ALL JURISDICTIONS IN WHICH YOU ARE LICENSED TO PRACTICE.

None. I am licensed to practice law in the District of Columbia. I am also a member of the Virginia Bar, but my membership is currently inactive.

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

No. If confirmed, I will follow the advice of government ethics officials to address any conflict of interest issues identified.

37. IF APPLICABLE, LIST THE LAST THREE YEARS OF ANNUAL FINANCIAL DISCLOSURE REPORTS YOU HAVE BEEN REQUIRED TO FILE WITH YOUR AGENCY, DEPARTMENT, OR BRANCH OF GOVERNMENT. IF ASKED, WILL YOU PROVIDE A COPY OF THESE REPORTS?

Yes, I have filed OGE form 278s each year as required at DOJ and will provide copies of those forms upon request.

PART E - ETHICAL MATTERS

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

No.

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

No, other than a citation for underage possession of alcohol when I was in college (around 1985). I recall that citation was dismissed after I performed some community service.

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

No.

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

No.

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

No, though I have testified in Congress in an official capacity on multiple occasions as noted above.

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

No.

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

No.

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PART F - SECURITY INFORMATION

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

No.

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

Yes, I was required to take a polygraph examination in March 2024 in order to accept an assignment to work in the Office of General Counsel at ODNI on detail from the Department of Justice.

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

No.

PART G - ADDITIONAL INFORMATION

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

Under 50 U.S.C. 3091 and 3092, the President, the Director of National Intelligence, and the heads of all departments and agencies involved in intelligence activities have a statutory obligation to "keep the congressional intelligence committees fully and currently informed of all intelligence activities," and the DNI and heads of departments and agencies must also furnish the congressional intelligence committees "any information and material concerning intelligence activities . . . which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities," subject to the proviso to act "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." The General Counsel provides legal advice and support to the Director and ODNI staff in fulfilling these responsibilities. Under certain circumstances, the President may restrict access to covert action activities to only the chairman and vice-chairman of the intelligence committees and the House and Senate leadership. See 50 U.S.C. 3093.

The congressional intelligence committees "provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States." This includes reviewing intelligence reports, budgets, and activities; investigating matters on behalf of the committees; preparing legislation; and receiving briefings.

Given the secrecy of intelligence activities, legislative oversight in this area is particularly important and it is critical that the intelligence committees and the elements of the intelligence community have effective means of communication and close and productive working relationships.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE GENERAL COUNSEL FOR THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

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Under 50 U.S.C. 3028, the General Counsel "is the chief legal officer of the Office of the Director of National Intelligence" and "shall perform such functions as the Director of National Intelligence may prescribe." The General Counsel does not otherwise have responsibilities assigned in law.

As chief legal officer, the General Counsel is responsible for providing legal advice and support to the Director in carrying out her responsibilities under the National Security Act and other applicable law, including the responsibility to ensure compliance with the Constitution and laws of the United States by elements of the intelligence community. I understand the General Counsel may also be asked to provide advice and support on policy questions confronting the Director or her office that may have a legal dimension or legal implications or where the advice and assistance of an attorney may otherwise be useful.

The General Counsel leads the Office of General Counsel in ODNI and its efforts to provide legal advice and support to ODNI staff on the full range of activities in which they may be engaged. The General Counsel also works with attorneys in other federal agencies both within and beyond the Intelligence Community on legal issues of common concern.

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AFFIRMATION

I, JOHN BRADFORD WIEGMANN, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

5/1/24
(Date)

John Bradford Wiegmann Signature

Notary Signature



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TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be the General Counsel of the Office of the Director of National Intelligence, I hereby express my willingness to respond to requests to appear and testify before any duly constituted committee of the Senate.

John Bradford Wiegmann Signature

Date: 5/1/24

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**SELECT COMMITTEE ON
INTELLIGENCE**

UNITED STATES SENATE



**Additional Prehearing Questions for
Mr. John Bradford Wiegmann upon his nomination to be
General Counsel for the Office of the Director of National Intelligence**

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Keeping the Intelligence Committee Fully and Currently Informed

QUESTION 1: Section 502 of the National Security Act of 1947 provides that the obligation to keep the congressional intelligence committees fully and currently informed of all intelligence activities applies to the Director of National Intelligence (DNI) and to the heads of all departments, agencies, and other entities of the U.S. Government involved in intelligence activities. What is your understanding of the standard for meaningful compliance with this obligation by the Office of the Director of National Intelligence (ODNI) and the heads of all departments, agencies and other entities of the U.S. Government involved in intelligence activities to keep the congressional intelligence committees, including all their Members, fully and currently informed of intelligence activities? Under what circumstances do you believe it is appropriate to brief the Chairman and Vice Chairman and not the full committee membership?

ANSWER: Under section 502 of the National Security Act, the DNI and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities “shall keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than covert actions.” (Covert actions are covered by a separate reporting obligation.) Intelligence Community Directive (ICD) 112 has been issued to provide guidance to the IC on reporting to Congress consistent with section 502.

Under ICD 112, intelligence community (IC) element heads are responsible for determining whether an event is reportable to the Intelligence Committees. The ICD provides that “[d]etermining whether notification should be provided is a judgment based on all the facts and circumstances known to the IC element, and on the nature and extent of previous notifications or briefings to Congressional committees on the same matter.” It further provides that reportable “significant anticipated intelligence activities” include, among other things, those that entail significant risk of exposure, compromise, and loss of human life; those that are expected to have a major impact on important foreign policy or national security interests; and those that involve deployment of new collection techniques that represent a significant departure from previous operations. There are also similar standards for what constitutes a reportable “significant intelligence failure.” “Significant legal interpretations” affecting intelligence activities conducted by IC elements must be reported by those elements as well, consistent with section 510 of the National Security Act. If confirmed, among my responsibilities would be to help ensure that ODNI and IC elements comply with their congressional notification obligations under section 502 and ICD 112.

Section 502 also provides that congressional notification must be made “[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.” My understanding is that this provision affords the DNI a degree of

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flexibility in deciding how she will bring extremely sensitive matters to the committees' attention, without undermining the obligation to keep the intelligence committees fully informed. For example, in some exceptional cases it might be appropriate to brief the Chairman and Vice Chairman of the intelligence committees on particularly sensitive matters. But I would expect these circumstances to be limited to the minimum necessary, and that there would likely be discussions with the Chair and Vice Chair about the need for such limited briefings.

Priorities of the Director of National Intelligence

QUESTION 2: Have you discussed with the DNI her specific expectations of you, if confirmed as General Counsel, and her expectations of the Office of the General Counsel as a whole? If so, please describe those expectations.

ANSWER: I have discussed with the DNI her expectation that, if confirmed as General Counsel, I would lead the efforts of the Office of General Counsel to provide ODNI with accurate and thoughtful legal advice and work to help her ensure that the IC's activities comply with the Constitution and laws of the United States, consistent with her responsibilities under the National Security Act.

The Office of the General Counsel

QUESTION 3: The Office of the General Counsel of the ODNI has many roles and responsibilities. What are your expectations for the Office?

- a. Do you have any preliminary observations on its responsibilities, performance, and effectiveness?
- b. If confirmed, will you seek to make changes in the numbers or qualifications of attorneys in the office, or the operations of the office?

ANSWER: Under the National Security Act, the ODNI General Counsel is "the chief legal officer of the Office of the Director of National Intelligence" and "shall perform such functions as the Director of National Intelligence may prescribe." The duties of the General Counsel are otherwise unspecified in law. If confirmed, I would expect ODNI's Office of the General Counsel (ODNI OGC) to help me provide accurate and thoughtful legal advice to ODNI and also assist in the effort to ensure that IC elements comply with the Constitution and laws of the United States, working with the lawyers for those elements. I would work closely together with the attorneys in ODNI OGC to advise ODNI staff on all legal issues with which they may be confronted and to provide any necessary legal support to their activities. ODNI OGC would also work with the general counsels' offices of IC elements on issues of mutual concern.

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Over the years, I have worked with lawyers from ODNI OGC on many issues, and these efforts have left me with a very positive impression of the performance and effectiveness of the office. Since I have served on a detail assignment to ODNI OGC in recent weeks, I have had more exposure to the office and my positive impression has only been strengthened. If I am fortunate enough to be confirmed, I would consult with the current leadership of the office to assess whether any changes in numbers or qualifications of attorneys or the operations of the office would be beneficial.

QUESTION 4: Please describe who or what you understand to be your client or clients in the position of General Counsel of the Office of the Director of National Intelligence (ODNI/GC). As part of your answer, please address how that will guide your relationship with and obligations to the ODNI, the DNI, the Intelligence Community (IC) as a whole, and the President.

ANSWER: I am a member of the D.C. Bar, and pursuant to D.C. Bar rules, the client of a government lawyer is the agency that employs the lawyer unless expressly provided to the contrary by appropriate law, regulation, or order. The ODNI General Counsel's client is the ODNI, and if confirmed, I would anticipate working closely with lawyers from ODNI OGC to provide legal advice to the DNI and other ODNI officials in a manner consistent with the oath I have taken to support and defend the Constitution.

If confirmed, I would also expect to engage cooperatively with my counterparts in the IC and other departments and agencies to ensure that IC activities comply with the Constitution and laws of the United States. In some cases, ODNI OGC can help lawyers at different IC elements collaborate on and resolve novel legal issues that they may have in common, as well as to develop IC-wide legal positions on important issues and communicate those positions to others outside the IC, including to the National Security Council staff acting on behalf of the President.

Under Article II of the Constitution, executive power is vested in the President, including with respect to the conduct of intelligence activities to protect national security, and under the National Security Act, the DNI is responsible for ensuring that national intelligence is provided to the President, the heads of departments and agencies, senior military commanders, and the Congress. The General Counsel of ODNI would assist the DNI and ODNI in carrying out these responsibilities, under the guidance and direction of the President.

QUESTION 5: Describe your understanding of the responsibilities of the DNI and the GC/ODNI in reviewing, and providing legal advice on, the work of the Central Intelligence Agency (CIA), including covert action undertaken by the CIA.

ANSWER: Under the National Security Act, the DNI "shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency." This

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responsibility includes oversight of covert action undertaken by the CIA. The ODNI General Counsel helps the DNI carry out this responsibility, including by providing legal advice on covert action, working closely with the General Counsel of the CIA.

QUESTION 6: What are your plans to recruit and retain top talent in the Office of General Counsel at ODNI? Do you plan to offer additional detailee options at all career levels so that attorneys from other agencies can bring their expertise to ODNI and, in turn, bring ODNI experience back to their home agency?

ANSWER: The success of any legal office in rendering accurate and thoughtful legal advice depends on the talent, experience and dedication of its attorneys, and it is therefore critical that ODNI OGC be able to recruit and retain top talent. I have also found it helpful over the years to support detail opportunities both from and to the legal offices I have led in order that the offices can benefit from different types of expertise and experience, to enhance professional development, and to improve interagency cooperation and understanding. If confirmed, I would work with current leadership in the office to assess whether any changes in current recruitment and detail policies would be beneficial.

QUESTION 7: Explain your understanding of the role of the ODNI/GC in resolving conflicting legal interpretations within the IC.

ANSWER: It is my understanding that ODNI OGC works cooperatively with lawyers for IC elements in an effort to resolve conflicting legal interpretations within the IC. This work is rooted in the DNI's responsibility under the National Security Act to "ensure . . . compliance [with the Constitution and laws of the United States] by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program." Ultimately, however, the Office of Legal Counsel at the Department of Justice has the binding legal authority to resolve disagreements among agencies about interpretation of federal law.

Intelligence Collection

QUESTION 8: 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."

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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?”

ANSWER: Yes. The use of the term “includes” in the definition of “intelligence” in the National Security Act suggests that “intelligence” can include information beyond “foreign intelligence” and “counterintelligence.” Such intelligence could include a wide range of information that may be relevant to the legally authorized missions of IC elements but that do not qualify as foreign intelligence or counterintelligence. For example, the Department of Homeland Security’s IC element, the Office of Intelligence and Analysis (I&A), is charged by law (6 U.S.C. 121) “to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States” and “to integrate relevant information, analysis and vulnerability assessments . . . in order to identify priorities for protective and support measures regarding terrorist and other threats to homeland security by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.” Information collected in support of these responsibilities, such as information concerning vulnerabilities of critical infrastructure to malicious cyber activity, may not constitute foreign intelligence or counterintelligence. Likewise, the National Geospatial-Intelligence Agency is directed by law (10 U.S.C. 442) to provide accurate geospatial information for use by the departments and agencies of the United States, the merchant marine, and navigators generally. Information collected in support of this responsibility, such as domestic imagery, may not qualify as foreign intelligence or counterintelligence.

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.

It is my understanding that “national intelligence,” in contrast to “intelligence,” must pertain to more than one agency and must also meet one of the criteria identified in subsection (B). For example, intelligence about an international financial issue that is germane only to the Department of Treasury might be considered “intelligence” but not “national intelligence.” Likewise, intelligence about an environmental problem or political party in a foreign country might be considered “intelligence” but not “national intelligence,” depending on whether it bears on U.S. national or homeland security. I expect that “national intelligence” could be considered a subset of “intelligence.”

QUESTION 9: Congress recently passed the Reforming Intelligence and Securing America Act (RISAA), which extended Title VII of the Foreign Intelligence Surveillance Act until 2026 and enacted other reforms. What recently enacted reforms do you view as

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most critical to our national security? What changes, if any, do you feel are necessary to either RISAA or to FISA as a whole?

ANSWER: The reforms in the RISAA as a whole are critical to our national security because they preserve the operational efficacy of a vital foreign intelligence authority – section 702 of FISA – as well as continuing the other important provisions in Title VII of FISA, while implementing reforms that continue to improve compliance and protect privacy and civil liberties of all Americans. At this point, the Administration is focused principally on implementing the many new statutory requirements and authorities in the RISAA rather than considering additional changes.

The RISAA extended the authority for intelligence collection under section 702 of FISA for two years. If confirmed, I look forward to working with this Committee in considering whether further changes to FISA would be beneficial in connection with the next reauthorization debate.

Classification and Declassification

QUESTION 10: The government systematically overclassifies too much information. At the same time, the government often fails to protect the nation's most important secrets. Executive Order 13526 (December 29, 2009), which prescribes the system for classifying, safeguarding, and declassifying national security information, has not been updated in 15 years. What changes, if any, do you think are necessary to improve the classification system?

ANSWER: As the DNI stated in connection with her confirmation hearing, the overclassification of information not only undermines critical democratic objectives, such as increasing transparency to promote an informed citizenry, but also negatively impacts national security objectives because it can increase the challenges associated with sharing information to address threats and furthermore undermines the basic trust that the public has in government. I also share the concern of this Committee that the current approach to declassification will be unable to handle the vast and ever-growing volume of digital records that are classified. I understand that legislation has been considered in both the Senate and the House to address the problem of overclassification, though I have not studied these bills in detail. I am also aware that there is a White House-led process underway to consider possible changes to Executive Order 13526 on classified information in order to reduce overclassification and achieve other goals. Although I do not have an informed view at this time as to precisely what sorts of changes would best address this longstanding problem, potential reforms might include changes to the substantive standards and processes for classifying information; changes to the standards and processes for declassifying information; organizational changes designed to put more focus on and dedicate more resources to this challenging issue; a greater focus on declassifying material of interest to the public; and greater use of technology in

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classifying and declassifying information. Any potential reforms will have to be carefully crafted so as not to undermine the legal authorities under which information may be classified and to preserve the Executive Branch's flexibility to classify and protect information where necessary in a wide range of contexts.

Evaluation of Office of the Director of National Intelligence

QUESTION 11: Members of the Committee have expressed concern that the ODNI does not have all of the legal authorities necessary to fulfill congressional expectations for the office. Do you have any preliminary observations on strengths or weaknesses of the authorities of the Office with respect to a successful mission of the ODNI? If so, please describe.

ANSWER: As Director Haines stated during her confirmation process, the Intelligence Reform and Terrorism Prevention Act of 2004, which amended the National Security Act to establish the DNI and the ODNI, provides significant authority to the DNI in the execution of her IC management role. During the few weeks in which I have served on a detail assignment to ODNI OGC, I have not yet formed an opinion on the strengths and weaknesses of the authorities of the ODNI in helping it carry out its mission successfully. If I am fortunate enough to be confirmed and I assess that additional authority would be beneficial, I will inform the Committee.

QUESTION 12: Members also have expressed concerns that the ODNI's bureaucracy has resulted in inefficiencies. Do you have any preliminary observations on strengths or weaknesses of the authorities of the Office with respect to the ability of the General Counsel's office to function within the ODNI bureaucracy? If so, please describe.

ANSWER: During the few weeks I have served on a detail assignment at ODNI, I have not yet had a sufficient opportunity to observe the operation of the ODNI's organizational structure, or the authorities that underlie it, to form an opinion on how that structure may affect the functioning of the Office of General Counsel. If confirmed, I will consider this question and inform the Committee if I identify any problems.

Intelligence Community Whistleblowers

QUESTION 13: Do you believe that IC whistleblowers currently have all the protections they need to interact directly with the congressional intelligence committees?

- a. If not, what legal authorities are required to ensure these protections?
- b. If so, what legal authorities provide the basis for those protections?

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As Director Haines stated during her confirmation process, whistleblowers serve a vital role within the IC by promoting government accountability, maintaining the integrity of the workforce, and addressing allegations of wrongdoing without improperly disclosing classified information. The Intelligence Community Whistleblower Protection Act, and more recent amendments to the statutes that address reporting to Inspectors General and Congress and protections from reprisal, provide IC whistleblowers the means to report to Congress complaints or information pertaining to “urgent concerns.” IC whistleblowers first report such complaints or information to Inspectors General, who have sole authority to determine whether the complaint or information is a matter of urgent concern. If confirmed, I look forward to learning more about how these processes work in practice and whether existing authorities provide sufficient protections to protect whistleblowers. If I conclude that additional authorities are needed, I will inform the Committee.

QUESTION 14: What is your view of the ODNI/GC’s role relative to advancing an IC “whistleblower” complaint to Congress, pursuant to the Intelligence Community Whistleblower Protection Act?

ANSWER: The ODNI General Counsel is responsible for giving legal advice to the DNI and other ODNI officials as they carry out their duties, including those under the Intelligence Community Whistleblower Protection Act and related statutes. These statutes provide IC whistleblowers the means to report to Congress complaints or information pertaining to “urgent concerns” by first reporting such complaints or information to Inspectors General, including the IC Inspector General. If confirmed, I would work to ensure that whistleblower complaints are treated in accordance with applicable legal requirements and that whistleblowers are afforded the legal protections to which they are entitled.

QUESTION 15: How would you address a situation in which you disagree with the IC Inspector General’s determination that a whistleblower complaint qualifies as an “urgent concern,” for the purposes of advancing a complaint to Congress?

ANSWER: During her confirmation process, Director Haines committed to transmitting to Congress whistleblower complaints determined by the IC Inspector General to be an urgent concern. Recent statutory amendments have clarified that the Inspectors General have sole authority to determine whether a complaint or information is a matter of urgent concern. Even if I were to disagree on whether a complaint qualifies as an urgent concern, I don’t foresee any circumstances in which it would be appropriate for the ODNI General Counsel to intervene to prevent a whistleblower complaint from advancing to Congress.

Executive Branch Oversight of Intelligence Activities

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QUESTION 16: Are there improvements, in terms of resources, methodology, and objectives that you believe should be considered for Executive Branch oversight of the intelligence activities of the United States Government?

ANSWER: I am not currently aware of structural improvements that are needed in Executive Branch oversight of intelligence activities. Many different components of the Executive Branch participate in oversight of the IC in an effort to ensure compliance with applicable laws and policies, including general counsels' offices; civil liberties and privacy officials; inspectors general of IC elements; the Privacy and Civil Liberties Oversight Board (PCLOB); the President's Intelligence Advisory Board (and its Intelligence Oversight Board); and the Department of Justice. If confirmed, assisting with oversight would be an important part of my role as ODNI General Counsel.

Additional oversight of FISA activities is among the primary features of the recently-enacted RISAA, and additional resources or efforts will have to be dedicated to implement that law. If I am fortunate enough to be confirmed, I will inform this Committee if I conclude that further resources or authorities are needed to effectuate appropriate oversight of IC activities.

Relationship with Other Officials

QUESTION 17: What should be the relationship of the ODNI/GC with respect to the following officers of the IC:

- a. General Counsel, CIA;

ANSWER: I have worked closely with the CIA General Counsel over the years on a number of issues from my position as a Deputy Assistant Attorney General (DAAG) for National Security. Under the National Security Act, the DNI is charged with many responsibilities relating to the CIA. The statute thus clearly contemplates a close working relationship between the two agencies and, with respect to legal matters, their General Counsels. If confirmed, I would expect to continue to have a close and collaborative working relationship with the General Counsel of the CIA across a range of legal issues.

- b. Assistant Attorney General for National Security, Department of Justice;

ANSWER: As a DAAG for National Security at DOJ, I have seen firsthand the importance of a close working relationship between ODNI and the National Security Division (NSD) of DOJ on many different issues. These include administration of FISA; coordination on prosecutions involving classified information or other IC equities; developing and advising on Attorney General-approved guidelines under E.O. 12333 and other national security-related policies; engaging in international negotiations on data

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privacy issues relevant to the IC; and others. Given this, and given my background at NSD, I would expect to have a close and collaborative working relationship with the Assistant Attorney General for National Security.

c. Inspector General, ODNI; and

ANSWER: Inspectors General (IGs) enjoy significant independence in conducting their critical oversight and investigative functions; at the same time, general counsels' offices often work cooperatively with inspectors general in order to ensure that they can carry out these missions effectively and consistent with applicable law. If I am fortunate enough to be confirmed, I would intend to have an effective and appropriate working relationship with the IG of the Intelligence Community (IC IG) that is also respectful of the IC IG's independence.

d. Civil Liberties and Privacy Officer, ODNI.

ANSWER: ODNI's Civil Liberties Protection Officer plays a key role in promoting privacy and civil liberties, as well as transparency, in IC policies and activities, both at ODNI and throughout the IC, and in oversight of applicable rules in this area. I have worked closely with the ODNI CLPO on a range of issues during my time at DOJ, and I have seen firsthand how the ODNI General Counsel often works closely with the ODNI CLPO as well. If confirmed, I will seek to continue these productive working relationships.

QUESTION 18: What is your understanding of the relationship between the ODNI/GC and the White House Counsel's Office (WHCO)? When do you believe it is appropriate to include WHCO in your legal deliberations?

ANSWER: It is important for the ODNI General Counsel to have a close working relationship with the White House Counsel's Office, often through the Legal Adviser to the National Security Council, which is part of that office. The ODNI General Counsel plays an important role in making sure that IC equities are represented during the NSC-led interagency process, including both lawyers' groups and policy committees. In my experience, the NSC Legal Adviser often gets involved in legal deliberations relevant to the IC pertaining to policy issues that come before the National Security Council, and thus the President. If confirmed, I would work to maintain close collaboration between the offices, which is critical to supporting the DNI in her roles as the head of the IC and the principal advisor to the President for intelligence matters related to the national security.

QUESTION 19: What do you believe the relationship is between the Office of General Counsel at ODNI and the Office of Legal Counsel (OLC) at the Department of Justice? Do you consider OLC opinions to be binding on the ODNI/GC? Please describe

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the circumstances under which you believe soliciting an opinion from OLC is appropriate.

ANSWER: I have worked closely with OLC on a wide range of issues during my decades in government, and I would expect to continue to do so if I am confirmed as ODNI General Counsel. OLC provides legal advice on behalf of the Attorney General to the President and all Executive Branch agencies, and its opinions are binding on Executive Branch agencies. In my experience, departments and agencies typically consult OLC on many legal issues of particular complexity or importance, on significant novel issues, or in situations where two or more agencies disagree on the law, and that would be my practice if am fortunate enough to be confirmed.

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Additional Questions from Vice Chairman Rubio*Professional Experience*

QUESTION 1: In your current position as Senior Adviser in the Office of the General Counsel at the Office of the Director of National Intelligence (on detail from the Department of Justice), have you advised on the following matters? If yes, please explain.

- a. United States border security, including terrorist travel;

ANSWER: No.

- b. Israel-Hamas war;

ANSWER: No. I have participated in a meeting about certain intelligence issues related to the conflict but I have not provided any advice.

- c. Ukraine war;

ANSWER: No. I have participated in a meeting about certain accountability issues associated with the conflict in Ukraine but I have not provided any advice.

- d. Iran and its proxies;

ANSWER: No.

- e. The Maduro regime in Venezuela;

ANSWER: No.

QUESTION 2: In your various positions at the Department of Justice from 2009 to present, did you or have you advised on the following matters? If yes, please explain.

- a. United States border security, including terrorist travel;

ANSWER: I have been involved in multiple matters relating to terrorist travel or other threats to national security posed by individuals seeking to enter the United States at various times throughout my time at DOJ. For example, I have served on the National Vetting Center Governance Board, an interagency group charged with overseeing the activities of the National Vetting Center, which is a collaborative, interagency effort to provide a clearer picture of threats to national security, border security, homeland security, or public safety posed by individuals seeking to transit our borders or exploit our immigration system. I have advised on issues relating to watch-listing, the terrorist screening database, the no-fly list, vetting of travelers and associated civil litigation. I have sometimes been involved in discussion of operational issues posed by travel to the United States of individuals suspected of being potential threats to national security based on derogatory intelligence information.

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b. Israel-Hamas war;

ANSWER: Among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals' and Deputies' committee meetings about the full range of national security topics, which since last October have included the Israel-Hamas conflict in Gaza. Generally speaking, the purpose of these memoranda is to identify any DOJ equities in the issues to be discussed and enable leadership to address those issues, if any. I have also been involved in providing legal support concerning certain classified activities related to the conflict in Gaza.

c. Ukraine war;

ANSWER: Among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals' and Deputies' committee meetings about the full range of national security topics, which have included the conflict in Ukraine since it began in February of 2022. Generally speaking, the purpose of these memoranda is to identify any DOJ equities in the issues to be discussed and enable leadership to address those issues, if any. I have also been involved in discussion of sanctions on Russia and Russian individuals arising from Russia's invasion of Ukraine, and enforcement thereof, and associated legal-policy issues, such as issues relating to Russian sovereign assets. I have also been involved in providing legal support concerning certain classified activities related to the conflict in Ukraine.

d. Iran and its proxies;

ANSWER: Among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals' and Deputies' committee meetings about the full range of national security topics, which over the years have often included Iran and its malign activities, as well as Iran-aligned militia groups. Generally speaking, the purpose of these memoranda is to identify any DOJ equities in the issues to be discussed and enable leadership to address those issues, if any. I have also been involved in discussion of sanctions on Iran, enforcement thereof and associated litigation, and various other policy issues relating to Iran, such as designation of the Islamic Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization. I have also been involved in providing legal support concerning certain classified activities related to Iran.

e. The Maduro regime in Venezuela;

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ANSWER: Not that I recall. However, among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals' and Deputies' committee meetings about the full range of national security topics, and it is possible that foreign policy towards the Maduro regime was among these topics.

f. The decision to terminate the China Initiative;

ANSWER: Not that I recall, though I was aware at the time that the Assistant Attorney General was conducting a review to consider terminating the China Initiative and I likely participated in discussions about the announcement of, or explaining the rationale for, the decision, or provided assistance in that regard.

g. The Biden Administration's withdrawal from Afghanistan;

ANSWER: Among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals' and Deputies' committee meetings about the full range of national security topics, which included the withdrawal from Afghanistan in 2021. Generally speaking, the purpose of these memoranda is to identify any DOJ equities in the issues to be discussed and enable leadership to address those issues, if any. I have also participated in discussions concerning resettlement of Afghan nationals in the United States in the wake of the withdrawal and associated vetting issues. I have also been involved in providing legal support concerning certain classified activities related to Afghanistan.

h. The decision to remove the FARC from the Foreign Terrorist Organization list;

ANSWER: The decision to designate groups as Foreign Terrorist Organizations (FTOs), and to maintain or revoke any such designations, lies with the Secretary of State under the Immigration and Nationality Act, in consultation with the Attorney General and Secretary of Treasury. Among my responsibilities at DOJ has been to assist DOJ leadership in exercising this consultative function, in coordination with the FBI, our counterterrorism prosecutors, and the Civil Division. My role has typically been to assess whether there is a sufficient legal and factual basis to support the Secretary's designation, maintenance, or revocation decisions, not to consider the advisability of the decisions from a policy perspective.

With respect to the FARC, Secretary Blinken concluded that "following a 2016 Peace Accord with the Colombian government, the FARC formally dissolved and disarmed. It no longer exists as a unified organization that engages in terrorism or terrorist activity or has the capability or intent to do so. The decision to revoke the designation does not

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change the posture with regard to any charges or potential charges in the United States against former leaders of the FARC, including for narco-trafficking.” At the same time, the Secretary designated two FARC offshoot groups who had refused to demobilize and continued to engage in terrorist activity: FARC-People’s Army (FARC-EP) and Segunda Marquetalia.

i. The Joint Comprehensive Plan of Action;

ANSWER: Among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals’ and Deputies’ committee meetings about the full range of national security topics, which included the Joint Comprehensive Plan of Action. Generally speaking, the purpose of these memoranda is to identify any DOJ equities in the issues to be discussed and enable leadership to address those issues, if any.

j. The Obama administration’s efforts to “normalize” relations with Cuba, including removing it as a State Sponsor of Terrorism?

ANSWER: Not that I recall. However, among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals’ and Deputies’ committee meetings about the full range of national security topics, and it is possible that removal of Cuba’s designation as a state sponsor of terrorism was among these topics.

k. The Trump administration’s decision to designate Cuba as a State Sponsor of Terrorism?

ANSWER: Not that I recall. However, among my responsibilities at DOJ has been to assist in review or preparation of memoranda, or oversee attorneys in my office preparing such memoranda, to advise senior DOJ leadership about issues to be discussed at Principals’ and Deputies’ committee meetings about the full range of national security topics, and it is possible that designation of Cuba as a state sponsor of terrorism was among these topics.

Threats to the United States

QUESTION 3: Is it in the national security interests of the United States to transfer detainees from Joint Task Force Guantanamo Bay? Please explain your answer.

ANSWER: By law the decision to transfer detainees from Guantanamo Bay rests with the Secretary of Defense. Under applicable law, Congress has authorized the transfer of Guantanamo Bay detainees where the Secretary of Defense certifies to Congress that the

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transfer is in the national security interest of the United States. My understanding is that since this legal requirement was adopted, all transfers of detainees from Guantanamo Bay have been based on such national security certifications.

QUESTION 4: Is it in the national security interests of the United States to close Joint Task Force Guantanamo Bay? Please explain your answer.

ANSWER: The decision whether to close the detention facility at Guantanamo Bay rests with the Congress. Given the dwindling detainee population at Guantanamo Bay and its high cost of operation, I find the arguments in favor of closing the facility to be compelling, but only if it can be done in a manner that is consistent with national security and ensures accountability for those who have been charged with crimes, including the conspirators in the 9/11 attacks and the bombing of the U.S.S. Cole.

QUESTION 5: What is your current assessment of the threat posed to the United States by foreign terrorists?

ANSWER: I credit the views expressed in the IC's Annual Threat Assessment released earlier this year that we face diverse global terrorism threats, including from al-Qaida affiliates, ISIS, Hizballah, and transnational racially or ethnically motivated violent extremist movements, in particular those motivated by a white supremacist ideology. The global threat includes terrorist groups' continued interest in developing the ability to conduct attacks using chemical, biological, and radioactive materials. I also understand that Hamas's attack in October 2023 and the resulting Israel-Hamas conflict will have a persistent impact as terrorist groups from across the ideological spectrum seek to exploit the attack for their own goals.

QUESTION 6: What or who poses the most significant threat of terrorism to the United States today?

ANSWER: I credit the FBI Director's assessment that threats to U.S. persons and interests are most likely to manifest in lone actors or small cells inspired by foreign terrorist organizations and violent extremist ideologies to conduct attacks. We also, of course, remain concerned with the potential for attacks from global terrorist organizations such as al-Qaida, ISIS and Hizballah.

QUESTION 7: Do you agree that China, under control of the Chinese Communist Party, is engaging in a zero-sum game of economic and technological competition against the United States?

ANSWER: As the U.S. Intelligence Community has concluded, the Chinese Communist Party (CCP) is committed to building China into the preeminent power in East Asia and a leading power on the world stage; bolstering its economic, technological, and military standing; and undercutting U.S. influence and regional partnerships. China remains the

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most active and persistent cyber threat to U.S. Government, private-sector, and critical infrastructure networks. Its cyber espionage pursuits and its industry's export of surveillance, information, and communications technologies increase the threats of aggressive cyber operations against the United States and the suppression of the free flow of information in cyberspace.

China seeks to become a world science-and-technology (S&T) superpower and to use this technological superiority for economic, political, and military gain. The CCP is implementing a whole-of-government effort to boost indigenous innovation and promote self-reliance, and is prioritizing advanced power and energy, artificial intelligence, biotechnology, quantum information science, and semiconductors. It is trying to fast-track its S&T development through investments, intellectual property acquisition and theft, cyber operations, talent recruitment, scientific and academic collaboration, and illicit procurements.

QUESTION 8: Do you agree that one of the primary goals of the Chinese Communist Party is to displace the United States and rewrite the international-rules based system?

ANSWER: Yes, my understanding is that the CCP seeks to bolster its reputation and legitimacy on the world stage, undercut U.S. influence, and foster global norms that favor China's authoritarian system.

QUESTION 9: What threat does the Chinese Communist Party pose to the national security of the United States?

ANSWER: I credit the IC's assessment that China will continue to seek to expand its global influence on the world stage, challenge U.S. influence and the rules-based international order, and steal trade secrets and intellectual property to bolster China's indigenous S&T sectors and shape the global economy in its favor. China remains the most active and persistent cyber threat to U.S. Government, private sector, and critical infrastructure networks, including through its cyber espionage pursuits and the export of surveillance, information, and communications technologies that enable cyber operations against the United States and the suppression of the free flow of information in cyberspace. These concerns also include the CCP's efforts to expand its global covert influence posture and capabilities, including disseminating disinformation.

QUESTION 10: What is your assessment of the Chinese Communist Party's tactics to achieve global dominance, particularly as it relates to their efforts within the United States?

ANSWER: As the IC has found, the CCP has sought to fast-track China's rise to prominence on the global stage, including by bolstering its domestic S&T capacity through theft of trade secrets and intellectual property; conducting cyber operations

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targeting individuals beyond its borders to counter views it considers critical of CCP narratives, policies, and actions; and expanding its global covert influence posture to sow doubts about U.S. leadership, undermine democracy, and extend Beijing's influence. These actions pose a significant challenge to the United States, our allies, and the rules-based global order.

QUESTION 11: Is the threat from People's Republic of China and the Chinese Communist Party different than those from other nation-state actors?

ANSWER: I credit the IC's assessment that China is unique in its desire and capability to directly compete with the United States and U.S. allies and to alter that rules-based global order in ways that support Beijing's power and form of governance. The CCP vies to surpass the United States in comprehensive national power.

QUESTION 12: Are there private companies in China?

ANSWER: China has comprehensive national security, cybersecurity, and data privacy laws and regulations that enable Beijing's intrusive oversight of domestic and foreign companies, including U.S. companies, operating within China. These laws provide the PRC government with expanded legal grounds for accessing and controlling data held by companies operating in China, and for compelling companies to collaborate with or provide assistance to intelligence and security agencies.

QUESTION 13: What should the U.S. government's response be to foreign nationals in the United States who support U.S.-designated foreign terrorist organizations (FTOs) such as Hamas?

ANSWER: Knowingly providing material support to a designated FTO such as Hamas is a federal crime that can be prosecuted under the law, whether committed by a foreign national or U.S. national.

QUESTION 14: What is your understanding of disqualifications to hold a security clearance? Is support for a U.S.-designated FTO disqualifying? Is support for an FTO "advocating for terrorist activities?"

ANSWER: I have never been responsible for adjudicating whether individuals should be granted security clearances. However, I am generally familiar with E.O. 12968 on access to classified information, and that eligibility for such access under the Order "shall be granted only to employees who are U.S. citizens for whom an appropriate investigation has been completed and whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Knowingly providing material

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support to a designated FTO is a federal crime that can be prosecuted under the law and would be disqualifying for holding a security clearance.

QUESTION 15: What is your understanding of the continuing obligations of security clearance holders who no longer work for the federal government?

ANSWER: My understanding is that security clearance holders who no longer work for the federal government have a continuing obligation not to disclose classified information to any person not authorized to receive it.

QUESTION 16: What are the most significant counterintelligence threats currently confronting the United States government?

ANSWER: My understanding is that we face a growing range of counterintelligence threats from hostile nation-states such as China, Russia, Iran, and North Korea, as well as from non-state actors including terrorist groups and transnational criminal organizations. These actors present a threat not only to the security of sensitive government information but also increasingly to U.S. critical infrastructure, cutting-edge research and technology, intellectual property, and other sensitive data held by the private sector.

QUESTION 17: Should the United States continue to pursue the extradition of Julian Assange and pursue prosecution to the fullest extent of the law?

ANSWER: This matter relates to a pending prosecution and therefore it would be inappropriate for me to comment. More broadly, however, I fully support holding accountable those who conspire to illegally obtain classified information.

QUESTION 18: Should the U.S. government work with U.S. technology companies to censor information or limit other First Amendment activity online?

ANSWER: The U.S. government should never censor or coerce technology companies to remove First Amendment-protected content online. In light of national security threats such as terrorism and foreign malign influence, the government must be able to engage appropriately with technology companies to help protect the American people from these threats. It is permissible for authorized elements of the government to share relevant information with technology companies for these purposes, so long as the companies are free to make their own choices about what, if anything, those companies will do in response to the information they have received, and that no adverse consequences from the government will result from whatever action the companies may or may not take.

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Additional Questions from Senator Wyden*Foreign Intelligence Surveillance Act*

QUESTION 1: Section 704 of FISA requires a warrant for the targeting of a U.S. person overseas “under circumstances in which the targeted United States person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes.”

- a. Please describe any circumstances in which the first part of that test (“reasonable expectation of privacy”) is not met and thus a warrant would not be required, even if the second part of the test is met.
- b. Does the “reasonable expectation of privacy” depend on the surveillance laws or practices of the country in which the U.S. person is residing? If yes, please provide examples.

ANSWER: I am not aware of any operational contexts in which the government has concluded that a warrant would be required if an acquisition were conducted inside the United States for law enforcement purposes but nonetheless that the targeted U.S. person abroad would not have a reasonable expectation of privacy, such that 704 does not apply. I am also unaware of any operational context in which the government has assessed that a U.S. person abroad lacks a reasonable expectation of privacy with respect to U.S. intelligence collection because of the laws or practices of the country in which the U.S. person is located, and those foreign laws and practices have not in my experience generally factored into the assessment of whether a reasonable expectation of privacy exists for purposes of section 704.

QUESTION 2: Do Sections 703, 704 or 705 of FISA limit the targeted collection of a U.S. person overseas’ geo-location information, communications metadata, or business records?

ANSWER: Section 704 of FISA prohibits the intelligence community from “intentionally target[ing], for the purpose of obtaining foreign intelligence information, a U.S. person reasonably believed to be located outside the United States under circumstances in which the targeted U.S. person has a reasonable expectation of privacy and a warrant would be required if the acquisition were conducted inside the United States for law enforcement purposes,” without first obtaining an order from the Foreign Intelligence Surveillance Court (FISC). This prohibition could apply to an IC element targeting a U.S. person to obtain any type of information, provided that the person has a

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reasonable expectation of privacy in the information under the circumstances and a warrant would be required if there were a law enforcement investigation seeking to obtain that same information in similar circumstances in the United States. Whether the government would be required to use a warrant to obtain a particular type of data in the United States depends on all the facts. For example, under the Electronic Communications Privacy Act, the government can obtain basic subscriber and session information from a service provider in a criminal investigation using a subpoena; because no warrant is required, the prohibition in section 704 would not apply if, theoretically, there were any foreign intelligence collection from providers targeting U.S. persons outside the United States seeking only such data. In contrast, the government's practice under the Fourth Amendment in law enforcement investigations in the United States has been to use a warrant to obtain GPS information from a wireless carrier on a prospective basis that allows ongoing geolocation of a person. Therefore, similar efforts targeting U.S. persons abroad for foreign intelligence purposes would trigger section 704. Exceptions to the warrant requirement, such as consent, could be available depending on the facts and therefore could affect whether section 704 would be triggered. Similar analysis would apply to sections 703 and 705.

Even if FISA does not apply, Attorney General-approved guidelines issued under E.O. 12333 may apply. For example, Attorney General-approved guidelines governing NSA's signals intelligence activities expressly provide that the U.S. SIGINT System (USSS) may intentionally target a U.S. person, whether inside or outside the United States, only if the collection is not governed by FISA and one of the following circumstances exist: the U.S. person or his or her legally-authorized representative has provided consent; the Attorney General has found probable cause to believe the person is an agent of a foreign power or an officer or employee of a foreign power and the purpose of the collection is to collect significant foreign intelligence or counterintelligence; or exigent circumstances exist and appropriate approvals for such collection have been obtained. Those guidelines also state that "the USSS will not intentionally collect foreign communications for the purpose of targeting a specific U.S. person or person in the United States unless such U.S. person or person in the United States has been separately authorized for targeting under this Annex or FISA."

QUESTION 3: Please describe the constitutional and statutory restrictions on targeting U.S. persons who are inside the United States when the collection occurs outside the United States.

ANSWER: As the Supreme Court made clear in *United States v. Katz*, "the Fourth Amendment protects people, not places." If a U.S. person has a reasonable expectation of privacy with respect to items or information in particular circumstances, any government search for those items or that information must meet the requirement for reasonableness under the Fourth Amendment, even if the collection occurs outside the United States and is done for foreign intelligence purposes.

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Under Title I of FISA, the definition of “electronic surveillance” includes, among other things, “the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communications sent by or intended to be received by a particular, known U.S. person who is in the United States,” if the person is intentionally targeted and has a reasonable expectation of privacy such that a warrant would be required for law enforcement purposes. See 50 U.S.C. 1801(f)(1). This definition is agnostic as to the location of the collection; therefore, targeting a U.S. person in the United States with electronic surveillance from a point outside the United States could be regulated under the 1801(f)(1) definition of FISA. In contrast, Title III of FISA defines “physical search” by reference to “any physical intrusion within the United States into premises or property.” Thus it would appear that, depending on the circumstances, Title III may not regulate physical searches conducted outside the United States targeting a U.S. person inside the United States. Likewise section 704 of FISA would not apply to a U.S. person located in the United States because it is limited to targeting “a U.S. person reasonably believed to be located outside the United States.” (Section 702 of FISA would not of course apply to collection targeting a U.S. person at all.)

In order to ensure compliance with the Fourth Amendment with respect to a physical search outside the United States targeting a U.S. person inside the United States, my expectation is that the IC would generally seek the Attorney General’s approval as is done under section 2.5 of Executive Order 12333, which requires that the Attorney General find probable cause that the target of the collection is a foreign power or agent of a foreign power. For example, as noted above, Attorney General-approved guidelines governing NSA’s signals intelligence activities expressly provide that the U.S. SIGINT System (USSS) may intentionally target a U.S. person, whether inside or outside the United States, only if the collection is not governed by FISA and one of the following circumstances exist: the U.S. person or his or her legally-authorized representative has provided consent; the Attorney General has found probable cause to believe the person is an agent of a foreign power or an officer or employee of a foreign power and the purpose of the collection is to collect significant foreign intelligence or counterintelligence; or exigent circumstances exist and appropriate approvals for such collection have been obtained. Those guidelines also state that “the USSS will not intentionally collect foreign communications for the purpose of targeting a specific U.S. person or person in the United States unless such U.S. person or person in the United States has been separately authorized for targeting under this Annex or FISA.”

QUESTION 4: 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

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report, if a Section 702 tasking resulted in substantial reporting by the Intelligence Community regarding a U.S. person, but little reporting about the Section 702 target, that might be an indication that reverse targeting may have occurred.” Former General Counsel Fonzone stated that his “understanding of how IC entities make reverse-targeting determinations aligns with the view that Assistant Attorney General Demers expressed during his confirmation process...” Do you agree with them and, if so, how should this “fact specific inquiry” be implemented through the Section 702 nominations, querying and dissemination processes of Intelligence Community entities?

ANSWER: I agree. My understanding is that regular oversight conducted by DOJ and ODNI of activities conducted under Section 702 of FISA includes fact-specific examinations of whether reverse-targeting may have occurred, and that if and when any reverse targeting is identified, it is reported to the FISC and Congress consistent with applicable law.

QUESTION 5: 50 U.S.C. 1812, provides for exclusive means by which electronic surveillance and interception of certain communications may be conducted. During her confirmation process, Director Haines stated that “the President must take care that the law be faithfully executed and Title 50, Section 1812 is no exception.” Do you agree that this provision is binding on the President?

ANSWER: I share the view expressed by Director Haines during her confirmation process that the President must take care that the law be faithfully executed and Title 50, Section 1812 is no exception.

Surveillance authorities generally

QUESTION 6: Do you believe that communications data collected in transit are or should be treated differently than communications data at rest? Please address any distinctions as they may apply to FISA, EO 12333, PPD-28 and the October 7, 2022, Executive Order on Enhancing Safeguards for United States Signals Intelligence Activities, and USSID 18.

ANSWER: I believe all IC activities must be carried out in accordance with the Constitution and applicable federal law, including FISA, Executive Orders 12333 and 14086, as well as the portions of PPD-28 that remain in effect, and their applicable implementing procedures, such as USSID 18. Under these authorities, collection of communications data in transit is sometimes treated differently than collection of communications data at rest. For example, Title IV of FISA prescribes standards for the installation of a pen register or trap and trace device to collect dialing, routing, addressing and signaling information transmitted by an instrument or facility (“in transit” collection). Other FISA authorities, with different standards, may be used to obtain similar communications data that may be stored or “at rest.” In other contexts, however, the law

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does not draw a distinction between collection of communications data in transit and at rest. For example, under applicable Attorney General-approved guidelines under E.O. 12333 governing NSA's signals intelligence activities, there appears to be no such distinction.

ODNI oversight

QUESTION 7: Please describe the role of the General Counsel in ensuring compliance with the October 7, 2022, Executive Order on Enhancing Safeguards for United States Signals Intelligence Activities.

ANSWER: Under the National Security Act, the DNI "shall ensure compliance with the Constitution and laws of the United States by the Central Intelligence Agency and shall ensure such compliance by other elements of the intelligence community through the host executive departments that manage the programs and activities that are part of the National Intelligence Program." Executive orders, including E.O. 14086 on Enhancing Safeguards for United States Signals Intelligence Activities, are part of federal law and fall within this responsibility. The General Counsel assists the DNI in carrying out this responsibility, which is shared with the relevant IC elements and their respective general counsels and oversight officials. Moreover, under ODNI's procedures implementing E.O. 14086, the ODNI General Counsel has an explicit role in assisting the ODNI Civil Liberties Protection Officer in addressing potential instances of non-compliance with E.O. 14086 at ODNI and reporting significant non-compliance to the DNI, and I expect would also provide advice on appropriate remedial actions.

QUESTION 8: 50 U.S.C. 3110 requires the Director of National Intelligence to submit to the congressional intelligence committees a report on violations of law or executive order. Please describe the role of the General Counsel in reviewing the report and recommending to the DNI IC-wide policies to address repeated or systemic violations.

ANSWER: 50 U.S.C. 3110 provides that "[t]he Director of National Intelligence shall annually submit to the congressional intelligence committees a report on violations of law or executive order relating to intelligence activities by personnel of an element of the intelligence community that were identified during the previous calendar year." It also states that each report "shall, consistent with the need to preserve ongoing criminal investigations, include a description of, and any action taken in response to, any violation of law or executive order." I would expect that the ODNI General Counsel would assist the DNI on these issues, including on any recommendations on how best to address repeated or systemic violations of law. While I have not previously been involved in preparation or review of this report, my understanding is that ODNI OGC is involved in the process and is currently working to improve ODNI's compliance with this Congressional reporting obligation.

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Declassification reform

QUESTION 9: Director Haines has stated that “deficiencies in the current classification system undermine our national security, as well as critical democratic objectives.” Do you agree with her and, if so, what reforms or other measures do you believe should be implemented to resolve this problem?

ANSWER: Yes. Please see answer to Question 10 of the initial set of questions.

QUESTION 10: Do you believe that there should be one or more U.S. Government entities responsible for classification and declassification across the federal government and, if so, what entit(ies) should those be? Please address technological investments, classification and declassification policy-making, and oversight.

ANSWER: I am not familiar enough with this issue to provide an informed response to this question. If I am fortunate enough to be confirmed, I will provide legal advice to the DNI as needed on any reform proposals aimed at reducing overclassification.

Data purchases

QUESTION 11: The IC Policy Framework for Commercially Available Information released by the DNI on May 8, 2024, indicates that the ODNI “shall provide a report to the public every two years regarding the IC’s access to and collection, processing, and safeguarding of Sensitive CAI.” Please describe what you believe should be included in that report, including whether it should describe the kinds of CAI the IC is collecting.

ANSWER: I understand that ODNI is committed to continuing to share with the public as much information as possible about the principles and processes that govern the IC’s work, and that the public report called for by the CAI Policy Framework is part of that effort. I share the DNI’s commitment to transparency. I don’t yet have an opinion as to the specific types of information that might be included in the report. If I am fortunate enough to be confirmed, I will provide legal advice as necessary to the DNI regarding the public disclosure of information concerning the IC’s access to and collection, processing, and safeguarding of Sensitive CAI.

QUESTION 12: Do you believe that there is any kind of data on or generated by U.S. Persons that the IC should be prohibited from purchasing and retaining? Please provide specifics.

ANSWER: The collection, use and dissemination of U.S. person information by IC elements is governed by Attorney General-approved guidelines issued under E.O. 12333, and those guidelines prescribe limitations on these activities designed to protect privacy and civil liberties while enabling fulfillment of the elements’ national security missions.

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For example, DHS's Attorney General-approved guidelines set forth a variety of requirements for when DHS's Office of Intelligence and Analysis (I&A) may engage in bulk data collection containing U.S. person information, including a determination that bulk data collection is the only practicable means of identifying or using the information that will support an authorized I&A mission and that the collection is reasonable based on the totality of the circumstances, including the expected contribution of the data to a national or departmental mission; the methods and means by which the data was acquired and/or aggregated by the data provider; the volume, proportion, sensitivity, and nature of the personally identifiable information collected; and the safeguards to be applied. DHS/I&A is not authorized to purchase and retain data in bulk where this standard is not met.

The IC's recent Policy Framework for Commercially Available Information augments each IC element's Attorney General guidelines and provides more detailed guidance specific to CAI, including Sensitive CAI concerning U.S. persons. As I understand it, all CAI accessed, collected, and processed by IC elements must be authorized and consistent with all applicable law and in furtherance of a validated mission or administrative need or function. Moreover, "[b]ased on the totality of the circumstances, IC elements shall determine whether the value of accessing or collecting the Sensitive CAI likely outweighs the privacy and civil liberties risks, data integrity and quality risks, security risk, and any other risks not detailed above, that cannot reasonably be mitigated." If CAI does not meet the standards prescribed in the IC framework, it should not be purchased.

If confirmed, I will provide legal advice to the DNI regarding the relevant applicable law and appropriate uses of CAI in support of the IC's critical mission activities to protect the American people and our national security.

Outsourcing intelligence

QUESTION 13: Do you agree that no element of the IC can request that a foreign entity conduct any activity that it is not authorized to undertake itself?

ANSWER: Yes, IC elements may not request any person, including a foreign entity, to undertake activities that the Constitution, federal law, or Executive Order, including Executive Order 12333, forbid the IC elements themselves to take.

QUESTION 14: What limitations do you believe should apply to the receipt, use or dissemination of communications of U.S. persons collected by a foreign partner or source? How should those limitations address instances in which the foreign partner or source specifically targeted U.S. persons or instances in which the foreign partner or source has collected bulk communications known to include those of U.S. persons?

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ANSWER: The collection, use and dissemination of U.S. person information by IC elements is governed by Attorney General-approved guidelines issued under E.O. 12333, and those guidelines prescribe limitations on these activities designed to protect privacy and civil liberties while enabling fulfillment of the elements' national security missions. This includes collection, use, and dissemination of U.S. person information obtained from foreign partners or sources. The guidelines do not preclude IC elements from collecting U.S. person information when a foreign partner or source may have targeted U.S. persons if the information obtained as a result meets the criteria for collection by the IC element, including, e.g., where the authorized IC element collection involves U.S. person information that constitutes foreign intelligence or counterintelligence, or is needed to protect the safety of persons or organizations, including those who are targets, victims, or hostages of international terrorist organizations.

In addition, the guidelines generally prescribe special rules and considerations for addressing acquisition of information that is likely to include a large volume of U.S. person data. For example, CIA's Attorney General-approved guidelines have rules imposing "exceptional handling requirements" in situations in which it collects "unevaluated information that is anticipated to contain USPII that is significant in volume, proportion, or sensitivity." Those requirements include enhanced rules for storage, access, and destruction of the data and for U.S. person queries of the data. CIA's guidelines also require that all non-public communications collected without the consent of the subject be subject to the same "exceptional handling requirements."

Transparency

QUESTION 15: Executive Order 12333 procedures and guidelines are publicly available. Do you commit to continuing to post these procedures and to making public any modifications, superseding policies and procedures, or significant interpretations?

ANSWER: If confirmed, I would support continuing to make guidelines issued under E.O. 12333 public to the maximum extent possible, subject to the guidance of the DNI.

QUESTION 16: If, for any reason, you or someone who works for you makes a public statement that is inaccurate, do you commit to making a public statement correcting the record?

ANSWER: Yes, if I am confirmed and if I become aware that I or someone who works for me has made a significant public statement that is inaccurate, I would publicly correct the statement, consistent with the requirement to protect classified information and other applicable law. If I am not able to make a public correction because of a requirement to protect such information, I will make every effort to inform the intelligence committees of the inaccuracy in a classified setting.

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Chief of Mission Authorities

QUESTION 17: If a U.S. ambassador directs the Intelligence Community to cease a particular program or operation in the country where the ambassador is serving, is the Intelligence Community obligated to do so, absent or pending intervention by the President?

ANSWER: My views are similar to those expressed by Director Haines during her confirmation process. If a U.S. ambassador directs an IC element to cease certain activities within the country for which they are the U.S. representative, in my view, the IC should either stop the activities or elevate the issue or both.

Subpoenas

QUESTION 18: In March 2019, the Department of Justice Inspector General released its “Review of the Drug Enforcement Administration’s Use of Administrative Subpoenas to Collect or Exploit Bulk Data.” Do you believe that the subpoena authorities in question, and 21 U.S.C. 876(a) in particular, allow for bulk collection?

ANSWER: I am aware that the Supreme Court has recognized a constitutional reasonableness limitation on overly broad subpoenas, which I presume would apply to 21 U.S.C. 876(a) and any other subpoena authorities used by the Drug Enforcement Administration (DEA). Beyond that, I am not familiar with the cited report, how DEA has used its subpoena authorities, or what might be considered bulk collection in this context.

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SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE



Post-hearing Questions for

**Mr. John Bradford Wiegmann upon his nomination to be
General Counsel for the Office of the Director of National Intelligence**

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[From Vice Chairman Rubio]

1. What is the appropriate role of the Intelligence Community (IC) in assessing whether or not a foreign partner will protect advanced US technologies prior to and after an export control license is granted?

ANSWER: I am not currently familiar with the details of the IC's role in assessing whether foreign partners are adequately protecting U.S. technologies consistent with applicable export control licenses. However, I would expect that intelligence information is important to such assessments and to helping the United States defend against illicit efforts by our adversaries to obtain advanced U.S. technologies. I also understand that improving the IC's ability to provide timely and accurate insights into foreign government intentions, capabilities, and actions, particularly as they relate to strategic competition on advanced technologies, is a key goal outlined in the 2023 National Intelligence Strategy.

[From Senator Cornyn]

Classification Reform

You noted in your opening statement that “greater transparency about the work we are doing, where operationally possible, is one way to meet the goal” of instilling confidence in our institutions. You also note in response to our committee’s questions prior to this hearing that there ought to be a greater focus on declassifying material of interest to the public, as well as greater use of technology in classifying and declassifying information. Your answer makes note of legislation that has been considered, but legislation was in fact passed and signed into law as part of our Intelligence Authorization Act last year.

1. What actions will you take as General Counsel to ensure enacted legislation is implemented in a way that satisfies statutory requirements?

ANSWER: If confirmed, I would work to provide accurate and thoughtful legal advice to ODNI regarding compliance with the Constitution and laws of the United States, to include any provisions enacted as part of an Intelligence Authorization Act. I would also expect to engage cooperatively with my counterparts in the IC and at other departments and agencies to ensure compliance with the law, particularly when laws may direct DNI consultation with other Executive Branch officials, as does, for example, Section 7605 of the FY24 Intelligence

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Authorization Act regarding implementation of government-wide technology for classification and declassification.

A number of reports are due at the end of this calendar year regarding the planned implementation of a federated and interoperable technology solution to classify and declassify materials across the federal government, as well as a review of current security clearances across all the agencies.

2. What is your sense of the importance of ensuring these reports are submitted on time to ensure Congress can adequately conduct oversight of these important initiatives?

ANSWER: I view the provision of reports to Congress that are required by law, including those directed by the Intelligence Authorization Act, as an important legal obligation and a means of effectuating congressional oversight of the Executive Branch. It is also important to provide such reports in a timely manner to the maximum extent practicable.

Increasing transparency is critical to restoring the trust of the American people in our elected government.

3. Beyond the passed legislation, what steps are necessary to improve and modernize the classification system?

ANSWER: I am aware that this Committee included classification reform provisions in the version of the FY25 Intelligence Authorization Act that passed out of Committee last month, which are additive to the provisions included in Title VI of the FY24 Intelligence Authorization Act. I am also aware of ongoing efforts within the Executive Branch to consider possible changes to Executive Order 13526 to modernize the classification system. Although I do not have an informed view at this time as to precisely what sorts of changes would best address the longstanding problem of overclassification, potential reforms might include changes to the substantive standards and processes for classifying information; changes to the standards and processes for declassifying information; organizational changes designed to put more focus on and dedicate more resources to this challenging issue; a greater focus on declassifying material of interest to the public; and greater use of technology in classifying and declassifying information. Any potential reforms will have to be carefully crafted so as not to undermine the legal authorities under which information may be classified and to preserve the

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Executive Branch's flexibility to classify and protect information where necessary in a wide range of contexts.

Intelligence Community Acquisitions

Senators Warner, Kelly, Lankford and I recently introduced a bill to improve our Intelligence Community acquisitions to keep pace with the growing threats of our adversaries. This legislation would create a fund to assist in transitioning useful IC products from the research and development phase to the contracting and production phase, with priority given to small business concerns and nontraditional defense contractors. It would also enable the IC to use streamlined acquisition processes and enhances existing authorities to facilitate exchanges between the private sector and the IC.

1. What is your perspective on the need to unleash American innovation to meet the strategic challenges posed by our adversaries?

ANSWER: The most recent National Intelligence Strategy outlined the IC's continued desire to foster a culture that embraces innovation and the application of tools, data, processes, and standards necessary to transform labor- and time-intensive work into more efficient and productive mechanisms. Although IC acquisitions is not an area in which I have worked to date, I credit the IC's judgment that embracing innovation may necessitate removing barriers in the acquisition process, pursuing sustainable and predictable funding for the research and development of new capabilities, and developing and implementing solutions that identify and anticipate capability gaps. If confirmed, I would expect to provide legal advice to ODNI and to collaborate with counterparts across the government and private sector regarding the lawful adoption and implementation of innovative solutions that would enable the IC to harness state-of-the-art technology in service of the Nation's security.

2. Where do you see opportunity to increase productive interaction between our IC and the private sector?

ANSWER: The 2023 National Intelligence Strategy identified the IC's network of alliances and partnerships around the world as its most strategic asset and a force multiplier for its intelligence mission. This network includes not only other government agencies and foreign partners, but also private sector relationships. Because the U.S. faces an evolving set of challenges, to include cyber attacks and foreign malign influence, from threat actors that may use private sector

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technologies and platforms as an attack vector, I share the IC's strategic goal of adopting new approaches that take full advantage of private sector expertise and insights to help the IC fulfill its mission, as well as promoting where possible sharing of information with private sector entities that may be best postured to act in defense of national security. This may include, for example, building or restructuring mechanisms to enhance the bi-directional flow of information between the IC and private sector and promoting operational collaboration to address national security threats. It may also include exchanges of personnel between the IC and the private sector and other mechanisms that allow the IC to identify and learn about innovations in the private sector relevant to IC work.

Terrorism and the Southern Border

You noted in response to some of our questions that the most significant threat of terrorism to the United States today remains lone actors or small cells inspired by foreign terrorist organizations and violent extremist ideologies, including those motivated by a white supremacist ideology.

3. In your view, what is the most pressing terrorist threat facing the United States?

ANSWER: I credit the views expressed in the IC's Annual Threat Assessment released earlier this year that we face ideologically diverse global terrorism threats, including from al-Qaida affiliates, ISIS, Hizballah, and transnational racially or ethnically motivated violent extremist movements, in particular those motivated by a white supremacist ideology. The global threat includes terrorist groups' continued interest in developing the ability to conduct attacks using chemical, biological, and radioactive materials. I also understand that Hamas's attack in October 2023 and the resulting Israel-Hamas conflict will have a persistent impact as terrorist groups from across the ideological spectrum seek to exploit the attack for their own goals.

I credit the FBI Director's assessment that threats to U.S. persons and interests are most likely to manifest in lone actors or small cells inspired by foreign terrorist organizations and violent extremist ideologies to conduct attacks. We also, of course, remain concerned with the potential for attacks from global terrorist organizations such as al-Qaida, ISIS, and Hizballah.

4. Notably absent in your answer was Iran; how would you characterize the terrorist threat Iran poses to U.S. citizens, especially those who

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served in the previous administration in retaliation for the 2020 strike which killed the head of the Islamic Revolutionary Guard Corps, Qasem Soleimani?

ANSWER: The IC continues to view Iran, including its longstanding support for terrorist activities, as a very serious threat to the United States and its interests, allies, and influence in the Middle East. I credit the IC's assessment that Iran and its proxies will continue to directly threaten U.S. persons in the Middle East and that Iran also remains committed to efforts to develop surrogate networks inside the United States. I also credit the IC's assessment that Iran continues to seek to target current and former U.S. officials for assassination in retaliation for the death of Qasem Soleimani.

5. In light of recent reporting that Islamic State of Iraq and ash-Sham Khorasan (ISIS-K) operatives have entered the U.S. through the southern border, would you answer the question of what our most pressing threat is any differently?

ANSWER: I understand that the IC remains focused on the serious threats posed by ISIS, including ISIS-K, and by illegal migration across our borders. The IC articulated in the most recent Annual Threat Assessment a variety of concerns relating to U.S.-bound migration, to include adverse actors taking advantage of elevated levels of migration to engage in human trafficking and trafficking of illicit drugs, all while ISIS continues to remain focused on attempting to conduct and inspire global attacks against the West and Western interests. I also credit the FBI Director's recent statement that "increasingly concerning is the potential for a coordinated attack here in the homeland, not unlike the ISIS-K attack we saw at the Russian concert hall back in March."

[From Senator Lankford]

1. The Department of Homeland Security (DHS) Inspector General recently highlighted that the National Vetting Center (NVC) had a significantly fragmented process for vetting Afghan nationals following the withdrawal, and the Senate Committee on Homeland Security and Governmental Affairs found that DHS did not have access to the Department of Defense's Biometric-Enabled Watchlist during a good portion of the evacuation. We would want to confirm whether individuals who were in an active war zone that we are bringing to our

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country were not engaged in hostilities against our country. Walk me through your analysis of this issue and how you tried to address it during your time on the NVC Governance Board.

ANSWER: As I understand it, due to exigent circumstances, vetting efforts regarding Afghan nationals during and following the withdrawal of U.S. forces from Afghanistan were primarily initiated and implemented via interagency arrangements outside of the NVC.

While I was representing DOJ on the National Vetting Governance Board (NVGB), the Board did support the interagency work to consolidate the biographic classified vetting support to the Afghan resettlement efforts. I understand the NVC has successfully drawn on lessons learned from interagency efforts before, during, and after the withdrawal to accelerate new capabilities and strengthen and streamline the transition of additional vetting programs to the NVC model. While on the NVGB, I supported the NVC's commitment to expanding the scale, scope, and depth of vetting support to enable robust vetting of individuals seeking to enter the United States via a number of different immigration pathways. This included exploration of how to integrate additional analytic capabilities, such as biometrics, and expand vetting support to include additional agencies that may possess potentially relevant information. I have been advised that DHS does have access to nearly all of the Biometric-Enabled Watchlist, and that Afghans were vetted against the BEWL during and after the withdrawal, but given that these are not issues that I personally worked on at DOJ, I'd refer you to DHS and DOD for further information on your questions and their ongoing efforts to further strengthen that partnership.

2. As General Counsel, you will work with the National Counterterrorism Center (NCTC) and provide policies and legal guidance that govern NCTC's role in the watchlist process and in our counterterrorism efforts. What are the biggest counterterrorism threats you see right now?

ANSWER: I credit the views expressed in the IC's Annual Threat Assessment released earlier this year that we face ideologically diverse global terrorism threats, including from al-Qaida affiliates, ISIS, Hizballah, and transnational racially or ethnically motivated violent extremist movements, in particular those motivated by a white supremacist ideology. The global threat includes terrorist groups' continued interest in developing the ability to conduct attacks using chemical, biological, and radioactive materials. I also understand that Hamas's attack in

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October 2023 and the resulting Israel-Hamas conflict will have a persistent impact as terrorist groups from across the ideological spectrum seek to exploit the attack for their own goals.

I credit the FBI Director's assessment that threats to U.S. persons and interests are most likely to manifest in lone actors or small cells inspired by foreign terrorist organizations and violent extremist ideologies to conduct attacks. We also, of course, remain concerned with the potential for attacks from global terrorist organizations such as al-Qaida, ISIS, and Hizballah.

3. I am concerned that the NCTC, NVC, and related entities in the IC and law enforcement community may end up having fragmented or duplicative roles in the vetting process. What issues do you see with the vetting process? Will you commit to working with me and my team to address these issues?

ANSWER: I fully support the vision of an integrated national vetting enterprise that enables timely, informed adjudications and determinations related to national security, border security, homeland security, and public safety, as established in National Security Presidential Memorandum-9, Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise. In my role on the NVGB, I saw firsthand how the NVC enhances and streamlines vetting programs through common governance, processes, standards, and technology, which are tailored to each adjudicating agency's needs and workflows and generally account for both intelligence and law enforcement community involvement. Unfortunately, limited resources across the national vetting enterprise have slowed the growth of the NVC's vetting programs and the transition of additional vetting programs to the NVC model, which I believe could help address the concerns raised.

If confirmed, to the extent there are issues related to the vetting enterprise that are within the purview of the ODNI General Counsel, I will commit to working with Congress to address them as appropriate.

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