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OPEN HEARING: NOMINATIONS OF PETER METZGER TO BE ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS OF THE U.S. DEPARTMENT OF THE TREASURY AND JOSHUA SIMMONS TO BE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

HEARING

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

OCTOBER 8, 2025

Printed for the use of the Select Committee on Intelligence



Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

62–542 WASHINGTON : 2026

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WEDNESDAY, OCTOBER 8, 2025

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

The Committee met, pursuant to notice, at 3:20 p.m., in Room SD–G50, in the Dirksen Senate Office Building, Hon. Tom Cotton, Chairman of the Committee, presiding.

Present: Senators Cotton (presiding), Warner, Risch, Cornyn, Lankford, Rounds, Young, Budd, Wyden, Heinrich, King, Bennet, Ossoff, and Kelly.

OPENING STATEMENT BY HON. TOM COTTON, A U.S. SENATOR FROM ARKANSAS

Chairman COTTON. Good afternoon. This hearing will come to order. I'd like to welcome you all to today's hearing to consider the nominations of Mr. Peter Metzger, to be the Assistant Secretary for Intelligence and Analysis at the Department of Treasury, and Mr. Josh Simmons, to be General Counsel of the Central Intelligence Agency.

I would like to remind all of those in attendance that while you are welcome to observe today's hearing, Vice Chairman Warner and I agree that we will not allow disruptions by the audience. Audience members may not verbally or physically distract from the hearing, including by shouting, standing, raising signs, or making gestures that block the view of other members of the audience. Put simply, we came here to hear from Mr. Metzger and Mr. Simmons, not from you. If I have to have anyone removed from this hearing, I will take further action to have you barred from the committee's future proceedings, coming within a country mile of the committee's rooms and spaces in the Capitol, and barring you from the Capitol. Our goal is to conduct this hearing—our goal in conducting this hearing is to enable the committee to begin consideration of the nominee's qualifications.

(Disruption in the gallery.)

Chairman COTTON. The only genocide that has happened since October 7th is the genocide that Hamas perpetrated against the Jewish people.

Is there anyone else who would like to get it off their chest now to save us time?

All right. Each nominee here has provided substantive written responses to dozens of questions presented by the committee. Today, of course, Members will be able to ask additional questions and hear from the nominees.

Let me first begin by thanking both nominees for their willingness to once again answer the call to public service. I'd also like to recognize and thank their families and loved ones, many of whom are sitting right behind them, for offering their encouragement and support.

Throughout their careers, both nominees before the committee have given their time and talents to our Nation. Many of those on this Committee have had the pleasure to work with Mr. Metzger, who currently serves as a professional staff member on the Senate Select Committee on Intelligence. As a designee to Senator Rounds, Mr. Metzger has spent his time with this Committee covering issue areas including the CIA, FBI, covert action, counterintelligence, the Middle East and Africa.

Mr. Metzger, as Assistant Secretary for Intelligence and Analysis at the Treasury, you will be expected to support the U.S. Government with timely intelligence on economic security concerns, financial intelligence matters, and the implementation of economic statecraft tools. This is a critical position, especially as Communist China wages an economic and technical war to dominate the emerging technologies and works to displace the United States as the predominant economic military power in the world.

Next, we have Mr. Simmons, who is currently the Principal Deputy Legal Adviser at the U.S. Department of State. During his time at the State Department, Mr. Simmons has worked on foreign policy and national security matters, including intelligence sharing, covert action, and the law of armed conflict. Mr. Simmons also previously spent time in private law practice where he handled international arbitration disputes pertaining to national security.

Mr. Simmons, as CIA general counsel, you will be expected to provide timely and efficient legal guidance in support of ongoing worldwide intelligence operations. The work of the General Counsel's office touches every aspect of the Agency's business, including the procurement of resources, handling of personnel matters, facilitating lawful intelligence collection, and conducting Presidentially authorized covert action.

This Committee is committed to ensuring our intelligence agencies and officers return to the core mission of collecting clandestine foreign intelligence. After years of misplaced priorities, allowed bureaucratic bloat, risk aversion and political judgment masquerading as legal advice to creep into America's intelligence apparatus, it is time to right the ship. With this in mind, I look forward to hearing from our nominees on how they plan to approach their respective roles.

Again, thank you both for being here and once again answering the call to public service.

I now recognize our distinguished vice chairman for any opening remarks.

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

Vice Chairman WARNER. Well, thank you, Mr. Chairman. And first, let me congratulate both witnesses on your nominations. While your roles may not attract the same public attention as the DNI or the CIA Director, your responsibilities are no less vital to our national security. You'll play a key role in ensuring that our intelligence agencies operate both lawfully and effectively. And Peter, as you particularly know, this Committee doesn't do a lot of things in public hearings.

And I do want to share some of my concerns as we go into these unprecedented times, because, to me, it feels like there are new precedents being set virtually every day. Recently, the Secretary of Defense pulled hundreds of military officers from their duties to lecture them on grooming standards and urged them to ignore "stupid" rules of engagement, even as Europe is engaged in a land war with Russia and China threatens Taiwan.

The President then went further, encouraging the use of American cities as "training grounds" for the military while deploying armed soldiers to occupy cities and arrest American citizens—deployments that courts, including judges he appointed, have ruled illegal. To their credit, those officers at Quantico responded with the professionalism and nonpartisan discipline we expect from our men and women in uniform. But the sheer lack of respect shown by President Trump and Secretary Hegseth for our military and for the rule of law should concern all of us.

But this is not just a matter of respect. I believe the President and some in his administration are continuing to take actions that make America less safe. Early in his term the President boasted about the capture of the ISIS terrorist responsible for the Kabul bombing that killed 13 American servicemembers, but he did not highlight how he had actually fired the head of the FBI's Counterterrorism Division responsible for that very investigation.

That was not an isolated decision. He also fired the head of the FBI branch that takes down criminal organizations and drug traffickers, as well as leaders in the Bureau's Intelligence and Cyber Divisions, even as—both of you gentlemen know—our adversaries are working around-the-clock to spy on Americans and penetrate our critical infrastructure through ventures like Salt Typhoon. He has dismissed the heads of major field offices from Washington and Miami, again one of the biggest drug enforcement hubs in our country. Together with the FBI Director, he has forced out thousands of experienced agents for reasons that appear more political than prescient, including reports from FBI agents who refused to lie about the 2020 election, and frankly for reasons that appear more petty than performance-based—like being friends with public critics of the President.

According to court filings, even Director Patel has recently acknowledged that these actions may be illegal, but said that his position depended on removing those agents.

And this is the really shocking news, and I ask all my colleagues to listen. In recent months, nearly a quarter of the FBI agents who handle counterterrorism, cyber, espionage and other criminal cases, have been assigned to immigration cases. In some field offices, that number goes up to 45 percent, firing or transferring agents who investigate terrorists, drug traffickers, and sexual predators, and pulling back cyber expertise targeting Chinese and Russian hackers does not make America feel safe.

Sadly, I feel like, again—and I've talked to my colleagues about this. This is only a fraction of the damage done to our national security in the last nine months. Across the Intelligence Community, the Defense Department, the Treasury, and Justice, career experts with decades of service, many in combat zones, are being pushed out not for poor performance, but for refusing to put loyalty to political narratives above their oath to the Constitution. As a matter of fact, the infrastructure that the first Trump administration set up in 2018, in a really good move, to ensure safe and secure elections—and it was remarkable what they did in 2018, going after Russian troll farms, Chinese threats to local candidates, and Iranian attempts to stoke violence—all of that operation has been dismantled.

And just this week it was reported in the Wall Street Journal that DHS disbanded a Federal team that once pursued child traffickers and a task force that once focused on stemming the flow of fentanyl. I just don't understand how that's making America safer.

Now, Mr. Simmons and Mr. Metzger, you may wonder what this has to do with you and the jobs that you are being nominated for, and you both bring significant relevant experience to these nominations. Mr. Simmons, as a former UVA law professor and principal legal adviser at the State Department; and Mr. Metzger, as we all know, he was a former senior staffer on this Committee. You've both served in roles where speaking truth to power and upholding the law are core responsibilities. If confirmed to these new roles, you will be called upon to demonstrate that same commitment to speaking truth to power and to upholding the rule of law, even when doing so is politically inconvenient. And I believe this moment is not about partisan politics. It is about whether America will maintain an Intelligence Community that can operate independently and provide unvarnished assessments of challenges we face. You know better than most that our adversaries are not letting up. Day after day, we see intelligence about how they are becoming more creative, more aggressive, and more coordinated in their efforts to weaken our country.

I worry that the holes the administration is creating in our national security enterprise leaves Americans dangerously vulnerable. Mr. Metzger and Mr. Simmons, if you are confirmed, the men and women you will lead and the American people will expect nothing less than your absolute devotion to be truth. Today, I look forward to hearing how each of you intends to uphold that solemn responsibility.

Thank you, Mr. Chairman, and I yield back.

Chairman COTTON. I would now like to recognize Senator Rounds for a few words of support of Mr. Metzger, who allegedly performed outstanding work for him.

STATEMENT OF HON. M. MICHAEL ROUNDS, A U.S. SENATOR FROM SOUTH DAKOTA

Senator ROUNDS. Thank you, Mr. Chairman. We will dispense with the hazing to begin with here.

Today, I do have the unique privilege of saying a few words about my former designated staff member on the committee, Mr. Peter Metzger.

Serving four years on this professional staff, Peter managed some of our Nation's most sensitive and complex intelligence matters with extraordinary expertise and attention. During his tenure, he covered covert action, the Federal Bureau of Investigation, counter-intelligence, the Middle East, and other specialized intelligence portfolios, demonstrating an impressive breadth of knowledge and commitment to serve wherever called.

He conducted critical intelligence oversight in over 35 countries during his tenure, monitoring key intelligence outposts across the globe, and helped to author imperative legislation that bolstered the Intelligence Community and made our country safer.

I had the privilege to get to know Peter personally during this time, and can attest to his tremendous professionalism, devotion to mission and high character. He was a great support and resource to me in carrying out my responsibilities as a Member of the Senate Intelligence Committee, and I want to express my gratitude for that.

As such, it is no wonder that President Trump had the confidence in him to nominate Peter for Assistant Secretary of the Treasury for Intelligence and Analysis. This nomination is the next step in a life's work of service to our Nation, first as an attorney, then as a United States Marine Corps officer, and most recently, as a policy adviser and national security expert in the highest levels of the United States Government.

I highlight his time in the White House on the National Security Council staff as a special assistant to the President where, as then former National Security Adviser Robert O'Brien said: Peter's expertise proved vital to the President. I certainly expect this to hold true in his next role.

I have no doubt that if confirmed, Peter will serve our country admirably in this post. And in that event, we will look forward to seeing you back here often.

I would also like to note that it has been an exciting time in the Metzger family lately. Peter and his wife Tippi welcomed their son into the family in August; and not 2 weeks later, the President nominated him for assistant secretary. Now, I know one of those things is a whole lot more important than the other; but nonetheless, I believe it is a great testament to your growing family's devotion to service. So, congratulations, Peter and Tippi.

And Tippi, we want to thank you for your support during his nomination process, knowing that this is indeed a family endeavor.

The position to which Mr. Metzger has been nominated is responsible for the analysis and dissemination of financial intelligence across the government. Through Peter's legal background, service in uniform, service in the Intelligence Community, time in the White House, and time on this Committee, I believe we are hard pressed to find anyone more suited to the task.

If confirmed, Members of this Committee should find great comfort in having a public servant of this caliber in this role.

In closing, I want to offer my strongest endorsement of Mr. Metzger to serve as Assistant Secretary of the Treasury for Intelligence and Analysis. Owing to Peter's demonstrated commitment to service, his wealth of national security expertise and his unimpeachable character, I have the utmost confidence that if confirmed he will bring great credit to the Department and the Executive branch.

Thank you for this opportunity, Mr. Chairman.

Chairman COTTON. Thank you, Senator Rounds.

I am shocked and disappointed the one-month-old Metzger boy isn't here with us; but years from now when you reflect on it, I am sure the Simmons children will assure him that he didn't miss anything, because it was very boring. [Laughter.]

Gentlemen, before we move on to your opening statements, we have five customary questions we ask of all witnesses who appear before the committee, so if we could get just a simple yes or no answer for the record. If you want the keys to the test, the correct answer is yes. If it is no, it will require an immediate and extended explanation.

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

Mr. METZGER. Yes.

Mr. SIMMONS. Yes.

Chairman COTTON. Two, If confirmed, do you agree to send officials from your office to appear before the committee and designated staff when invited?

Mr. METZGER. Yes.

Mr. SIMMONS. Yes.

Chairman COTTON. Three, do you agree to provide documents or any other materials requested by the committee in order for it to carry out its oversight and legislative responsibilities?

Mr. METZGER. Yes.

Mr. SIMMONS. Yes.

Chairman COTTON. Four, will you ensure that your office and your staff provide such material to the committee when requested?

Mr. METZGER. Yes.

Mr. SIMMONS. Yes.

Chairman COTTON. And five, do you agree to inform and fully brief to the full extent possible all Members of this Committee of intelligence activities and covert actions rather than only the chairman and vice chairman?

Mr. METZGER. Yes.

Mr. SIMMONS. Yes.

Chairman COTTON. Thank you both very much. After our hearing today, for the benefit of Members, it is my intention to move quickly to convene a committee business meeting to vote on the nominations and report them to the Senate for prompt floor consideration.

We will now proceed with our nominees' opening statements, after which I'll recognize Members by seniority at the gavel for five minutes each.

Mr. Metzger, we will start with you and then go to Mr. Simmons.

STATEMENT OF PETER METZGER, NOMINEE FOR THE POSITION OF ASSISTANT SECRETARY OF THE TREASURY FOR INTELLIGENCE AND ANALYSIS

Mr. METZGER. Thank you, Mr. Chairman.

Chairman Cotton, Vice Chairman Warner, and Members of this Committee: It is a tremendous honor to appear before you today as you consider my nomination to serve as Assistant Secretary of the Treasury for Intelligence and Analysis.

I would like to thank my Lord and Savior Jesus Christ for all of the blessings of this life, including this opportunity today; my wife Tippi, who is here today, and our newborn son for their endless love and support; President Trump, for this opportunity to again serve our country; and Secretary Bessent, for his confidence in me. I would also like to thank my family, including my mother and father, and the mentors, former colleagues, and close friends present at this hearing and watching from afar who have helped shape my career and professional development in the practice of law, in the United States Marine Corps, in U.S. Special Operations Command, in the Intelligence Community, in multiple Executive branch national security roles, and certainly here on the staff of this august committee.

Service to our country runs in my family. I am the fourth U.S. Marine Officer in my family and the second to have served in the Intelligence Community. It has been a high honor not only to continue the tradition, but also uniquely gratifying to have spent nearly two decades at the forefront of our country's national security. I should point out, as well, that my wife Tippi has similarly dedicated her own career to public service and national security. I am immeasurably proud of the sacrifices she has made on behalf of our country. She inspires me daily with her devotion both to our family and to her own professional duties.

Am I to be confirmed, it would be a unique privilege to lead one of the 18 components of the U.S. Intelligence Community. Understanding firsthand the hard and often anonymous nature of intelligence work, it would be an honor to again call the men and women of the Intelligence Community colleagues, especially in the Office of Intelligence and Analysis.

My career to date has afforded me incredible service opportunities, often granting unfettered access to the collection and utilization of intelligence to inform national security policy decisions. During President Trump's first term, I had the opportunity to serve in the Office of the Secretary of Defense directing Syria policy, and later, on the staff of the National Security Council at the White House. On the NSC staff, I led the President's policies on the Levant and later, as a Special Assistant to the President for National Security Affairs, I helped lead the development of the President's Middle East and North Africa policy.

Since 2021, I have had the privilege to serve on the professional staff of this Committee where my oversight portfolio responsibilities have included, among others, covert action, the Middle East, the Federal Bureau of Investigation, counterintelligence, and other specific specialized intelligence programs.

Treasury's critical role in both regulating domestic financial markets and leveraging the might of the U.S. financial system toward

U.S. foreign policy goals is formidable. Yet still, my experience, having executed dozens of tailored sanctions designations in the White House from different authorities, including Executive Orders and congressionally drafted legislation, provided me the opportunity to witness the exceptional power of the U.S. financial system in achieving statecraft on behalf of the United States. The power of the U.S. financial system is one of the greatest tools of the U.S. national security apparatus. Treasury's intelligence collection and analysis are critical to this instrument of national power and to the President's ability to wield as much.

If confirmed, I would bring to bear my own intelligence and policy experience while leveraging an exemplary existing team within OIA. Likewise, if confirmed, I would prioritize effective task organization of the OIA team toward the President and the Secretary's objectives; ensure focused analysis of narco-terrorist and legacy terror organizations; partner with IC colleagues to enhance collection on illicit financial activities of the adversarial nation state actors including Iran, China, Russia and North Korea; and finally, I would assess the counterintelligence posture of OIA personnel and Treasury infrastructure to enhance defenses against new and emerging threats.

As an alumnus of this Committee's staff, I pledge my continued commitment to robust Congressional intelligence oversight and cooperation therewith.

Thank you for your time today, and I look forward to your questions.

[The written statement of the witness follows:]

Peter Metzger
Statement for the Record
Nomination Hearing
Senate Select Committee on Intelligence
October 8, 2025

Chairman Cotton, Vice Chairman Warner, and Members of the Committee: it is a tremendous honor to appear before you today as you consider my nomination to serve as Assistant Secretary of the Treasury for Intelligence and Analysis.

I would like to thank my lord and savior Jesus Christ for all of the blessings of this life; my wife, Tippi, who is here with me today, and our newborn son for their endless love and support; President Trump for this opportunity to again serve our country; and Secretary Bessent for his confidence in me.

I would also like to thank my family, including my mother and father, and the mentors, former colleagues, and close friends present at this hearing, and watching from afar, who have helped shape my career and professional development in the practice of law, in the United States Marine Corps, in U.S. Special Operations Command, in the Intelligence Community, in multiple Executive Branch national security roles, and certainly here on the staff of this august Committee.

Service to our Country runs in my family: I am the fourth U.S. Marine Officer in my family and the second to have served in the Intelligence Community. It has been a high honor not only to continue this tradition, but also uniquely gratifying to have spent nearly two decades at the forefront of our Country's national security. I should point out, as well, that my wife, Tippi, has similarly dedicated her own career to public service and national security. I am immeasurably proud of the sacrifices she has made on behalf of our Country's national security; she inspires me daily with her devotion both to our family and to her own professional duties.

Were I to be confirmed, it would be a unique privilege to lead one of the 18 components of the U.S. Intelligence Community. Understanding first-hand the hard and often anonymous nature of intelligence work, it would be an honor to again call the men and women of the Intelligence Community colleagues, particularly in Treasury's Office of Intelligence and Analysis (OIA).

My career to date has afforded me incredible service opportunities, often granting unfettered access to the collection of intelligence and utilization of intelligence to inform national security policy decisions.

During President Trump's first term, I had the opportunity to serve in Office of the Secretary of Defense directing Syria policy and, later, on the staff of the National Security Council at the White House. On the NSC staff, I led the President's policies on the Levant and, later, as a Special Assistant to the President for National Security Affairs, I helped lead the development of the President's Middle East and North Africa policy.

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If confirmed, I would bring to bear my own intelligence and policy experience, while leveraging an exemplary existing team within OIA. Likewise, if confirmed, I would prioritize effective task organization of the OIA team toward the President and Secretary's objectives; ensure focused analysis of narco-terrorist and legacy terror organizations; partner with IC colleagues to enhance collection on illicit financial activities of adversarial nation state actors including Iran, China, North Korea, and Russia; and assess the counterintelligence posture of OIA personnel and Treasury infrastructure to enhance defenses against new and emerging threats.

As an alumnus of this Committee's staff, I pledge my continued commitment to robust Congressional intelligence oversight and cooperation therewith.

Thank you again for your time today. I look forward to your questions.

Chairman COTTON. Thank you.
Mr. Simmons.

STATEMENT OF JOSHUA SIMMONS, NOMINEE TO BE GENERAL COUNSEL FOR THE CENTRAL INTELLIGENCE AGENCY

Mr. SIMMONS. Thank you, Chairman Cotton, Vice Chairman Warner, and distinguished Members of the Committee, for the opportunity to appear before you today as the nominee to be General Counsel of the Central Intelligence Agency.

I am grateful to President Trump, Director Ratcliffe, and Deputy Director Ellis for their trust and confidence in me. I also appreciate the opportunity I have had to meet with several of you before this hearing to discuss a number of important issues.

I want to thank my colleagues at the State Department. Secretary Rubio and other leaders at State have been advancing important U.S. interests in foreign policy and national security. It has been an honor and a pleasure to work with them.

I understand that, if confirmed, I would not be the first attorney to have served in the Office of the Legal Adviser at the State Department and then as General Counsel of the CIA. I think there are good reasons for this. The offices have similar sizes, similarly talented lawyers, and similar missions advising national security matters. Both offices also confront legal issues of great complexity and, often, urgency. These issues require judgment and wisdom that cannot be learned from a textbook, and I am grateful to my colleagues in the Office of the Legal Adviser for sharing years of on-the-ground experience.

If confirmed as General Counsel, I would use this experience to help the CIA navigate the many challenges our country faces. Director Ratcliffe has spoken to you about these challenges. They include the Chinese Communist Party, transnational drug-trafficking cartels, and the Russia-Ukraine war. At the same time, we are seeing rapidly emerging technologies from artificial intelligence to quantum computing that could define the future of our national security.

The General Counsel of the CIA is responsible for supporting the CIA's mission in facing these challenges, with fidelity to the Constitution and the rule of law. This means protecting not only American national security, but also Americans' civil liberties. If confirmed, I would seek to advance these interests in three primary ways.

First, I would provide objective, clear, and timely legal advice to enable the CIA's mission. The CIA operates under statutory authority and under the President's direction. I would lead the Office of General Counsel in ensuring that the CIA operates in accordance with the law.

Second, I would work closely with lawyers across the Executive Branch. I strongly value such interagency collaboration, and I would build on relationships with attorneys at the National Security Council, the Department of Justice, the Department of War, and other agencies to ensure that policymakers receive the best legal advice in support of our national security.

Third, I would lead the Office of the General Counsel to work closely with this Committee to enable your oversight work and to provide appropriate transparency about the basis for CIA actions.

As President Eisenhower said when laying the cornerstone of the CIA headquarters: "Success cannot be advertised. Failure cannot be explained."

That remains true today. The CIA's activities are generally outside of public view, and it is a testament to the patriotic service of intelligence officers and also to the importance of this Committee's oversight.

At that same cornerstone ceremony, it was announced that the words from the Gospel of John would be inscribed at the entrance of the CIA headquarters. Those words, as anyone who visits the CIA knows, are "And ye shall know the truth and the truth shall make you free."

If confirmed, I would support that mission to know the truth and to protect and promote freedom.

Finally, I want to thank my family, including my parents, who are here. I come from a long line of Americans, from farmers to coal miners, who have loved our country and worked faithfully to raise families and serve their communities. Sitting here today, I am honored with the opportunity to help protect our country and those communities.

I also thank my wife of over 18 years. We met in law school, and she has had a distinguished career as a government lawyer. I would not be here without her steadfast support and wisdom. As the Proverb says: She is far more precious than jewels. Our children are also here today in hopes that they will be inspired seeing our great American Republic at work.

Thank you again. I look forward to answering your questions.

[The written statement of the witness follows:]

Statement for the Record
Senate Select Committee on Intelligence

CIA General Counsel Nominee Joshua Simmons

October 6, 2025

Thank you Chairman Cotton, Vice Chairman Warner, and distinguished Members of the Committee for the opportunity to appear before you today as the nominee to be General Counsel of the Central Intelligence Agency.

I am grateful to President Trump, Director Ratcliffe, and Deputy Director Ellis for their trust and confidence in me. I also appreciate the opportunity I have had to meet with several of you before this hearing to discuss a number of important issues.

I also want to thank my colleagues at the State Department. Secretary Rubio and the other leaders at the State Department have been advancing important U.S. interests in foreign policy and national security. It has been an honor and a pleasure to work with them.

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As President Eisenhower said when laying the cornerstone of the CIA headquarters, "success cannot be advertised; failure cannot be explained." That remains true today. The CIA's activities are generally outside of public view, and it is a testament to the patriotic service of intelligence officers and also to the importance of this Committee's oversight.

At that same cornerstone ceremony, it was announced that the words from the Gospel of John would be inscribed at the entrance of the CIA headquarters. Those words, as anyone who visits the CIA knows, are "And ye shall know the truth and the truth shall make you free." If confirmed, I would support that mission to know the truth and to protect and promote freedom.

Finally, I want to thank my family. I come from a long line of Americans, from farmers to coal miners, who have loved our country and worked faithfully to raise families and serve their communities. Sitting here today, I am honored with the opportunity to help protect our country and those communities.

I also thank my wife of 18 years. We met in law school, and she has had a distinguished career as a government lawyer. I would not be here without her steadfast support and wisdom. As the Proverb says, she is far more precious than jewels. Our children are also here today in hopes that they will be inspired seeing our great American Republic at work.

Thank you again. I look forward to answering your questions.

Chairman COTTON. Thank you, gentlemen.

I've been on this Committee for almost 11 years now, and we've had a number of general counsel nominees come in front of it, and the questions often turn into very grave, somber concerns that the nominee will have the courage to stand up and say no when his bosses want to violate the law. I think this approach is wrong-headed on a couple of counts.

First, it goes without saying that any lawyer should tell their clients if they are prepared to take an action that is against the law, but the first count is that in my experience of 11 years, the much more likely scenario in which the Office of General Counsel faces pressure is to distort their legal judgment to provide a shield to decisionmakers who don't want to make tough decisions.

So rather than having a Chief of Station or a high-ranking Director of Operations officer, even the CIA Director come to you and press you to bless something that would be illegal, it is more likely to try to get your office to say no, something is out of bounds when, in fact, it is in bounds and that's just a decision that those decisionmakers care not to make.

So, you said in your opening statement, Mr. Simmons, that you would give clear advice and counsel to any decisionmaker when something is against the law.

I assume the opposite is true, as well. If you are pressed to say something is against the law when, in reality, it is perfectly legal, will you give that clear opinion that in your legal judgment the action is legal and it is something the decisionmaker is going to have to decide for himself?

Mr. SIMMONS. Thank you, Chairman.

Yes. I think Director Ratcliffe said it well, when he was here, that he would follow the law as far as it goes and no further.

And one of the key distinctions here is between law and policy. And I think if confirmed as General Counsel, my obligation would be to provide legal advice—what are the legal authorizations and limits. And then that equips the policymakers to make the important decisions they need to make for our national security.

Chairman COTTON. And those are decisions that they make as policymakers that a general counsel does not make as the legal adviser?

Mr. SIMMONS. That's correct, Chairman.

Chairman COTTON. Thank you.

So that's the first count I think that approach is wrong on.

The second count is that the premise of the question usually is that there is, you know, rogue, nefarious actors throughout the Agency, maybe up to and including the Director and the President himself, who are always trying to break the law in some kind of dastardly way. In reality, clients go to their lawyers every day in America thinking about doing something that turns out to be a violation of the law.

An Arkansas farmer could want to build a fence on what he thinks is his property line. He goes to a lawyer and the lawyer says: Actually, that's a country right-of-way. You can't build the fence there. Or, a corporate executive may be planning to go on Squawk Box on CNBC and say a bunch of stuff about the stock of his company and the general counsel has to say: Actually, sir, that

would be a violation of securities law. Or, a union chief in negotiations might be prepared to take certain actions and the union general counsel has to say: Actually, that would violate Federal labor law.

And, yes, maybe even a Chief of Station or CIA Director or the President himself might think we want to do this, or could we take this action, and the general counsel says no, that would not be in accordance with the law; when there is no nefarious purpose at all, it is simply you are advising clients who by and large are not lawyers.

That's why our country has lawyers, is to advise laymen about what the law says.

In each of those cases, though, you would expect your lawyer to understand your objectives and try to work toward them—toward a solution that accomplishes the client's objectives but is consistent with the law, whether you're the Arkansas farmer or the corporate executive or the union boss or yes, even the CIA Director.

So, Mr. Simmons, can we count on you, whenever you're giving your plain and unvarnished advice about what is and is not on the right side of the law, to also work with all of your clients at the Agency and across the Executive Branch to help them get to yes, to achieve their objectives in a manner that is consistent with the law?

Mr. SIMMONS. Thank you, Chairman.

Yes. Throughout my legal career, I've maintained that type of open dialogue. I think it is important to have a relationship of trust with a client so that they can speak freely about what their objectives are and so that they can receive honest and clear counsel about what the law requires. And if confirmed, that would be my approach.

Chairman COTTON. Thank you.

Vice Chairman.

Vice Chairman WARNER. Thank you, Mr. Chairman. And you know, I am going to ask you on this subject because quite honestly, just recently Senator Kaine and I went through an extensive process to nominate U.S. Attorneys in the Commonwealth of Virginia, as you know, Eastern District, Western District. They had all the appropriate political bona fides. One was actually the Republican Speaker of the House. And we agree with the Chairman, you've got to work within the law. We did ask them, though, both: Will you adhere to the law and not do something that you feel is illegal or inappropriate?

I think we ended up picking the two right guys because they both have been fired because they were asked to do things that at least they felt was counter to the law.

So, in that spirit, in the same hope, Mr. Simmons, that you will have the same approach of honoring the law, first and foremost—I mean, as I cited in my opening comments, the President recently told a gathering of U.S. military leaders they should use American cities as, quote, "training grounds for our military" and that "America is under invasion from within, no different than a foreign enemy."

Mr. Simmons, you've been a law professor. You know the law. Do you agree with the President that America is under invasion "from within, no different than a foreign enemy"?

Mr. SIMMONS. Thanks for your question, Vice Chairman. I think, to your point about, you know, expectations, I would say that I've spoken with Director Ratcliffe, and his expectation for me is to provide clear and honest legal advice and to comply with the law based on that advice.

And throughout my career, and if confirmed to this position, my approach would be to provide that honest——

Vice Chairman WARNER. Yeah, but Mr. Simmons, does that mean if the President states it, regardless of what factual basis may be underlying the statement, that it is then within the law?

Mr. SIMMONS. So, on that particular issue, I haven't reviewed the legal authorities around that issue.

I mean, for example, at the CIA, I know that Section 104(a) of the National Security Act provides that the CIA shall not have law enforcement powers. So that's the type of clear advice that would be provided if that question arose.

Vice Chairman WARNER. In other words, if in the effort—and again, I won't quiz you more on the fact of taking folks off of counterterrorism, counterespionage, or cyber to put them on immigration—but, if the President says because of this "enemy from within", he wants the CIA to join in with the American military in fighting this "enemy from within," what counsel would you give to Director Ratcliffe?

Mr. SIMMONS. Thanks for your question, Vice Chairman.

The mission of the CIA is to collect foreign intelligence, and there are a number of limitations enshrined in the law with respect to domestic activity.

Vice Chairman WARNER. So, you will advise the Director that it would be illegal and wrong if the CIA was asked to help work with the military in enforcing against the "enemy within"?

Simple yes or no would be fine.

Mr. SIMMONS. As I said, section 104(a) provides that——

Vice Chairman WARNER. I'll take that as a yes.

Mr. Simmons, you obviously are well informed. Do you see any decline in the threats from China, Russia, or international terrorists in terms of their effort to try to undermine the United States of America?

Mr. SIMMONS. Vice Chairman, I think we still face significant threats to our national security from those areas.

Vice Chairman WARNER. So, no undermining of those; we've not seen China or Russia pull back from cyberattacks?

Mr. SIMMONS. Not to my knowledge, Vice Chairman.

Vice Chairman WARNER. We've not seen terrorists across the Middle East—and the chairman and I agree, we have to search those out and destroy them—they have not lessened their hatred for America?

Mr. SIMMONS. Not to my knowledge.

Vice Chairman WARNER. I appreciate that.

Again, I am not going to ask you a policy question then about why we are taking FBI agents, between 25 and 45 percent, off of their duties in those critical tasks and putting them on the immi-

gration detail, where, frankly, reports we've got back is they feel that they are candidly wasting their time. But listen, if you get confirmed, you're going to have a very important job, and CIA General Counsels in the past have been between a rock and a hard place many times. And I hope you will adhere to this.

I do want to make sure, again, one of the things that the Chairman said was, to the fullest extent possible, you will brief all Members of the Committee on intelligence activities and covert activities rather than just the chairman and the vice chairman?

Mr. SIMMONS. Yes, Vice Chairman.

Vice Chairman WARNER. I am going to hold you to that.

Very quickly, Mr. Metzger. You know, this Committee has spent a lot of time looking at China and economic competition. I know you cited a number of things around drug trafficking and terrorism and other things. I hope you will continue to work with us. I think the OIA has a great deal of opportunities to really look at this economic competition with China, and I hope you'll continue to work with us on that subject.

Mr. METZGER. Vice Chairman, thank you for your question. Certainly, I share your concern about China and economic encroachment, and if confirmed, I pledge to continue working with this Committee to that end.

Vice Chairman WARNER. Thank you, Mr. Chairman.

Chairman COTTON. Senator Cornyn.

Senator CORNYN. Congratulations to both of you and your families on your nomination.

Mr. Metzger, you and I haven't had a chance to work directly together, but if Senator Rounds vouches for you, that's good enough for me.

Mr. METZGER. Thank you, Senator.

Senator CORNYN. Mr. Simmons, we had a more extended conversation which I enjoyed very much in my office. And we talked about how lawyers in the Intelligence Community determine what the law is and how different that is than the typical lawyer in private practice who's got statutes, Constitution case law, and are able to basically get a pretty good idea of what the law is. Although lawyers are famous for being able to argue both sides of a legal issue and not agree.

But one statute that is in the law is the Foreign Intelligence Surveillance Act, section 702. And you're familiar with the importance of that particular provision and the foreign intelligence that it allows the U.S. Government to glean. And I believe the figure is that about 60 percent of the President's Daily Brief is a product of that section of the Foreign Intelligence Surveillance Act.

You also know that we fairly recently reformed the law and dealt with concerns—legitimate concerns—about abuses and privacy concerns which we are obviously concerned with, as well; but do you support the reauthorization of section 702 of the Foreign Intelligence Surveillance Act as it is currently written?

Mr. SIMMONS. Thank you, Senator, and I enjoyed meeting with you as well.

Yes, I do support reauthorization. I think Director Ratcliffe said it well when he spoke here, that it is an indispensable national security tool. I've seen at the State Department as well, in addition

to the statistic you gave about the President's Daily Brief, that information derived from section 702 provides critical insights for a wide range of U.S. foreign policy and national security issues on a daily basis.

Senator CORNYN. Well, again, in our conversation in my office, we were sort of commiserating about, again, how different the role of a lawyer is in the Intelligence Community than in private practice where you do have a lot more that you can refer to in terms of statutes and case law and the like, but, basically, as a lawyer in the Intelligence Community you have limited tools.

You have the Constitution. You have the Executive Orders. You have statutes like the Foreign Intelligence Surveillance Act. But many times there is no clear legal answer. And I appreciate the Chairman's line of inquiry.

Recently, I was reading a book by Dan Wang called "Breakneck," who compared China and America, and he said the problem in America is we have lawyers running the government. In China, they are all engineers, and they know how to build things. And lawyers are famous for saying no and creating obstacles to getting to a solution or an outcome.

But let me just ask you again: Do you view it as your job to advise the policymakers on how they can achieve their objectives legally, as opposed to just saying no, you can't do that?

Do you try to help them?

Do you try to help to get to yes by saying: You can do it in this way but not that way?

Mr. SIMMONS. Thank you, Senator.

That is a good summary of my approach. I think as you said, the starting point is going to be the text of the Constitution on the relevant statute or the Executive Order; but then it is critical to understand the objective of the policymaker. And then the question becomes what is the authorization for that and what is the path forward that complies with the law.

And I think it is challenging because there is no case law, but it does take careful, thoughtful lawyering to analyze that legal basis and provide counsel on how to proceed toward an objective in a way that complies with the law.

Senator CORNYN. And I told you that I was a fan of General Hayden's book called "Playing to the Edge," because I don't want the Intelligence Community to be too risk averse or worried about their legal exposure, for example.

I want to be able to let them operate within the law, but to the extent the law permits them to engage in operations that are in the national security interests of the United States, I want them to do it without fear that they are stepping over the line or engaging in or exposing themselves to liability of some kind.

Do you agree that part of your job is going to be to define where that line is to the extent possible so that policymakers can operate within the law but up to where the—make sure we are within the law, but within the maximum the law permits?

Mr. SIMMONS. Thank you, Senator. I do agree with that.

Senator CORNYN. Thank you.

Chairman COTTON. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Chairman, I am going to use about a minute of my time for a brief statement and then to a unanimous consent request and then on to questions.

Chairman COTTON. So, you are not going to yield back four minutes of your time to me?

Senator WYDEN. I know that it is tempting that I do that, but I thank my colleague for his consent.

Chairman COTTON. Fire away.

Senator WYDEN. Confirmation hearings of intelligence agency general counsels are the only opportunity Congress and the public have to hear the nominee's views before they go on to make legal decisions in secret, and yet this year's Intelligence Authorization bill would eliminate Senate advice and consent for both the CIA and ODNI General Counsels, meaning that this will be the last of these hearings.

The chairman and I have talked about this. I've got a longer statement opposing the provisions, and my unanimous consent request, Mr. Chairman, would be to have a letter to the Committee from 21 organizations entered into the record.

Chairman COTTON. Without objection.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Simmons, I want to follow up on what we talked about in the office, and I appreciate you're coming up.

Do you agree that there is no basis in law for designating domestic terrorist organizations?

Mr. SIMMONS. Thanks for your question, Senator, and I also appreciated the opportunity to meet with you.

As discussed, my focus at the State Department, for example, has been on a foreign terrorist organization designation. That's a statutory authority: 8 USC, section 1189, which provides a decision about what is a foreign terrorist organization, and one prong of that analysis is that it be a foreign organization. There are a number of factors around the analysis of whether it's a foreign organization such as, where is the base of operations; what is the location and nationality of members of that organization——

Senator WYDEN. My time is pretty short, and we have had others come here and I got a clear yes answer and I thought that's what we would do today. So again, is there a basis in law for designating domestic terrorist organizations or is there no basis?

Mr. SIMMONS. Again, my focus, Senator, at State Department, has been on the question of a foreign terrorist organization, so I haven't reviewed authorities or analysis with respect to a domestic organization.

Senator WYDEN. I just think that's unfortunate because I left the meeting yesterday believing that you thought there was no basis in law for designating domestic terrorist organizations.

This is a crucial issue, because the President has taken the position that he can designate Antifa as a domestic terrorist organization. I hope you'll give us a yes or no answer at least for the record, so that we can have some sense of where you would be going on this.

One other question, if I might.

Secretary Rubio has said that one of those boats the administration blew up could have been interdicted instead. We've been talking about these kinds of issues in this Committee for some time.

Is it legal to kill people who they could have captured or arrested?

Mr. SIMMONS. Senator, I understand there have been other submissions to Congress from the administration, a war powers report and a notice under section 1230. I also understand that the General Counsel of the Department of War attended and participated in a classified briefing on that issue last week and I would refer questions about those military activities to them.

Senator WYDEN. I would only say, yesterday I left the meeting with the sense that you had some concrete thoughts about policy direction, not how things would come up in imaginary scenarios, but a policy direction. Today, I haven't felt that way. On the basis of this, I am going to be opposing your nomination.

Thank you, Mr. Chairman.

Chairman COTTON. Senator Lankford.

Senator LANKFORD. Mr. Chairman, thank you. Thank you to both of you for your service to the Nation.

Mr. Simmons, my question for you is very straightforward. Who's the better attorney, you or your wife?

Mr. SIMMONS. My wife.

Senator LANKFORD. OK. Good answer. Good answer in a public setting when you're under oath. I appreciate that.

For y'all, thank you for the time that you've given to the Nation, sacrifices your families have gone through.

Mr. Metzger, I was the practice round for Senator Rounds, where you as a designee and I had a couple of years to be able to serve together. I saw how hard you worked and how professional you are. I also got to hear the love story of your time with your bride and then be able to go through that process. So grateful for that time with you. Let me get a chance to be able to bounce a couple of questions off you, though.

Mr. Metzger, I want to be able to drill down a little bit more. Oklahoma made the decision several years ago, which I vehemently disagreed with, but we vote in my State like we do around the country to allow medical marijuana use in my State with a very loose law. It was the belief of some that then we wouldn't have to deal with illegal marijuana in the State, that it would all be legalized.

What has happened has been an influx of thousands of Chinese operations coming to our State. The Oklahoma Bureau of Narcotics has identified what they believe is 2,000 illegal Chinese marijuana growers. Human trafficking has come into the State, all sorts of illegal activity in the distribution of drugs across the country coming from my own home State.

Now, a lot of that's going to be based on tracking dollars, tracking the movement of people that have come across our border illegally that was allowed under the Biden administration. That has been a very difficult issue. It is one of the many issues that the Treasury has to identify on how we are moving fentanyl, other drugs, and drug operations into our country.

How do you plan to be able to take that on?

Mr. METZGER. Senator, first of all, thank you for your very kind words and for your question.

Secondly, I share your concern with regard to Chinese economic encroachment, be it through fentanyl precursor trafficking to Mexico or to the narco-terrorist cartels there or in your home State of Oklahoma with regard to marijuana grow and distribution.

As I said in my opening statement, if confirmed, I plan to scour the Office of Intelligence and Analysis and encourage the team there to pursue all of the Chinese economic misgivings with regard to fentanyl drug use and any money laundering.

As I understand it, in Treasury there is a fantastic team in FinCen and the AML anti-money laundering team. And as potential customers, were I to be confirmed, I look forward to keeping them apprised of relevant and recent financial intelligence.

Senator LANKFORD. So, you have a unique role in the CFIUS process to be able to examine, you know, operations that are trying to be able to move and purchase land, purchase businesses, all those. That's a powerful role to be able to be engaged in to help identify where there is potential long-term threats. How do you see that role and what would you have responsibility for?

Mr. METZGER. Senator, thank you for your question. I think you're right, the CFIUS process and the Committee itself is one of the tantamount responsibilities of the Treasury in this modern era.

As I understand, the Assistant Secretary for Intelligence and Analysis is tasked with ensuring that the Secretary, the President, and the other Cabinet-level officials on the Committee receive timely and accurate information with regard to foreign investment in the United States and are able to make a determination or make reference to the President for his determination.

Senator LANKFORD. That would be helpful. Mr. Metzger, one last question on this.

Mr. Simmons, you are not getting off easy with me. We had a great conversation in the office, and I appreciate your input on that.

Mr. Metzger, during the Biden administration, Iran was considered the largest State sponsor of terrorism. We had sanctions on their oil sales, but public reports say in the last year Iran has still sold $43 billion of oil, much of it to China.

How do we wrap our arms around some of the sanctions violations that are happening with the largest State sponsor of terrorism in the world?

Mr. METZGER. Senator, thank you for your question. I share your concern with regard to Iran, as you know.

I think during the first Trump administration, the President demonstrated deft and sound leadership with regard to containing Iran, with regard to countering Iran and their illicit financial activities, and most importantly with regard to countering their global terror network.

I think at the end of the day, if confirmed to serve as Assistant Secretary of the Office of Intelligence and Analysis, it will be incumbent upon me to follow the money to counter illicit money laundering and to ensure that Iran isn't able to evade U.S. sanctions designations.

Senator LANKFORD. Thank you both.

Chairman COTTON. Senator Bennet.

Senator BENNET. Thank you, Mr. Chairman.

Thank you both for your willingness to serve.

Mr. Simmons, the White House recently informed Congress that President Trump has declared us to be at "war" with unspecified drug cartels in the Western Hemisphere citing new anti-cartel authorities. President Trump also directed air strikes against boats in the Caribbean, allegedly carrying drug traffickers and narcotics.

Mr. Simmons, in your capacity as Principal Deputy Legal Adviser to Secretary Rubio, did you play any role in the deliberations surrounding these anti-cartel authorities?

Mr. SIMMONS. Thanks for your question, Senator.

Senator BENNET. Thank you for being here.

Mr. SIMMONS. I've advised on a wide range of national security matters while at the State Department.

Senator BENNET. Did you advise on the anti-cartel authorities that the administration has used?

Well, let me ask you—that the administration has used in part to justify the actions that have been taken against those cartels?

Mr. SIMMONS. Thanks, Senator. I am not in a position to discuss the specifics of any internal operations.

Senator BENNET. I'm not asking you the specifics other than to ask you if you were involved in those discussions.

Mr. SIMMONS. Senator, as I said, I am not in a position to discuss the specifics of internal deliberations.

Senator BENNET. I don't know why you can't tell this Committee the answer to that question.

Mr. SIMMONS. I appreciate that, Senator, and I hope you'll understand the importance of leadership receiving confidential advice.

Senator BENNET. What is your understanding in front of this Committee of the limits on the President's authority to use military force to combat criminal activity like drug trafficking?

Mr. SIMMONS. Thank you, Senator.

I mentioned previously the notice under Section 1230 which stated that it was an exercise of the President's Article II authority in self-defense and defense of others against ongoing attacks by designated terrorist——

Senator BENNET. Is that the advice that you gave to the Secretary of State on this subject?

Mr. SIMMONS. Senator, these were military strikes conducted by the Department of War, and as I said, the general counsel of that department——

Senator BENNET. Is it correct that you didn't have any discussion about this at the State Department?

Mr. SIMMONS. Senator, as I said, I am not in a position to—I don't know all of the discussions that may or may not have taken place at the State Department.

Senator BENNET. Is it correct that you did not participate in any discussions about this while you were at the State Department?

Mr. SIMMONS. Senator, as I said, I am not in a position to discuss any legal advice that I may or may not have provided.

Senator BENNET. Do you agree that the CIA doesn't have any authority to conduct operations within U.S. borders to counter drug cartels?

Mr. SIMMONS. Thank you, Senator.

I agree that there are significant limitations enshrined in the law with respect to any domestic activities by the CIA.

Senator BENNET. Do you agree that designating or labeling an organization as a quote, end quote, "terrorist organization" is not in itself a sufficient basis to justify the use of force against that organization?

Mr. SIMMONS. Thanks for your question, Senator.

I mentioned previously the designation, the FTO designation as a foreign terrorist organization. And that assessment in addition to the point I discussed about requiring a foreign organization, requires that there be terrorist activity and threats against the United States. That FTO designation has a separate legal purpose in the sense that it relates to sanctions when there is material support. So, there is—it's a separate legal category than a lawful use of force. But that—that assessment includes one about threats to United States national security.

Senator BENNET. Do you believe that designating or labeling an organization as a terrorist organization is itself a sufficient basis to justify the use of force against that organization; is that your reading of the law?

Mr. SIMMONS. My reading specifically on the foreign terrorist organization, FTO designation, does not legally have a decisive impact either way on the lawful use of force.

Senator BENNET. Do you agree, Mr. Simmons, that anti-cartel authorities provide no basis for the administration to justify any actions against its domestic political opponents whom various administration officials have also designated as terrorists?

Mr. SIMMONS. Thanks for your question, Senator. I am not familiar with all of the law around anti-cartel activities. As I said, if the focus is on domestic——

Senator BENNET. I am not asking you—This is not a hard question. This is an easy question. So let me ask again.

Do you agree that these so-called anti-cartel authorities provide no basis for the administration to justify any actions against its domestic political opponents whom various administration officials have also designated as terrorists?

I am asking you for your view as a lawyer.

Mr. SIMMONS. I am not sure which anti-cartel authorities you are referring to.

Senator BENNET. For the ones that you and I have been talking about for the last five minutes, Mr. Simmons.

Mr. SIMMONS. Is there a specific statutory provision you want to know?

Senator BENNET. I've given you the specific language that the administration has relied on to take the actions that it's taken, and now I am asking you whether or not the administration could use that——

I hear you, Mr. Chairman. I apologize.

—could use that authority to turn it against its domestic political opponents, some of whom it called terrorists. And I find it very hard to believe that anybody with a law degree, much less as somebody with your excellent preparation, can't answer that question

directly. And the answer is no. I can't believe that's not your answer, Mr. Simmons.

Mr. SIMMONS. Well, I think, as I said, that FTO designation requirement includes as a factor that there be a foreign organization.

Senator BENNET. I'll take that as a no.

Thank you, Mr. Chairman.

Chairman COTTON. Senator Rounds.

Senator ROUNDS. Thank you. Thank you, Mr. Chairman.

Mr. Simmons, first of all, let me just kind of rephrase a little bit here.

What's your understanding of the general counsel's role in providing timely and relevant reporting to congressional oversight committees? You are in front of an oversight committee right now.

Share your thoughts with me. What do you consider to be timely in terms of your role in making sure that it gets done?

Mr. SIMMONS. Thank you, Senator. And, I appreciated the opportunity to meet with you.

Sections 502 and 503 of the National Security Act make clear that the CIA would keep the intelligence committees fully and currently informed of intelligence activities and with due regard for protection of classified information.

There is also a separate provision, section 510, that provides that the general counsels of each element of the Intelligence Community—so, including the General Counsel of the CIA—would notify the committee of any significant legal interpretation of the Constitution or Federal law affecting intelligence activities.

So, in addition to the general obligation to keep this Committee fully and currently informed, and I think the General Counsel's responsibility would be to advise on—you know, apply that statutory provision to any particular facts and circumstances, and then there is a separate provision specifically on significant legal interpretations.

Senator ROUNDS. In our office, we talked a little bit about some of the advanced technology that is deployed or will be deployed, and not only by us but by our adversaries as well, and artificial intelligence and the use of the quantum—for lack of a better term, the quantum environment is going to be a critical part of that advancement, and it is happening a lot faster than people realize.

How do you plan to augment the efforts that are ongoing, and how do you see your role in the development or use of this particular advancement in technology?

Mr. SIMMONS. Thank you, Senator.

I agree that these emerging technologies are critically important, and I do think that it is critical to have good legal analysis around these emerging technologies because, as this Committee surely knows, the law sometimes struggles to keep up with the technology. These advances are happening so rapidly. So, it's a question of reviewing the law that exists with an innovative and careful analysis, applying it to a new technology.

That's something I've done in the private sector. I was involved in a litigation matter related to the largest bitcoin mining facility in North America. These are huge data centers.

They are important to our national security, important to our strategic advantages.

And if confirmed as general counsel, it would be a priority of mine to provide that innovative, careful legal analysis of existing statutory and legal frameworks to emerging technologies like artificial intelligence, quantum computing, and so on.

Senator ROUNDS. Thank you.

Mr. Metzger, I don't think they've hazed you much yet today, and I suspect that you're probably not going to get much hazing at all.

I think your reputation on this committee is such that, while we hate to lose you from the committee, we most certainly think that you're moving to a spot in which you can be a real asset to the Department of the Treasury.

Let me speak to you. Can you speak a little bit about how your time on this Committee will support the role of which you've been nominated?

Mr. METZGER. Certainly, Senator. Thank you for your question.

Over the last four years, I've had a front row seat to the absolutely critical nature of Congressional oversight that knows no bounds with regard to the Intelligence Community.

If confirmed, I look forward to continuing robust cooperation with this Committee, with its Members, and with its professional staff, whom I am very, very proud to call peers and colleagues.

Senator ROUNDS. Thank you.

I am going to slide back to Mr. Simmons for just a second. I think with regard to artificial intelligence and what we are going to be seeing happening, I think the message that we would like to share with you is that, if something was wrong before—not legal before—the use of artificial intelligence in that action does not make it right; or if something was right before and the use of artificial intelligence is applied to speed up a process, it does not make it wrong. Would that be a fair way to begin the discussion?

Mr. SIMMONS. Thank you, Senator. I think that's a good example of the type of innovative application of the law as it exists in an emerging technology.

Senator ROUNDS. Thank you.

Thank you, Mr. Chairman.

Chairman COTTON. Senator King.

Senator KING. Thank you, Mr. Chairman.

Mr. Simmons, I am a little confused. You've mentioned several times a department that doesn't exist in our government. What's the name of the department that Mr. Hegseth is the secretary of?

Mr. SIMMONS. Thank you, Senator. It is, by statute, the Department of Defense. And——

Senator KING. Why did you call it the Department of War? That's not the name. Its name is Department of Defense according to 10 USC 111(a) in the National Security Amendments of 1949. Why are you making something up?

Mr. SIMMONS. Thank you, Senator. That sounds like an astute citation by a UVA law grad. I would say that there is an Executive Order that——

Senator KING. Executive Orders aren't law, Mr. Simmons. The statutes of the United States are laws. If that name's going to be changed, it should be changed here. But let me move on.

There is a rumor circulating that people applying for promotions or assignments or admission to employment at the CIA are being

asked to affirm the assertion that Donald Trump won the election in 2020.

Were you asked that question, and do you know of anybody else that's being asked that question?

Mr. SIMMONS. Thank you, Senator.

I am not aware of that question being asked.

I think I agree with what Director Ratcliffe said when he was here which is that it is critical for our intelligence to be apolitical so that our policymakers are best informed about national——

Senator KING. So, it's untrue that that's become a litmus test in the CIA?

Mr. SIMMONS. I am certainly not aware of that, Senator.

Senator KING. Thank you. I appreciate that.

As Secretary Rubio revoked the status of several lawful permanent residents when you were the Acting General Counsel based on their exercise of the First Amendment, the Court said this was a misuse of the power of their respective offices to target noncitizen pro-Palestinians for deportation, primarily on account of their First Amendment protected political speech.

Were you involved in the upcoming support for that decision by Secretary Rubio?

Mr. SIMMONS. Thank you, Senator. As I said before, I am not in a position to discuss specific——

Senator KING. I don't buy that, Mr. Simmons. I know about executive privilege and about legal privilege. That goes to the content. You won't even tell us if you were in the room? I don't think that's privileged.

I am asking you, did you provide advice on this subject to Secretary Rubio? There is no privilege for that statement.

Mr. SIMMONS. There have been many matters in which the statutory authority with respect to lawful permanent residence has arisen. A number of them are in litigation now, and those cases are being litigated in the courts.

Senator KING. It's not your——

You're doing a really good job today of not answering questions.

The question is really simple. Were you involved in providing advice to the Secretary on the issue of revocation of lawful permanent residence on the basis of their free speech assertions? A simple yes or no question: Were you involved, did you provide advice?

Mr. SIMMONS. Senator, sitting here today, I do not recall specifically whether I advised on that exact issue.

Senator KING. OK. Well, I guess I have to take that.

Another straightforward yes or no question: Is it legal for the CIA to engage in activities in the continental United States?

Mr. SIMMONS. Thank you for your question, Senator. The definition of covert action in section 503 refers to activities abroad. And I think there are other——

Senator KING. So, the answer to my question is, it is not legal, right?

Mr. SIMMONS. I——

Senator KING. I asked you a question. Is it legal for the CIA to conduct activities within the United States, yes or no?

Mr. SIMMONS. I think there are, you know, incidental or ancillary activities that happen in the United States. Whether covert action is——

Senator KING. People go to work at Langley. I get that. But I don't understand your—you've even read the law that said it's the law is the CIA can only operate abroad. That's the assumption of this Committee for as long as I've been on it. Can't you just say that?

Mr. SIMMONS. Senator, I agree there are significant limitations on the CIA in the law. There are no police, subpoena, or law enforcement powers. There is no internal security function. There are——

Senator KING. Covert action, no, right? Intelligence collection, no, correct?

Mr. SIMMONS. The mission of the CIA is foreign intelligence.

Senator KING. That's—that's good. Thank you.

The actions in the Caribbean, you mentioned that we had a briefing, that Congress had been briefed. They did send a notice. But I was in a hearing on the Armed Services Committee earlier this week with the General Counsel of the Defense Department, and they won't give us the opinion that underlies the—provides a legal basis.

They say that it is classified, or it is internal deliberations or something. The Congress has not seen the Office of Legal Counsel opinion as to the legality of those strikes, and I think it is important to emphasize that Congress has not been given that.

As a lawyer, as a professor of law, doesn't it give you some pause that under this situation the President is designating an organization as a terrorist organization and then taking lethal action? The President is the prosecutor, the judge, the jury, and the executioner.

Doesn't that bother you as a student of the law?

Mr. SIMMONS. Thanks for your question, Senator. First of all, I haven't reviewed all the classified information around this, so I don't know all the facts and circumstances. I would say that Article II of the Constitution provides that the President is the Commander in Chief and there are authorities with respect to self-defense.

Senator KING. What does the Constitution say about who declares war?

Mr. SIMMONS. I think Senator Wyden raised that. Article I provides that Congress shall have the power to declare war.

Senator KING. Thank you, Mr. Chairman.

Chairman COTTON. Thank you, gentlemen, for your testimony today. As I mentioned earlier, it is my intention to hold a committee vote on these nominations as soon as possible. Therefore, for planning purposes, any Member who wishes to submit questions for the record after today's hearing, please do so by close of business tomorrow, October 9.

I trust that we can count on prompt answers from our two nominees to allow for further consideration.

Vice Chairman.

Vice Chairman WARNER. I appreciate both witnesses' testimonies.

I am not going to ask you again, but I am going to expect that there is this adherence to the law. I hate to have to ask that question, but I've seen two, I think, distinguished individuals who stuck by that and lost their jobs as U.S. Attorneys.

I hope you at least review those circumstances and make those same kinds of commitments.

Thank you, Mr. Chairman.

Chairman COTTON. Thank you, everyone, for your attendance today.

The hearing is adjourned. (Whereupon the hearing was adjourned at 4:31 p.m.)

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART A - BIOGRAPHICAL INFORMATION

1. FULL NAME: Peter Todd Metzger II
   OTHER NAMES USED:

2. DATE AND PLACE OF BIRTH: March 5, 1980 / Camp Pendleton, California
   CITIZENSHIP: I am a citizen of the United States.

3. MARITAL STATUS: INFORMATION REDACTED

4. SPOUSE'S NAME: INFORMATION REDACTED

5. SPOUSE'S MAIDEN NAME IF APPLICABLE: INFORMATION REDACTED

6. NAMES AND AGES OF CHILDREN:

NAME	AGE
INFORMATION REDACTED	

7. EDUCATION SINCE HIGH SCHOOL:

INSTITUTION	DATES ATTENDED	DEGREE RECEIVED	DATE OF DEGREE
Wake Forest University School of Law	2003 – 2006	Juris Doctor	May 2006
Washington & Lee University	1998 – 2002	Bachelor of Arts	June 2002

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).

EMPLOYER	POSITION/TITLE	LOCATION	DATES
United States Senate Select Committee on Intelligence	Professional Staff Member	120 Constitution Ave NE Washington, DC 20002	2021 – present

2019 – 2021
National Security Council
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500
Special Assistant to the President, Deputy Senior Director for Middle Eastern and North African Affairs (2020 – 2021)
Director for the Levant (2019 – 2020)

2017 – 2018
Office of the Secretary of Defense
The Pentagon
1400 Defense Pentagon, Washington, DC 20301-1400
Syria Director

2016
Presidential Transition Team
Washington, DC
Personnel Vetting Attorney

Information Redacted

2008 – 2013
United States Marine Corps
Multiple locations
Captain

2006 – 2008
Leitner, Dooley, Williams, and Napolitan, PLLC
803 Broad St
Chattanooga, TN 37402
Associate Attorney

Summer 2005
Office of the General Counsel
National Association of Chain Drug Stores
413 N Lee St
Alexandria, VA 22314
Summer Associate

2004 – 2006 (est.)
Wake Forest University School of Law
1834 Wake Forest Rd
Winston-Salem, NC 27109
Research Assistant to Dean Miles Foy

Summer 2004
21st Judicial District of North Carolina
75 North Chestnut Street
Winston-Salem, NC 27101
Judicial Clerk to Chief Judge William B. Reingold

Summer 2004
White & Crumpler PLLC
Winston Tower
301 N Main St
Winston-Salem, NC 27101
Summer Associate

2002 – 2003
The Law Office of Peter Riccardelli
126 W Colorado Ave
Telluride, CO 81435
Clerk

2002 – 2003
TelSki
Telluride, CO 81435
Mountain employee

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).

My government experience is noted above in response to question 8.

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

I have held an active Top Secret security clearance with SCI eligibility continuously since 2010 and have been trained in, implemented, supervised, and actioned the conduct of sensitive intelligence operations and collection. Later in my career, I have been a consumer and end-user of sensitive intelligence sources and methods in assisting senior decision makers, including the President of the United States, in development of U.S. national security policy.

During my time in uniform as an active-duty U.S. Marine Corps officer, I had the opportunity to serve first as a Judge Advocate prosecuting a series of major felony crimes, then later in more concentrated operational roles. In 2010, I attended and successfully completed the United States Special Operations Command Assessment & Selection program to serve in Marine Corps Forces Special Operations Command (MARSOC). Upon assignment to MARSOC, I attended the operator's Individual Training Course (ITC), completing a number of complex training evolutions over the course of six months, although I was medically retired from active duty with only weeks remaining in ITC.

Despite this, I was able to apply both tactical and technical expertise during subsequent service as an advisor to the United States Intelligence Community in the conduct of global counterterrorism operations, including during two warzone deployments. It is noteworthy that the Senate Select Committee on Intelligence maintains current oversight and visibility of the specific programs to which I refer.

In 2017, I accepted a position to serve in the Department of Defense, Office of the Secretary of Defense (Policy) where I led a team of policy experts in defense strategy development and implementation for the then-ongoing conflict in Syria, including collaboration with Intelligence Community entities.

Likewise, for over two years from 2019 – 2021 I had the opportunity to serve on the staff of the National Security Council at the White House where I was responsible for interagency policy coordination, including drafting and implementing documents and strategies foundational to Presidential decisions on Middle East and North Africa policy.

Since 2021, I have had the privilege to serve on the professional staff of the United States Senate Select Committee on Intelligence where my oversight portfolio responsibilities have included, *inter alia*, covert action, the Middle East, the Federal Bureau of Investigation, counterintelligence, and other specific specialized intelligence programs.

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).

White House Commission, Special Assistant to the President (2020).

Individual Service Recognition, *Intelligence Community Component* (2016).

Navy & Marine Corps Achievement Medal (2011).

Global War on Terrorism Service Medal (2008).

National Defense Service Medal (2008).

Contributing Author, Wake Forest Moot Court Problem Book (2005).

Wake Forest School of Law Moot Court Board (2004).

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).

ORGANIZATION	OFFICE HELD	DATES

INFORMATION REDACTED

INFORMATION REDACTED

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?**

Writings:

What Do Our Allies See about Lebanon That We Don't?, NATIONAL REVIEW, November 8, 2021.

With Turkey, Biden Must Pursue Mutual Interests Through Strength, NATIONAL REVIEW, June 12, 2021

The U.S. Sanctions Regimen Against the Assad Regime is Working: Here's How, The Atlantic Council, May 24, 2021.

Ill-placed Carrots: Biden's Misappropriation of Soft Power, THE NATIONAL INTEREST, April 23, 2021.

The Imperative to Maintain Focus in Syria, NEWSWEEK, April 16, 2021.

In Delegating to Mattis, the President Employs His Command, NATIONAL REVIEW, July 6, 2017.

The Media Miss the Mark on Afghanistan, NATIONAL REVIEW, June 23, 2017.

Speeches:

March 2020 (est): Panelist, *Lebanon, Corruption, and Hizballah*, Office of the Director of National Intelligence, Mclean, Virginia. No known recording; classified session.

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE AS THE ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS AT THE DEPARTMENT OF THE TREASURY).

I have had the good fortune to benefit from national security and intelligence-focused assignments for nearly two decades and welcome the challenge of leading one of the 18 United States Intelligence Community components, were I to be confirmed. From my experience serving in uniform to my work in the Intelligence Community both at home and abroad, I feel comfortable with the delineated missions of the Intelligence Community, with workforce capabilities and limitations, and with the culture of the Intelligence Community generally.

My career has been punctuated by a mission-first mindset and a willingness to identify obstacles and impediments toward policy objectives and overcoming them through government coordination, and clear direction from principals delegated to national security professionals.

Treasury's critical role in both regulating domestic financial markets and leveraging the might of the U.S. financial system toward U.S. foreign policy goals *is formidable*. Yet still, my experience having executed dozens of tailored sanctions designations in the White House, from multiple different authorities including Executive Orders and Congressionally drafted legislation, provided me the opportunity to witness the exceptional power of the U.S. financial system in achieving statecraft on behalf of the United States. The power of the U.S. financial system, and exclusion therefrom, is one of the greatest tools of the U.S. national security apparatus.

Both my previous tenure in the Executive Branch and serving as a professional staff member in the U.S. Senate have given me the opportunity to grow a bipartisan network among national security officials, both political appointees and civil servants. Through these networks, I have optimized interagency collaboration toward shared objectives through deliberate inclusion on consequential written products, legislation, meetings, and recommendations to principals, including the President of the United States and leadership in the U.S. Senate.

As someone who has both conducted intelligence collection and benefited as an end-user of both raw and finished intelligence, I am able to synthesize competing narratives and to know when to push operations and analytic teams for more information as necessary.

Were I to be confirmed, I would bring to bear my own intelligence and policy experience, while leveraging an exemplary existing team within the Office of Intelligence and Analysis (OIA).

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).

INFORMATION REDACTED

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

I have not sought public office.

17. FOREIGN AFFILIATIONS

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

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

No.

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

No.

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

No.

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

No.

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

Neither my wife nor I have engaged in any such activity.

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.

Any potential conflict of interest will be resolved in accordance with the terms of my ethics agreement, which was developed in consultation with career ethics officials at the Department of the Treasury and the Office of Government Ethics. I understand that my ethics agreement has been or will be provided to the Senate.

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 have no such connections.

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.

I have no such plans.

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.

I have no such agreements or understandings.

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.

I have received no such offer or expression.

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.

INFORMATION REDACTED

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.

NAME OF ENTITY	POSITION	DATES HELD	SELF OR SPOUSE

Please see my OGE-278, which I understand has been or will be provided to the Senate.

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.)

Neither my wife nor I have received any such gifts.

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.)

DESCRIPTION OF PROPERTY	VALUE	METHOD OF VALUATION

Please see my OGE-278, which I understand has been or will be provided to the Senate.

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.)

NATURE OF OBLIGATION	NAME OF OBLIGEE	AMOUNT

I have no such obligations.

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

INFORMATION REDACTED

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

Yes, subject to the advice of counsel.

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

INFORMATION REDACTED

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

No.

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

I have not billed any clients in the past five years. I am an active member of the Tennessee and District of Columbia bars.

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.

I have no plans to create a blind trust, but will abide by any agreements negotiated with the Office of Government Ethics.

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?

I have filed annual financial disclosures comporting with U.S. Senate rules since 2021. Yes, subject to the advice of counsel.

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.

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.

INFORMATION REDACTED

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.

INFORMATION REDACTED

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.

INFORMATION REDACTED

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.)

To my knowledge, no.

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

No.

PART F - SECURITY INFORMATION

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

No.

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

INFORMATION REDACTED

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 ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS AT THE DEPARTMENT OF THE TREASURY AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS, RESPECTIVELY, IN THE OVERSIGHT PROCESS.

Having spent the last four years of my professional career conducting Intelligence Community oversight, both domestically and globally, I remain a proponent for the role of strong Congressional oversight of U.S. intelligence activities

This committee, born of opaque times and practices from over five decades ago, stands as a beacon of advocacy for both the U.S. Intelligence Community *and* a firewall for U.S. taxpayers unwitting to U.S. intelligence activity. The nature of intelligence work, including its penumbra-laden budgets and operations, requires that Congress and its Select Committees on Intelligence stand as a guarantor of ethics, legality, proportionality, and direction on behalf of the American people.

I believe the principal obligations of the Assistant Secretary for Intelligence and Analysis to be leading one of the Intelligence Community's 18 components, distilling and disseminating necessary intelligence to inform Treasury and interagency decisions with timely, relevant, and accurate intelligence and analysis. *As importantly,* it is the duty of the Assistant Secretary to report to the Select Committees on Intelligence, both in Congress itself and other venues where invited; to send Treasury officials to appear before the Select Committees on Intelligence and their professional staff when invited; to provide OIA documents and other materials requested by these Committees in order to carry out their oversight and legislative responsibilities; and to inform and brief to the fullest extent possible *all members* of the Select Committees on Intelligence of intelligence activities.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS AT THE DEPARTMENT OF THE TREASURY.

The Assistant Secretary for Intelligence's principal responsibility is to lead OIA, one of 18 U.S. Intelligence Community components, to enhance national security by informing Treasury and the interagency of timely, relevant, and accurate intelligence and analysis to leverage Treasury's unique tools toward identifying and disrupting national security threats to the United States. In leading OIA, it is equally the Assistant Secretary's job to provide intelligence protecting the integrity of the U.S. and international finance systems.

To be sure, none of these intelligence activities should occur in a silo or a vacuum. Instead, the Assistant Secretary tasked with leading OIA should ensure interagency collaboration, and Intelligence Community collaboration, to synthesize diffuse financial intelligence to key U.S. government principals and to Congress.

Treasury's unique role in leveraging regulatory and financial incentives and deterrents requires the Assistant Secretary to work with both law enforcement and policy principals toward effective U.S. national security and financial integrity. OIA occupies a critical niche in the Intelligence Community and requires an Assistant Secretary capable of leading a financial intelligence enterprise in keeping with U.S. national security interests and priorities of both the Executive Branch and Congress.

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be the Assistant Secretary for Intelligence and Analysis at the Department of Treasury, I hereby express my willingness to respond to requests to appear and testify before any duly constituted committee of the Senate.

PETER METZGER SIGNATURE REDACTED

Date: 9/11/2025

AFFIRMATION

I, **PETER T. METZGER II**, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

9/11/2025
(Date)

PETER METZGER SIGNATURE REDACTED

NOTARY SIGNATURE REDACTED

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

Additional Pre-Hearing Questions for Peter T. Metzger II
upon his nomination to be
Assistant Secretary for Intelligence and Analysis, Department of the Treasury

1. Please describe how, if confirmed as the Assistant Secretary of the Treasury for Intelligence and Analysis, you will be responsive to the Director of National Intelligence (DNI) and the Secretary of the Treasury.

- **Answer: If confirmed for this position, I will pledge to ensure that OIA will provide the most timely and accurate intelligence information possible to the Secretary and the Director of National Intelligence.**

2. If conflicts arise between the priorities of the DNI and the Secretary of the Treasury, how will you act to resolve them?

Answer: If confirmed, I will coordinate effectively with both the Secretary and the DNI and work diligently to resolve any such conflicts consistent with Administration priorities.

3. Please explain your understanding of Treasury's Office of Intelligence and Analysis's (OIA) responsibilities and authorities within the Intelligence Community (IC) for coordinating, facilitating, or otherwise improving financial intelligence collection and analysis. Do you see OIA as the IC's lead agency on financial intelligence issues?

- **Answer: Treasury has a long history of enhancing U.S. national security, and OIA's mission is critical to Treasury's work. This role has evolved over time, along with Treasury's role in the national security space. OIA, as the IC component within Treasury, works on the cutting edge of global financial intelligence. OIA was established in 2003 as part of the reorganization of our intelligence and defense agencies following the terrorist attacks of 9/11. I understand OIA frequently produces intelligence products for the President and Cabinet-level officials, as well as Treasury policymakers and fellow IC components, and I view OIA as the IC's lead agency on financial intelligence issues. Over the years, economic sanctions and financial diplomacy have increasingly become tools of choice for policymakers. If confirmed, I will support OIA as it continues to build on its strong financial intelligence knowledge base and analytic expertise to provide critical support to the use of those important tools.**

4. Do you intend to comply with the president's executive order on ethics? Will you promptly notify the committee if any waivers are granted?

Answer: I have consulted with the Office of Government Ethics and the Department of the Treasury's Designated Agency Ethics Official to identify potential conflicts of interest. Any such potential conflicts will be resolved in accordance with the terms of the ethics agreement that I have entered with the Department, which has been provided to this Committee. If there is a need for a waiver, I will make the Committee aware.

5. Please describe your current understanding of OIA's participation in the Committee on Foreign Investment in the United States (CFIUS) process. Do you think OIA is well positioned to support the interagency in the CFIUS process? How do you see OIA evolving to better support the CFIUS process?

Answer: It is my understanding that serving as the CFIUS chair is one of Treasury's most critical national security responsibilities. OIA has an important role in supporting the National Security Threat Assessments produced by the DNI and providing additional intelligence support to the chair. If confirmed, I will work with OIA, TFI, and the Office of Investment Security to look at OIA's contributions to the CFIUS process.

6. Please explain your understanding of how the oversight roles of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence differ from the oversight roles of other congressional committees that have oversight jurisdiction for other offices within the Office of Terrorism and Financial Intelligence and the Treasury Department.

Answer: The Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence share oversight responsibility of executive branch intelligence activities. As OIA is an IC component housed within the Department of the Treasury, a non-IC agency, these important committees provide a critical intelligence oversight role for intelligence activities and authorities specific to OIA.

If confirmed, I will ensure OIA works effectively within TFI and Treasury to facilitate Congress' important oversight responsibilities.

7. OIA is the only component within the broader Treasury Department that is designated as an IC element under the National Security Act of 1947. Such a designation comes with challenges in coordination and information sharing both within the Treasury Department as a whole, and with the broader IC.

a. If confirmed, how would you protect IC-related information within the Treasury Department, while at the same time working with the IC and the congressional intelligence committees to ensure that we can accomplish our oversight obligations?

- **Answer: If confirmed, I will ensure that OIA continues to work closely with other Treasury offices and bureaus to ensure that only Treasury employees with the appropriate security clearances and assigned mission have access to intelligence information, consistent with the need to protect intelligence sources, methods, and activities.**

- **I recognize that Congress plays an important oversight role regarding executive branch activities, and I pledge to thoughtfully consider all congressional information requests, recognizing the importance of transparency in government. If confirmed, I pledge to work through the accommodations process to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the executive branch.**

b. If confirmed, how will you ensure that OIA's intelligence information is protected from information requests directed to the Treasury Department writ large?

- **Answer: I understand that OIA has senior disclosure officers who are experienced in protecting national security and safeguarding classified information consistent with Treasury's disclosure obligations. If confirmed, I will exercise appropriate oversight of this critical responsibility and ensure OIA continues to work closely with Treasury's Office of General Counsel. If confirmed, I**

will ensure that careful consideration continues to be given to any request seeking downgrade or disclosure of any intelligence information, including delisting actions, litigation, or OIA's intelligence information.

8. What legal authorities does OIA primarily rely upon to identify, disrupt, and dismantle terrorist financing? Do you believe there are additional legal tools that OIA needs for its efforts against terrorist financing?

- **Answer: It is my understanding that OIA carries out its intelligence mission of identifying, tracking, and enabling the disruption of threats to the U.S. financial system—whether from geopolitical actors, terrorist groups, or foreign-based criminals—under authorities provided by Executive Order 13224 and sections 311 and 312 of title 31 of the U.S. Code.**

- **If confirmed, I will also examine OIA's tools and authorities to combat terrorist financing and will work to ensure that OIA staff continue to be fully equipped to deal with this and other critical national security issues.**

9. What terrorist organizations are of most concern to OIA? Please describe how, if confirmed, you would proceed to identify, disrupt, and dismantle the financial networks of these organizations?

Answer: It is my understanding that OIA is concerned about the threat that Iran-backed terrorist groups, including Hamas, Hizballah, the Huthis, and Iraqi Shi'a Militia groups, pose to the United States and its regional interests abroad. If confirmed, I will support OIA actively working to disrupt their ability to indigenously generate revenue, as well as receive financial support from Iran.

It is further my understanding that the largest ISIS threat to the United States emanates from ISIS-Khorasan (ISIS-K), which has the ambition and capabilities to conduct attacks beyond the Central Asia region. Likewise, al Qaeda affiliates in Africa serve as key revenue sources for al Qaeda's global operations, enabling plotting against U.S. interests and persons. If confirmed, I will support OIA continuing to monitor

and assess ISIS-K, al Qaeda, and other affiliates' financial capabilities and vulnerabilities that can be targeted by our own authorities as well as those of our allies and partners.

10. If confirmed, how would you proceed to identify, disrupt, and dismantle the charities that raise money for terrorist organizations?

- **Answer: A critical component of OIA's mission is to identify not just threats to the U.S. financial sector but also vulnerabilities in the global financial system that terrorist groups exploit to raise and move funds. Despite significant progress over the last two decades, the charitable sector in some countries remains vulnerable to abuse.**

- **If confirmed, I will support and work closely with relevant senior officials to address this critical issue.**

11. What issues related to strategic competition with near peer competitors are of more concern to OIA? Please describe, if confirmed, how you would seek to ensure OIA is able to meet the financial intelligence mission in light of strategic competition.

- **Answer: If confirmed, I will work with OIA, TFI, and Treasury senior leadership more broadly to review issues and priorities related to strategic competition.**

- **I also understand that OIA stood up a Cyber and Emerging Technology Intelligence component to analyze our adversaries' growing cyber capabilities and adoption/use of emerging technology, such as artificial intelligence (AI), to target our critical financial infrastructure, as well as the financial networks that enable these activities.**

12. What are the challenges that OIA faces regarding digital assets, such as digital and crypto currencies, mobile payment platforms, and other electronic payment forms? If confirmed, how would you address those challenges?

- **Answer: I understand that the Administration recently published a report laying out proposals to ensure U.S. leadership in digital asset technologies, including related to illicit finance. I look forward to**

working on this effort, if confirmed. I can assure you that addressing sanctions evasion using any form of currency will be an important priority of mine, including addressing sanctions evasion by those who seek to use digital assets. If confirmed, I pledge that Treasury will continue to use its tools and authorities to protect the digital assets ecosystem from sanctions evaders and other illicit actors, including drug traffickers and cybercriminals.

13. It is critical that OIA has a workforce that is positioned to address the challenges posed by digital currencies and associated infrastructure, financing on the dark web, and other, new threats. How should OIA work to train and recruit a workforce capable of carrying out OIA's financial intelligence mission?

- **Answer: It is my understanding OIA is fortunate to have many talented and experienced technical experts on cyber threats and digital assets. If confirmed, I will ensure that OIA continues retention efforts that align with broader Treasury and IC retention efforts and continues to work with Treasury's human resources personnel to take the steps necessary to effectively recruit additional candidates who have those essential skills and qualifications. If confirmed, I will undertake a review of OIA's training to determine if modifications to the training program are warranted.**

14. How does OIA confront and mitigate insider threat challenges? Do you have any plans to revisit and readdress those programs?

- **Answer: I understand that Treasury's Insider Threat Program meets the national-level standards established by the National Insider Threat Task Force under Executive Order 13587. If confirmed, I will assess the maturity of the program, its framework, and its operations to ensure compliance, efficacy, and efficiency.**

15. Do you believe that the People's Republic of China (PRC) is engaging in a zero-sum game of economic and technological competition against the United States?

Answer: Yes.

16. Please list and explain the top five priorities you will have as Assistant Secretary for Intelligence and Analysis, if confirmed.

Answer: If confirmed, I would prioritize the following:

i. **Ensure that OIA is organized to support the President and the Secretary's efforts to leverage the strength of the U.S. financial system toward U.S. policy and security objectives;**

ii. **Provide specific, detailed intelligence collection to enable deterrence against global narco-terror organizations, transnational organized criminals and any nation states that support them, while ensuring adequate intelligence focus against legacy terror organizations to preclude their terror finance activities;**

iii. **Provide to the President, the Secretary of the Treasury, and Cabinet officials timely, relevant, and policy-enabling intelligence focused against adversarial nation state actors whose interests run counter to U.S. national security;**

iv. **Focus collection and analysis on nefarious financial activities of the Islamic Republic of Iran, the Russian Federation, the Democratic People's Republic of Korea, and the Chinese Communist Party; and**

v. **Assess the counterintelligence and security posture within OIA and Treasury generally to ensure that the organization, its systems, and its personnel maintain a hard-target posture against witting adversaries.**

17. If confirmed, do you commit to use your position to press your Treasury counterparts to use OIA's analysis and assessments to advance the United States' economic competition with the PRC? If so, how?

Answer: If confirmed, I will commit to working to ensure that OIA's unique expertise and tools remain a critical element of Treasury's efforts maintaining the nation's economic leverage and leadership. OIA

leads the IC on economic and financial intelligence issues, and I understand that the PRC is at the forefront of these concerns not just within Treasury, but the wider economic policymaker space. As such, I will work to make sure that OIA's work is available and widely read, and that OIA products continue to be highly relevant in supporting policymaker objectives.

18. The PRC, its malign influence, and efforts to rewrite the international rules-based system is one of the greatest threats to U.S. national security. If confirmed, do you commit to prioritizing collection and analysis on PRC exploitation of the U.S. financial system to advance its political and economic goals?

Answer: Yes, if confirmed, I will commit to prioritizing analysis that will help the Treasury Department safeguard the U.S. financial system. I would also be working closely with the Office of the Director of National Intelligence and the collector community to ensure that they understand the priorities assigned to economic and financial threats stemming from the PRC.

Questions from Senator Wyden

Shell companies

19. Earlier this year, the Department of Treasury announced that it no longer intended to enforce the Corporate Transparency Act, which requires the disclosure of true owners of anonymous shell companies, against U.S. persons and entities. Treasury's refusal to enforce the law could remove reporting requirements from as many as 99.8 percent of otherwise covered entities. During a House Financial Services Committee on strategies to counter China, former CIA officer and Treasury Special Agent John Cassara noted, in response to a question about countering Chinese fentanyl trafficking, that "once the money is layered and integrated into the economy, we don't know who owns that shopping center, who owns that yacht, who owns that property. We need beneficial ownership information." Do you believe that accurate beneficial ownership information is necessary to tracking and countering foreign threats such as those posed by China and that the full enforcement of the Corporate Transparency Act strengthens our ability to counter illicit trafficking?

Answer: As Secretary Bessent has said, "Malicious use of multijurisdictional corporate structuring is a tool that malign actors have employed to obscure their illicit activities." I understand stemming the flow of drugs to be a key priority of this Administration. If confirmed, I look forward to examining OIA's contributions to this effort, for example assessing illicit financial activity associated with the drug trade. I will also be looking at how the IC tracks related threats posed by China and others, and how to best inform decisionmakers with all the resources at our disposal.

Counterintelligence

20. According to press reports, in May, an investment firm owned and operated by the Abu Dhabi ruling family made a $2 billion investment into World Liberty Financial, a cryptocurrency company founded by the Witkoff and Trump families. The Trump family owns between 40 to 60% of World Liberty Financial, and President Trump's adult sons are actively involved in the management of the company. Two weeks later, the Administration announced a deal that would allow the UAE access to highly sensitive

microchips, despite reported concerns from national security officials that the chips could be shared with China.

a. Do you agree that billions of dollars in foreign investments into companies owned by the families of U.S. officials may present counterintelligence concerns?

b. If confirmed, will you provide a report to the Committee on all sources of foreign financing for World Liberty Financial? The report would include a detailed accounting of all foreign individuals and entities that have invested in World Liberty Financial, as well as ties to the UAE and other foreign governments.

Answer: If confirmed, I pledge to consult with my colleagues and to appraise them of your concerns.

Public reporting

21. Major companies are increasingly forgoing initial public offers and instead raising financing through private funding. Does the lack of public reporting that results from this pattern have a detrimental effect on all-source intelligence related to financial matters? How does the President's recent proposal to reduce public company filing requirements affect your views?

Answer: If I am confirmed, I look forward to consulting with my Treasury colleagues to understand the effects of this decision on Treasury intelligence analysis.

Cybersecurity

22. In December 2024, the Treasury Department's systems were breached by hackers from China, through a hack of a vendor, BeyondTrust, whose product is used to allow agency helpdesk personnel to remotely troubleshoot other agency employees' work computers. The underlying cybersecurity problem that resulted in this incident was Treasury's unwise decision to give its vendor the encryption keys used to access employee computers, which the hackers stole from BeyondTrust, rather than maintaining custody of those sensitive keys. If confirmed, will you commit to ensuring that the

Department maintains custody of all encryption keys that enable remote access to agency computers, and that such keys are stored securely in a Hardware Security Module, consistent with federal best practices published by the National Institute of Standards and Technology?

Answer: I am not yet at the Department so I cannot comment on the specifics of their encryption requirements or this specific incident. However, what I can tell you is that protecting the Department's systems from cyberattacks is critically important. Treasury's national security role—including its role administering and enforcing sanctions, serving as our nation's financial intelligence unit, and administering taxes—makes it a prime target for cybercriminals. If confirmed, I would use all the tools at my disposal to make sure we're using the appropriate cybersecurity processes and protections.

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

Post-Hearing Questions for the Record for
Peter T. Metzger
upon his nomination to be
Assistant Secretary for Intelligence and Analysis, Department of the Treasury

Questions from Senator Wyden:

Domestic terrorism

1. Do you agree that there is no legal basis for the designation of domestic terrorist organizations?

2. If you believe there is a legal basis for the designation of domestic terrorist organizations, please cite the relevant section(s) of the United States Code.

Answer (Questions 1-2): It is my understanding that the Justice Department, pursuant to the Presidential Memorandum referenced in Question #3, provides that the Attorney General may make such a determination. Accordingly, I would refer you to the Department of Justice on this matter.

3. Section 2(h)(i) of the September 25, 2025, Presidential Memorandum ("Countering Domestic Terrorism and Organized Political Violence") states:

   "The Secretary of the Treasury (Secretary), in coordination with the Attorney General, shall make available all resources, to the maximum extent permitted by law, to identify and disrupt financial networks that fund domestic terrorism and political violence. The Secretary, acting through the Terrorism and Financial Intelligence Office of the Department of the Treasury, shall deploy investigative tools, examine financial flows, and coordinate with partner agencies to trace illicit funding streams. The Secretary shall provide guidance for financial institutions to file Suspicious Activity Reports and investigate indicia of illicit funding streams to ensure such activity is rooted out at the source and referred for law enforcement action, as appropriate."

   If confirmed, will you ensure that the Office of Intelligence and Analysis (OIA) plays no role in supporting this direction?

Answer: Since I have not been at the Treasury Department, I cannot speak to the implementation of this Presidential Memorandum. If confirmed, I will follow the law.

Questions from Senator Bennet:

Russian Foreign Assets

4. The Trump administration has not yet exercised authorities under the bipartisan Rebuilding Economic Prosperity and Opportunity (REPO) for Ukrainians Act to seize the $5-8 billion in Russian sovereign assets in the United States. Nor has it convinced European countries hosting the overwhelming majority of Russia's $300 billion of frozen assets to proceed with plans for extending a loan guarantee to Ukraine that could be used to purchase additional weapons systems.

a. Do you support using Russian sovereign assets to support Ukraine?

b. Do you commit to work with G7 partners to share intelligence and collaborate, as appropriate, in support of efforts to leverage Russian sovereign assets in Europe?

Answer: If confirmed, I intend to utilize all available tools in the Office of Intelligence and Analysis (OIA) to deliver on President Trump's Agenda, including the pursuit of peace in the Russia-Ukraine War. If confirmed, OIA will continue to support intelligence sharing with key foreign partners to advance the President's agenda, and I commit to provide objective and professional analysis on all national security issues.

Russia Sanctions

5. Do you commit to ensuring that OIA prioritizes the analysis and dissemination of intelligence information necessary to aggressively enforce and update sanctions on Russia, so that those sanctions are maximally effective?

6. Do you commit to allocating additional resources to identifying financial networks and transactions that are sustaining the Russian war-machine, to include financial flows from foreign nations including the People's Republic of China and India?

7. In what additional ways do you believe Treasury OIA could best support the crucial line of effort to choke of Russia's economy and deny it the economic and financial resources necessary to sustain its war of aggression against Ukraine?

Answer (Questions 5-7): I am not currently at the Treasury Department, so I cannot speak to the details. If confirmed, I intend to utilize all available tools in OIA to deliver on President Trump's Agenda, including the pursuit of peace in the Russia-Ukraine War. If confirmed, I will commit to continue to support OIA's analysis and intelligence support to whole-of-government efforts, including broader Treasury efforts, to enforce Russia-related sanctions.

Digital Assets

8. Digital assets have been employed by sanctions evaders.

a. Do you agree that tracking digital asset-enable sanctions evasion should be a top priority for the OIA?

b. What priority actions would you commit to take in order to reduce the use of digital assets to evade U.S. sanctions?

Answer: Regardless of the medium, I am committed to utilizing all available tools in OIA to combat the evasion of sanctions, including through the use of digital assets. If confirmed, I look forward to working with the larger sanctions team and policy-making offices at Treasury to accomplish this mission.

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART A - BIOGRAPHICAL INFORMATION

1. FULL NAME: Joshua Bradford Simmons

   OTHER NAMES USED: Josh

2. DATE AND PLACE OF BIRTH: July 13, 1982, Abingdon, VA

   CITIZENSHIP: United States

3. MARITAL STATUS: **INFORMATION REDACTED**

4. SPOUSE'S NAME: **INFORMATION REDACTED**

5. SPOUSE'S MAIDEN NAME IF APPLICABLE: **INFORMATION REDACTED**

6. NAMES AND AGES OF CHILDREN:

   INFORMATION REDACTED

7. EDUCATION SINCE HIGH SCHOOL:

INSTITUTION	DATES ATTENDED	DEGREE RECEIVED	DATE OF DEGREE
University of North Carolina – Chapel Hill	2000 – 2004	B.A.	2004
University of Virginia School of Law	2004 – 2007	J.D.	2007

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).

EMPLOYER	POSITION/TITLE	LOCATION	DATES
U.S. Department of State	Principal Deputy Legal Adviser	Washington, DC	2025 – present
University of Virginia School of Law	Adjunct Professor	Charlottesville, VA	2014 – 2025
Wiley Rein LLP	Partner and Co-Head of Global Disputes	Washington, DC	2023 – 2025 (partner) 2021 – 2023 (of counsel)
U.S. Department of State	Senior Adviser	Washington, DC	2019 – 2021
Three Crowns LLP	Senior Associate	Washington, DC	2015 – 2018
U.S. Department of State	Attorney-Adviser	Washington, DC	2013 – 2015

Covington & Burling LLP	Associate	Washington, DC	2007 – 2013 Summer 2006
Robinson, Bradshaw & Hinson LLP	Summer Associate	Charlotte, NC	Summer 2006 Summer 2005
McKenna, Long & Aldridge LLP	Summer Associate	Atlanta, GA	Summer 2005

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).

Please see my response to question 8.

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

As the Principal Deputy Legal Adviser for the U.S. Department of State, I have had the opportunity to focus daily on national security matters. I have worked closely with attorneys at the National Security Council, the Department of Defense, the Central Intelligence Agency, the Department of Justice, and other U.S. agencies on complex legal matters arising around the world. I have advised clients on the legal authorizations and limits for sensitive intelligence and national security issues, including related to the law of armed conflict, intelligence sharing, and covert action.

In my current role and in my prior service at the State Department, I have regularly incorporated analysis from the intelligence community to advise on legal issues relating to sensitive foreign policy and national security matters. Throughout my government service, I have maintained a Top-Secret security clearance.

In my private sector career, I have worked on multiple high-stakes international arbitration disputes that implicate national security. For example, I represented international oil companies headquartered in the United States with claims against Venezuela arising from expropriation of multibillion-dollar projects. I also defended the Kingdom of Bahrain against two state-owned Iranian banks, both subject to U.S. sanctions, in a dispute related to money laundering and terrorist financing. My experience in global disputes covers many regions and business sectors, from natural resource mining in Africa to real estate in South Korea to banking in Cyprus. I have also advised clients on legal issues arising from U.S. government contracts, with a focus on defense and intelligence services.

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).

- U.S. State Department, Superior Honor Award for legal advice in support of a treaty negotiation with France leading to settlement of Holocaust deportation claims and compensation for U.S. victims
- Fellow, Chartered Institute of Arbitrators
- University of Virginia School of Law
  - Dean's Scholar
  - Dillard Teaching Fellow
  - *Virginia Law Review*, Editorial Board

- University of North Carolina – Chapel Hill
  - Honors and Highest Distinction
  - Phi Beta Kappa
- Forestview High School – Valedictorian, Academic Athlete of the Year

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).

INFORMATION REDACTED

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?

Please see Annex A for the list of published writings and speeches. I would be glad to provide a copy of any of the publications or speeches that I can locate.

PART B - QUALIFICATIONS

14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE AS THE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY).

My work over many years in the national security community, as a senior lawyer at the U.S. State Department and in the private sector, has given me significant experience, knowledge, and judgment to serve as the General Counsel of the Central Intelligence Agency.

As described in response to question 10, I have spent multiple years working on national security and intelligence issues within the U.S. government. These experiences have shaped my understanding of the principal legal issues and complexities of advising government clients on these sensitive issues. I also have significant experience collaborating productively with lawyers and clients in the interagency process and with the White House.

I have demonstrated the qualifications to effectively lead a similar general counsel's office—the Office of the Legal Adviser at the State Department. My responsibilities at the State Department have included supervising and managing a team of over 300 lawyers and staff who advise on all legal issues, domestic and international, arising in the course of the Department's work in formulating and implementing the foreign policies of the United States. Those issues include significant national security and intelligence matters, as well as the core functions of government management, such as employment, contracts, ethics, litigation, and compliance with U.S. statutes and regulations. My work has also involved engaging with and responding to requests from Congress. In addition, I initially served as a career civil servant attorney at the State

Department, which provides important perspective in leading government lawyers to provide excellent legal advice to policymakers.

In private practice, where I served as co-head of a global disputes group at a prominent law firm, I have advised senior business leaders on complex and time-sensitive legal issues arising from cross-border trade and investment. This includes international arbitration and litigation in the U.S. courts, at both the trial and appellate levels. My private sector experience has developed my ability to communicate clearly and pragmatically about a wide variety of legal issues.

I believe that these experiences qualify me well to serve as General Counsel of the Central Intelligence Agency.

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).

INFORMATION REDACTED

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.

As a senior associate at Three Crowns LLP, I represented the Kingdom of Bahrain in an international arbitration proceeding in defense of claims brought by Iranian banks, Bank Melli Iran and Bank Saderat Iran. The dispute concerned the alleged breach by Bahrain of its obligations under a bilateral investment treaty arising out of the forced administration of Future Bank in Bahrain.

As an associate at Covington & Burling LLP, I represented the OCP Group, which is a Moroccan state-owned company, related to investments in Morocco and nearby regions. My role was limited to research and analysis of relevant legal issues.

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.

As noted in response to question 8, I have worked at three law firms with broad international practices. Attorneys at these firms have represented foreign governments as part of the firms' practices in a range of areas. I do not have direct familiarity with any of the matters in which former associates at these firms engaged in such representations, other than the matter listed in response to question 17(A) above.

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

No.

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

No.

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

None. I have never been a registered lobbyist or engaged in any form of lobbing activity.

PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

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

None.

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

Yes, I will sever any such connections.

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.

I have no deferred income arrangements relating to any of my business/employment activities, other than standard government retirement plans. Any compensation will be only for work performed on or before my confirmation date.

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.

I have no formal or informal agreements or understanding for future employment with any person or entity.

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.

No.

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.

INFORMATION REDACTED

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.

NAME OF ENTITY	POSITION	DATES HELD	SELF OR SPOUSE

INFORMATION REDACTED

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

None.

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

Please see my nominee OGE Form 278e.

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.)

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

INFORMATION REDACTED

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

Yes.

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

INFORMATION REDACTED

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

No.

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

INFORMATION REDACTED

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.

I have no current plans to create a blind trust but I will abide by any agreement negotiated with the Office of Government Ethics.

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?

I filed an OGE Form 278e while at the U.S. Department of State as a new entrant filer in March 2025. I can provide copies of this report 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.

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.

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.

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.

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.

INFORMATION REDACTED

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 OF THE CENTRAL INTELLIGENCE AGENCY AND THE INTELLIGENCE COMMITTEES OF THE CONGRESS, RESPECTIVELY, IN THE OVERSIGHT PROCESS.

The congressional oversight committees play a crucial role in the oversight of the Central Intelligence Agency and the Intelligence Community. They ensure that the American people can trust that the CIA is acting in accordance with law and policy even as the CIA's classified activities cannot be publicly disclosed or subject to open debate. The CIA's participation in the oversight process, including by providing information to the congressional intelligence committees, is necessary for Congress to carry out this role. Pursuant to the National Security Act of 1947, the CIA keeps the congressional intelligence committees fully informed about intelligence activities and covert actions, including any significant anticipated intelligence activity and any significant intelligence failure, to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters. The General Counsel of the CIA is also responsible for notifying the intelligence committees of significant legal interpretations of the U.S. Constitution or federal law affecting the CIA's intelligence activities.

If confirmed, I commit to working with CIA leadership and personnel to ensure that the CIA continues to engage in the oversight process. This includes providing information to Congress and maintaining a strong relationship with the congressional intelligence committees as they carry out their vital oversight role.

49. EXPLAIN YOUR UNDERSTANDING OF THE RESPONSIBILITIES OF THE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

The General Counsel of the Central Intelligence Agency, by statute, is the chief legal officer of the Agency and serves as the legal advisor to the Director of the CIA, other senior Agency leadership, and Agency

personnel. The General Counsel is responsible for providing accurate and timely counsel on legal matters affecting CIA operations. The General Counsel supervises and manages the Office of General Counsel and its personnel in supporting the CIA's mission. In the interagency process, the General Counsel leads engagements across the Intelligence Community and Executive Branch on matters of law and policy relevant to the CIA and its operations.

AFFIRMATION

I, **JOSHUA B. SIMMONS**, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

9-11-2025

(Date)

JOSHUA SIMMONS SIGNATURE REDACTED

NOTARY SIGNATURE REDACTED

TO THE CHAIRMAN, SELECT COMMITTEE ON INTELLIGENCE:

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

JOSHUA SIMMONS SIGNATURE REDACTED

Date: 9-11-2025

Annex A

- Oral Statement on behalf of the United States before the International Court of Justice, Public Hearing on the Request for an Advisory Opinion on the *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, April 2025.
- *ICSID in the U.S. Courts: The Rocks of Sovereign Immunity*, Oxford University Press, ICSID Review – Foreign Investment Law Journal (2025).
- *CryptoCounsel* Podcast, Wiley Rein LLP, 2024 – 2025.
- *Practical Insights on Article V(1)(c) and (d) of the New York Convention*, Wolters Kluwer (2024).
- *Stopping the Arms Race: Page Limits in International Arbitration*, Wolters Kluwer, Expedited International Arbitration: Policies, Rules and Procedures (2024).
- Expedited International Arbitration: Comparative Approaches and Global Perspectives, CIArb Webinar (2024).
- The Next Frontier in Arbitration: Cryptocurrency and Digital Assets, CIArb Webinar (2024).
- Arbitration and the Supremes: A Roundup of Recent and Anticipated Supreme Court Arbitration Precedents, Federalist Society Program (2023).
- *The New York Convention in Space: International Arbitration of Satellite Disputes*, Jus Mundi (2022).
- *Renewable Energy Disputes – Answers in Arbitration*, International Chamber of Commerce, Dispute Resolution (2021).
- *The Misdiagnosed Investment Court: The Wrong Remedy for the Right Problem*, Investment Treaty Arbitration and International Law, Vol. 10 (2017).
- *The Investment Agreement in Investment Arbitration: Effects on Damages*, Investment Treaty Arbitration and International Law, Vol. 7 (2014).
- *Report on the AAA-ICDR, ICC, ICSID Joint Colloquium on the Frontiers of Arbitration*, Paris Journal of International Arbitration (2013).
- Executive Order Enhances Government Contractors' Responsibilities in the Fight Against Human Trafficking, Covington & Burling LLP Client Alert (2012).
- *Valuation in Investor-State Arbitration: Toward a More Exact Science*, 30 Berkeley Journal of International Law 196 (2012).

Supplement to Annex A
Publications Under Pen Name

- *The Genome Trilogy* (under pen name J.B. Simmons), Three Cord Press (2023).
- *Treaty of War* (under pen name Jay Bradford), Amazon (2022).
- *The Five Towers Series* (under pen name J.B. Simmons), Three Cord Press (2018).
- *The Babel Tower* (under pen name J.B. Simmons), Three Cord Press (2017).
- *The Awakening of Washington's Church* (under pen name J.B. Simmons), Ingram Spark (2016).
- *The Omega Trilogy* (under pen name J.B. Simmons), Three Cord Press (2014).
- *The Gloaming Series* (under pen name J.B. Simmons), Amazon (2013).
- Related blogs on J.B. Simmons author website.

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

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

Relations with the Congressional Intelligence Committees

1. The *National Security Act of 1947* provides that the obligation to keep the congressional intelligence committees fully and currently informed of all intelligence activities applies to the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Priorities of the Director of the Central Intelligence Agency

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

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

Office of the General Counsel

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

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

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

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

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

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

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

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

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

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

Relationships with Other Elements of the U.S. Government

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

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

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

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

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

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

Covert Action

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

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

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

a. What is your understanding of the definition of traditional military activities?

b. What is your understanding of the definition of routine support to traditional military activities?

c. What factors would you use in testing whether a proposed covert action involves traditional military activities or routine support to such activities? Please provide one or two illustrative examples.

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

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

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

Rendition

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

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

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

provision and receipt is established?

c. Should such assurances be accepted from countries with established records of committing torture?

d. What is the role of the Office of General Counsel in ensuring that "diplomatic assurances" that detainees will not be subject to torture are credible?

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

Chief of Mission Authority

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

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

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

Intelligence Collection

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

a. Do you interpret the term "intelligence" to include anything beyond "foreign intelligence" or "counterintelligence?" If so, what other kinds of intelligence do you believe falls under the term "intelligence?"

b. What are the differences between "intelligence" and "national intelligence?" Please provide examples of something you would consider to be "intelligence" that is not "national intelligence," and something that is "national intelligence" but not "intelligence." Your examples can be included in a classified annex.

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

Foreign Intelligence Surveillance Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Agency leadership and personnel to continue this important work.

Executive Order 12333

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Classification and Transparency

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

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

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

a. Do you agree with these prohibitions?

Yes.

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

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

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

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

Whistleblowers and the Inspector General

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

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

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

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

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

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

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

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

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

Analysis

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

a. Is it appropriate for the CIA to produce subjective intelligence analysis advocating for policy positions in interagency and presidential decision processes?

b. How would you, if confirmed, ensure that CIA remains objective and apolitical in its analysis and production?

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

Questions from Senator Wyden

Liaison relationships and human rights

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

a. Please describe your understanding of the legal issues associated with CIA liaison relationships with services whose constituent entities have engaged in human rights abuses.

b. Under what circumstances would the CIA be legally obligated to discontinue the liaison relationship?

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

Detention, interrogation and rendition

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

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

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

b. Do you agree that the CIA's former "enhanced interrogation techniques" would violate the AFM?

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

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

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

such updates would be inconsistent with statutory requirements.

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

a. Please describe the factors that would indicate whether a detainee was in the "effective control" of any officer, employee, or other agent of the United States Government.

b. Please describe how you would define whether a detainee is "detained within a facility owned, operated, or controlled by a department or agency of the United States."

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

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

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

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

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

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

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

a. Do you support this prohibition?

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

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

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

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

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

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

a. To what extent should written "diplomatic assurances" be required for extraditions and renditions?

b. Should such assurances be accepted from countries with established records of committing torture?

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

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

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

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

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

Section 702 of FISA

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

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

Executive Order 12333

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

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

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

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

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

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

Lethal authorities

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

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

Transparency

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

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

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

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

a. If confirmed, how would you approach any such inconsistencies?

b. Would you support the declassification and public release of any legal interpretation that provides a basis for intelligence activities but is inconsistent with the public's understanding of the law?

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

Competitive Advantage

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

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

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

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

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

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

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

Whistleblowers

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

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

53. During her confirmation process, Director Gabbard wrote: "Whistleblowers are essential to ensuring accountability and oversight within the IC, and they must have clear, protected channels to report concerns, including the unauthorized transmittal of classified information to appropriate entities such as Members of Congress, Inspectors General (IGs), and other authorized recipients." During her confirmation hearing, Director Gabbard was asked if she agreed "that IC whistleblowers must have a clear path to this committee and that they don't need permission from agencies to talk to [the committee]," to which Director Gabbard responded, "the answer is clearly yes." Do you agree?

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

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

assured?

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

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

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

Personnel actions

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

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

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

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

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

Encryption

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

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

Classification and declassification

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

Yes.

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

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

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

Espionage Act and journalists

60. During her confirmation process, Director Gabbard wrote:

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

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

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

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

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

Congress

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

> ***"The collection of communications records of congressional Members and staff, particularly when based solely on their constitutionally authorized oversight duties, is a significant breach of the constitution and separation of powers. Such actions risk chilling legitimate oversight and creating the appearances of executive branch interference in legislative activities.***
> ***Safeguards must ensure that intelligence and investigative activities respect the independence of co-equal branches of government.***
>
> ***"I support the policy changes outlined in the OIG Review that aim to address these concerns and ensure appropriate checks in place. Further policy adjustments, such as heightened internal review and oversight, may be necessary to strengthen protections for congressional communications.***
>
> ***"Any effort to collect such records should undergo the most rigorous scrutiny, including notifying Congress when appropriate, balancing security and transparency concerns, and informing the issuing judge that the targets are congressional Members or staff so constitutional implications can be fully considered. If confirmed, I would work to uphold these principles while safeguarding national security and civil liberties."***

a. Do you agree with Director Gabbard's concerns and would you likewise work to uphold these principles?

b. Do you support the policy changes described in the OIG Review?

c. Do you agree that Congress should be notified prior to any collection of communications or communications records of Members or staff? If

yes, who in Congress should be notified?

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

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

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

a. What accountability should there be for drafting and filing a false crimes report against congressional staff?

b. How would you respond should a request or proposal for a crimes referral against Members of Congress or congressional staff come to you?

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

Caribbean vessel strikes

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

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

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

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

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

Congressional authorities

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

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

Fallon Smart Policy

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

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

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

Alien Enemies Act

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

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

Foreign Terrorist Organizations

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

a. On what basis can an organization that has a significant presence in and conducts significant operations inside the United States be designated a "foreign" terrorist organization?

b. Please describe the full scope of investigative, intelligence, financial and other authorities that derive from an FTO designation. Does an FTO designation create any new military or lethal authorities?

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

Third country deportations

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

into agreements for third-country deportations.

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

SELECT COMMITTEE ON INTELLIGENCE

UNITED STATES SENATE

Post-Hearing Questions for the Record
for Joshua Simmons
upon his nomination to be
General Counsel of the Central Intelligence Agency

Questions from Senator Wyden:

Domestic terrorism

1. Do you agree that there is no legal basis for the designation of domestic terrorist organizations?

As I stated in my testimony to the Committee, my focus at the State Department has been on foreign terrorist organizations (FTOs). An FTO designation by the State Department pursuant to 8 U.S.C. § 1189 carries several legal consequences, including sanctions, immigration and visa restrictions, and criminal liability for knowingly providing material support or resources to an FTO. Designation of an FTO requires a finding that "the organization is a foreign organization" (8 U.S.C. § 1189(a)(1)(A)), which can involve an assessment of factors such as the base of operation and the nationality and location of leaders and members. While there are other legal frameworks for addressing domestic terrorist groups, I am not aware of a legal basis to designate a purely domestic group as an FTO and would refer further questions related to domestic terrorist organizations to the Department of Justice.

2. If you believe there is a legal basis for the designation of domestic terrorist organizations, please cite the relevant section(s) of the United States Code.

See the response to question 1 above.

Crime control

3. Section 4 of the April 28, 2025, Executive Order ("Strengthening and Unleashing America's Law Enforcement to Pursue Criminals and Protect Innocent Citizens") calls on "national security assets" to assist State and local law enforcement. Please confirm that, pursuant to Executive Order 12333, the Central Intelligence Agency (CIA) has no role in supporting the April 28 Executive Order.

I am not aware of the CIA having any role in implementing the April 28, 2025 Executive Order ("Strengthening and Unleashing America's Law Enforcement to Pursue Criminals and Protect Innocent Citizens"). If confirmed, I would work with Agency leadership and personnel to ensure that CIA activities are conducted in accordance with all applicable law, including Executive Order 12333.

Lethal authorities

4. On July 16, 2010, the Office of Legal Counsel issued a now-declassified memorandum related to the proposed killing of a U.S. citizen assessed to be "a leader of AQAP whose activities in Yemen pose a 'continued and imminent threat' of violence to the United States persons and interests." The memorandum explicitly applied to proposed lethal operations by both the Department of Defense (DOD) and the CIA.

a. The memorandum applied 18 U.S.C. 1119(b) ("foreign murder of United States nationals") to proposed DOD operations, concluding that those operations fell within the public authority exception because the target was assessed to be a leader of an organization within the scope of the 2001 Authorization for Use of Military Force (AUMF). The memorandum then concluded that Congress's intent with regard to Section 1119(b) and the public authority exception also applied to the proposed CIA operation. Do you believe that either DOD or the CIA can legally kill a U.S. person overseas if that person is not within the scope of an AUMF?

As I stated to this Committee in my response to prehearing question number 48, if an extraordinary circumstance arose requiring the U.S. Government to take action against a U.S. person outside of the normal criminal process, the National Security Council and relevant Executive Branch agencies would work to ensure compliance with applicable law and that any use of force by the U.S. Government against a U.S. person would be contemplated only in the most narrow of circumstances.

I have not reviewed the classified portions of the 2010 Office of Legal Counsel paper referenced here, and the application of its analysis would be highly dependent on the particular facts and circumstances of any contemplated activity. I would refer to the Department of Justice on the application of the Office of Legal Counsel analysis to any specific action and to the Department of War regarding military authorities. The 2010 Office of Legal Counsel paper based its analysis on the understanding "that the CIA, like DoD, would carry out the attack against an operational leader of an enemy force, as part of the United States's ongoing non-international armed conflict with al-Qaida" and recognized that lethal action may be taken in the context of a specific ongoing armed conflict in a manner that is consistent with the Constitution and other applicable law, including the applicable requirements of the Law of Armed Conflict.

b. The memorandum stated that "both agencies here have represented that they intend to capture rather than kill al-Aulaqi if feasible, yet we also understand that an operation by either agency to capture al-Aulaqi in Yemen would be infeasible at this time." Do you believe that either DOD or the CIA can legally kill a U.S. citizen when capture or arrest is feasible?

See the response to question 4(a) above.

5. Do you believe that either DOD or the CIA can legally kill anyone (regardless of nationality) when capture, arrest, or interdiction is feasible?

Any legal assessment of this type of question would involve a careful review of the particular facts and circumstances. In general, the Law of Armed Conflict does not require that enemy combatants be warned or given an opportunity to surrender before being made the object of attack, and states may lawfully use force against individuals when capture or detention is feasible in certain circumstances including against enemy forces on a battlefield or in lawful self-defense. As noted in response to question 4(a) above, I would refer to the Department of War on military authorities or the lawfulness of specific military actions.

6. If, in any armed conflict, an adversary were to kill U.S. military or intelligence personnel when it could feasibly capture or arrest them, would that be legal?

Any legal assessment of this type of question would involve a careful review of the particular facts and circumstances. In general, the same principles of the Law of Armed Conflict noted in response to question 5 would apply to lawful uses of force against U.S. personnel.

7. Section 2.11 of Executive Order 12333 states: "No person employed by or acting on behalf of the United States shall engage in, or conspire to engage in, assassination."

a. Under what circumstances, if any, would the prohibition not apply to non-state actors?

I am not aware of such circumstances, as the assassination ban in Executive Order 12333 applies to any action by or on behalf of the United States Government, regardless of the status of any target.

b. Under what circumstances, if any, would the prohibition not apply to state actors? Does the target's status as being within or outside the scope of an AUMF factor into the determination?

I am not aware of such circumstances, as the assassination ban in Executive Order 12333 applies to any action by or on behalf of the United States Government, regardless of the status of any target.

Domestic collection

8. Do you believe that the CIA is authorized to collect the content of entirely domestic U.S. communications consistent with the law and Executive Order 12333?

Given the CIA's foreign intelligence mission, the CIA's role with respect to the collection of U.S. person information is significantly limited by law. The robust framework provided by Executive Order 12333 and the CIA's Attorney General Guidelines provide clear limits on the CIA's authorities with respect to U.S. persons and collection inside the United States. Moreover, Section 702 of FISA prohibits "reverse targeting" – i.e., intentionally targeting a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States. 50 U.S.C. § 1881a(b)(2). If confirmed, I would work with Agency leadership and personnel to ensure that CIA activities are conducted in accordance with all applicable law, including Section 702 of FISA and Executive Order 12333.

Questions from Senator Bennet:

Venezuela

9. According to public news reports, the Trump Administration is pursuing a broad campaign aimed at removing Venezuelan dictator Nicolas Maduro. This more aggressive strategy reportedly is relying on intelligence provided by the CIA. While I have long supported bipartisan legislation to impose sanctions on the Maduro regime – with the goal of pressuring it into ceding power to the true winner of Venezuela's 2024 election – that is different than the United States undertaking an operation to install a new regime.

a. Would CIA involvement in a policy of regime change in Venezuela meet the threshold for an "intelligence activity" that you would advise the CIA Director must be notified to this Committee?

I have not been briefed on any such policy, and the application of "intelligence activity" to such a policy would be dependent on the facts and circumstances. If confirmed, I commit to working with Agency leadership and personnel to adhere to the statutory obligation of the CIA to keep the congressional intelligence committees fully and currently informed, 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. That obligation, pursuant to Sections 502 and 503 of the National Security Act, includes any significant anticipated intelligence activities, any significant intelligence failure, and additional information about intelligence activities as requested by the committees to enable them to carry out their oversight responsibilities.

b. More generally, if confirmed, would you advise Director Ratcliffe that he needs to keep this Committee currently and fully informed about any CIA activities related to Venezuela – including any potential counternarcotics-related activities?

As stated above, if confirmed, I commit to working with Agency leadership and personnel to adhere to the statutory obligation of the CIA to keep the congressional intelligence committees fully and currently informed, consistent with the provisions of the National Security Act and 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.

c. Do you understand the ban on assassination, contained in E.O. 12333 signed by President Reagan in 1981, to still be in effect?

Yes.

d. Is it your understanding that the prohibition in E.O. 12333 that "[n]o person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination" applies to the CIA?

Yes.

Legal Authorities Related to Counternarcotics

10. The CIA has publicly stated that "countering drug cartels in Mexico and regionally is a priority for CIA" and that "Director Ratcliffe is determined to put CIA's unique expertise to work against this multifaceted challenge." With that in mind, please respond to the following questions. If necessary to provide a complete response, you may provide an addendum with classified information.

a. Please explain your understanding of CIA's operational authorities related to counternarcotics and how those authorities may and may not be applied.

I have not yet been briefed on the full scope of the CIA's authorities as they may relate to counternarcotics. If confirmed, I would give that matter careful attention and commit to working with Agency leadership and personnel to ensure CIA's activities are conducted in accordance with applicable law. For example, Section 503(a)(5) of the National Security Act requires that any covert action finding "may not authorize any action that would violate the Constitution or any statute of the United States."

b. Do you agree that the CIA does not have any authority to conduct operations within U.S. borders to counter drug cartels?

Given the CIA's foreign intelligence mission, the CIA's role with respect to domestic activities is significantly limited by law, including the National Security Act, Executive Order 12333, and the CIA's Attorney General Guidelines. For example, Section 503(e) of the National Security Act defines "covert action" to mean "activities of the United States Government to influence…conditions abroad…." If confirmed, I would work with Agency leadership and personnel to ensure that the CIA's activities are conducted in accordance with applicable law.

c. Do you agree that there are limits on the President's authority to use military force to combat criminal activity, such as drug trafficking?

There is a robust legal framework that applies to the President's Constitutional authority to use military force. I would refer to the Department of War on the lawfulness of any specific exercises of military force and to the Department of Justice on the interpretation of the relevant statutory and constitutional provisions.

d. Do you believe that the President has authority to direct military strikes against American citizens who are trafficking drugs?

As stated above, there is a robust legal framework that applies to the President's Constitutional authority to use military force, which is particularly limited in circumstances involving U.S. citizens (such as the example that Senator Wyden provided in question 4 above). In such extraordinary circumstances the National Security Council and relevant Executive Branch agencies would work in coordination to ensure that any use of force by the U.S. Government against a U.S. person is contemplated only in the most narrow of circumstances and is conducted in accordance with applicable law. I would refer to the Department of War on the lawfulness of any specific exercises of military force and to the Department of Justice on the interpretation of the relevant statutory and constitutional provisions.

e. Does the CIA have the authority to conduct operational activities in support of the U.S. military in combatting criminal activity, such as drug trafficking?

I have not yet been briefed on the full scope of the CIA's authorities as they may relate to counternarcotics. I understand that, consistent with the CIA's authorities under the National Security Act and the directives of Executive Order 12333, the CIA may provide limited types of support to military activities and to law enforcement. However, Section 104A of the National Security Act provides that the CIA "shall have no police, subpoena, or law enforcement powers or internal security functions." 50 U.S.C. § 3036(d)(1).

f. Does the CIA have the authority to conduct operational activities in support of Federal, state, and local law enforcement?

As stated above, I understand that, consistent with the CIA's authorities under the National Security Act and the directives of Executive Order 12333, the CIA may provide limited types of support to law enforcement. However, Section 104A of the National Security Act provides that the CIA "shall have no police, subpoena, or law enforcement powers or internal security functions." 50 U.S.C. § 3036(d)(1).

g. Do you believe that the CIA has the authority to direct kinetic strikes or other operations against American citizens who are trafficking drugs?

As stated above, there is a robust legal framework that applies to the President's Constitutional authority to use military force, which is particularly limited in circumstances involving U.S. citizens (such as the example that Senator Wyden provided in question 4

above). In such extraordinary circumstances the National Security Council and relevant Executive Branch agencies would work in coordination to ensure that any use of force by the U.S. Government against a U.S. person is contemplated only in the most narrow of circumstances and is conducted in accordance with applicable law. I would refer to the Department of War on the lawfulness of any specific exercises of military force and to the Department of Justice on the interpretation of the relevant statutory and constitutional provisions. I have not yet been briefed on the full scope of CIA's authorities as they may relate to counternarcotics. As explained in response to questions 8 and 10(b) and (e), there are significant legal limitations on the CIA's role with respect to U.S. person information and domestic activities.

The Honorable Tom Cotton
Chairman, Senate Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

The Honorable Rick Crawford
Chairman, House Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mark Warner
Vice Chairman, Senate Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

The Honorable Jim Himes
Ranking Member, House Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Cotton, Vice Chairman Warner, Chairman Crawford, and Ranking Member Himes:

We are writing to express our opposition to Section 308(f) and (g) in the Senate Intelligence Authorization Act (S. 2342) that would eliminate Senate confirmation for the general counsels of the Central Intelligence Agency (CIA) and the Office of the Director of National Intelligence (ODNI). Currently, very few positions in either agency are subject to Senate confirmation, and most of the work of the Senate and House Intelligence Committees occurs entirely in secret. This makes the requirement that the general counsels at the CIA and ODNI be confirmed by the Senate a rare and important opportunity for public oversight of the Intelligence Community. Removing this requirement would represent a significant step back in ensuring accountability for the nation's intelligence apparatus.

The general counsels of the CIA and ODNI wield extraordinary influence, and they do so entirely in secret, shaping policies on surveillance, detention, interrogation, and other highly consequential national security matters. Moreover, they are the ones primarily responsible for determining the boundaries of what these agencies may lawfully do. The scope of this power and the fact that it occurs outside of public view is why Senate confirmation is so important. It is also the case that across the government the general counsels of other agencies who deal with national security are required to be confirmed by the Senate, including the general counsels of the Department of Defense, the Army, Navy, Air Force, and the Departments of Homeland Security and Energy, as well as the Legal Adviser of the State Department. The CIA and ODNI general counsel should not be held to a lower standard of scrutiny, particularly given past overreach and abuses that have occurred within these agencies.

The confirmation process has proven its value under both Republican and Democratic presidents. Hearings for these positions have surfaced critical information, compelled nominees to make specific commitments, and revealed agency practices otherwise hidden from the public. Under President Obama for instance, Senator Udall used the hearing to flag the existence of a CIA

report criticizing the CIA torture program and to push for its release.[1] As Senator Udall stated during the confirmation hearing:

> *And I understand that you're not in a position on your own to provide these documents and statements, but confirmation processes are one way that U.S. senators can be assured that our voices are heard by the White House and the agencies we oversee. And I don't believe my requests are unreasonable, and I want the CIA to know that I take them seriously.*[2]

In the same hearing Senator Wyden received a commitment that the CIA would no longer rely on a 2003 OLC opinion related to cybersecurity.[3] And under President Bush the Senate forced the withdrawal of the nomination of John Rizzo for CIA general counsel over concerns regarding his role in the CIA's detention and interrogation program.[4]

Moreover, oversight of surveillance authorities such as Section 702 of FISA has often been central to the confirmation process for these positions. Removing that opportunity strips away a key safeguard and undermines the credibility of those who argue that Section 702 does not require reform because it is subject to oversight. Additionally, the recent rule changes in the Senate allowing multiple nominees to move en bloc means that subjecting these positions to Senate confirmation is neither burdensome nor would it impose any unnecessary delays.

For these reasons, we urge you to strike these provisions from the Intelligence Authorization Act and preserve the role of the Senate in confirming the general counsels of both the CIA and ODNI.

Thank you for your consideration.

Sincerely,

American Civil Liberties Union
American Governance Institute
Asian Americans Advancing Justice | AAJC
Brennan Center for Justice at NYU School of Law
Center for Democracy & Technology
Center for Victims of Torture
Citizens for Responsibility and Ethics in Washington (CREW)
Council on American-Islamic Relations (CAIR)
Demand Progress
Electronic Frontier Foundation
Electronic Privacy Information Center (EPIC)

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[1] Mark Mazzetti, *Senate Asks C.I.A. to Share Its Report on Interrogations*, N.Y. Times (Dec. 17, 2013), https://www.nytimes.com/2013/12/18/us/politics/senators-ask-to-see-internal-cia-review-of-interrogation-program.html.

[2] Nomination of Caroline Diane Krass to be General Counsel of the Central Intelligence Agency: Hearing before the Senate Intelligence Committee, 113 Cong. (2013).

[3] Id.

[4] Mark Mazzetti, *Nominee for C.I.A. Counsel Withdraws*, N.Y. Times (Sept. 26, 2007), https://www.nytimes.com/2007/09/26/washington/26rizzo.html.

Government Information Watch
Human Rights First
MPower Change Action Fund
National Religious Campaign Against Torture
Project On Government Oversight
Restore The Fourth
September 11th Families for Peaceful Tomorrows
Surveillance Technology Oversight Project (S.T.O.P.)
The Project for Privacy and Surveillance Accountability
X-Lab

CC: The Honorable Chuck Grassley, Chair, Senate Judiciary Committee
The Honorable Dick Durbin, Ranking Member, Senate Judiciary Committee
The Honorable Jim Jordan, Chair, House Judiciary Committee
The Honorable Jamie Raskin, Ranking Member, House Judiciary Committee

