

**NOMINATIONS OF JOHN K. TIEN,  
ROBERT P. SILVERS, AND JONATHAN E. MEYER**

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**HEARING**

BEFORE THE

COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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NOMINATION OF JOHN K. TIEN TO BE DEPUTY SECRETARY,  
DEPARTMENT OF HOMELAND SECURITY, ROBERT P. SILVER TO  
BE UNDER SECRETARY FOR STRATEGY, POLICY, AND PLANS,  
DEPARTMENT OF HOMELAND SECURITY, AND JONATHAN E. MEYER TO  
BE GENERAL COUNSEL, DEPARTMENT OF HOMELAND SECURITY

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JONATHAN E. MEYER**

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**THURSDAY, MAY 27, 2021**

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:15 a.m., via Webex and in room SD-342, Dirksen Senate Office Building, Hon. Gary C. Peters, Chairman of the Committee, presiding.

Present: Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Johnson, Lankford, Romney, Scott, and Hawley.

**OPENING STATEMENT OF CHAIRMAN PETERS<sup>1</sup>**

Chairman PETERS. The Committee will come to order.

Today we are considering three nominations for important roles at the Department of Homeland Security (DHS): Colonel John Tien to be Deputy Secretary; Robert Silvers to be the Under Secretary for Strategy, Policy, and Plans; and Jonathan Meyer to be General Counsel (GC).

Welcome to each of you and welcome to your family members who I just had a chance to meet. It is great to have them here joining us today. Congratulations on your nominations, and thank you for your previous service and for your willingness to take on some critical positions at the Department of Homeland Security.

The threats facing our Nation today are very different from those we faced when the Department was created in the aftermath of the September 11, 2001 (9/11) terrorist attacks. However, DHS's mission remains the same, that is, to safeguard the American people.

To successfully carry out this essential mission, DHS needs committed and qualified leaders, leaders who will support and empower the more than 250,000 dedicated employees who serve across the Department.

The lack of consistent leadership at DHS during the last administration exacerbated many of the Department's longstanding challenges.

I am encouraged by the strong leadership Secretary Mayorkas has shown since taking office earlier this year, and I am pleased that we are now considering three highly accomplished and truly dedicated public servants for senior roles in the Department.

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<sup>1</sup> The prepared statement of Senator Peters appear in the Appendix on page 43.

Mr. Tien is a retired U.S. Army Colonel, whose 24-year career includes three combat tours in Iraq and national security roles in the Clinton, George W. Bush, and Obama White Houses. For the past decade, Mr. Tien has been a leader in the private sector, where he has held senior executive roles at Citigroup and managed complex organizations and operations.

Mr. Silvers' public service includes several senior roles at the Department of Homeland Security, including Deputy Chief of Staff and Assistant Secretary for Cyber Policy during the Obama Administration. As a lawyer in the private sector since 2017, Mr. Silvers has been a leader on cybersecurity, data privacy, and artificial intelligence (AI) issues.

Mr. Meyer's previous government experience spans 17 years and includes senior roles in the Department of Justice (DOJ), the U.S. Senate, and as the Deputy General Counsel for DHS during the Obama Administration. Since returning to private practice in 2016, Mr. Meyer's legal work has continued to focus on cybersecurity, technology, and homeland security.

We have received bipartisan letters of support for each of these nominees, including from former national security officials who served in both Democratic and Republican presidents' administrations. Without objection, these letters will be entered into the record.<sup>1</sup>

All three nominees bring valuable experience from both the public and the private sectors, perspective that is especially important as DHS works to build and strengthen critical partnerships.

The recent SolarWinds hack and the Colonial Pipeline ransomware attack are only the latest reminders that the Federal Government, and DHS in particular, has to do more on this front.

Partnerships with the private sector, other Federal agencies, and State and local entities are essential to safeguarding our Nation from evolving threats. From cyber attacks to the rise in domestic violent extremism (DVE) to the next pandemic, historic flood, or hurricane, the success of DHS depends on successful partnerships.

Congress must also be one of the Department's key partners. I expect that, if confirmed, each of you will all work closely and transparently with this Committee to tackle the pressing homeland security challenges that we face.

I look forward to hearing more from each of you here today about your qualifications and your plans to support the Department of Homeland Security's mission to protect Americans from threats that we face today and those that we will most certainly face in the months and years ahead.

With that, I will turn it over to Ranking Member Portman for your opening comments.

#### **OPENING STATEMENT OF SENATOR PORTMAN<sup>2</sup>**

Senator PORTMAN. Great. Thank you, Mr. Chairman. I appreciate it. Welcome, Mr. Tien, Mr. Silvers, and Mr. Meyer. Thanks for your willingness to step up and serve, in all three of your cases to serve again.

<sup>1</sup> The letters referenced by Senator Peters appears in the Appendix on page 292.

<sup>2</sup> The prepared statement of Senator Portman appears in the Appendix on page 45.

You have been nominated for positions that impact the direction and priority of the Department in fundamental ways, and as I have told each of you in our conversations prior to this hearing, this is a critical time for the Department. DHS has got as its mission to protect the homeland, and a lot of dedicated personnel have been doing that. But the threat has evolved significantly, and the Department has got to evolve to meet those threats.

In recent months, my view is DHS has struggled to address those risks and threats in a number of ways.

One, we are facing a real crisis at the Southern Border, obviously, and as the Biden administration, in its first days, unwound the previous administration's immigration policies, we quickly saw the Department struggle to secure the border in the midst of what really is an unprecedented migrant surge.

I recently visited the Southern Border with Chairman Peters and others where I witnessed firsthand what was happening: Border Patrol facilities overcrowded with unaccompanied alien children (UAC). Over 108,000 single adults were apprehended at the border last month. That is up from 96,000 in March and seven times greater than last April. On top of that, the Border Patrol conservatively estimates that 40,000 people who crossed illegally were not apprehended or confronted at all but just "got away," meaning came into the interior.

We cannot ignore the need for sound policies to stem the surge. It is unacceptable to shift this burden to frontline personnel and expect them to be able to manage the consequences of bad decision-making here in Washington.

Further, the migrant surge has strained the capacity of the Department to fulfill its other missions at the border, and that includes national security, protecting our border, such as intercepting the flow of dangerous drugs into our country. In fact, as our law enforcement personnel became overwhelmed with the migration surge, drug traffickers have known precisely how to press their advantage, and they have done it, and we have seen it on the border repeatedly.

This leads to a genuine risk to our citizens. Reports show that the seizures of fentanyl coming across the border have tripled in 2021 compared to 2020. That does not tell the story, as you know, because the vast majority of these drugs are not being apprehended. But what you will hear on the border when you visit is that these drugs are coming over in record amounts, and it is happening at a time, during this pandemic, when overdoses are rising in the United States, including overdose deaths at record highs over the past year. We have the most recent data now, from September 2019 to September 2020, showing the highest number of overdose deaths in the history of our country. Being able to intercept these drugs helps in terms of reducing the supply, therefore, the amount of drugs that is getting into our communities but also the cost of those drugs.

Cyberattacks, second, are a huge issue that you are going to be facing at the Department of Homeland Security, should you be confirmed. The national security secrets that are being taken, the personal information has to be addressed more effectively. Attacks like

SolarWinds, Microsoft Exchange, and most recently Colonial Pipeline demonstrate the risks that we face.

As the SolarWinds attack unfolded, it became clear that the Department tasked with securing Federal networks—was itself compromised. DHS should be an example for Federal agencies, but it was hacked. Frankly, we are not following the proper cyber hygiene to be able to avoid the attacks. It is clear that our Federal cyber defenses are lacking.

Cyber, of course, can also have real-world implications, as we saw in the Colonial Pipeline attack. They shut down a major U.S. fuel pipeline for several days, leading to fuel shortages and higher prices. DHS plays an important role in supporting critical infrastructure cybersecurity, and it must work better to support critical infrastructure owners and operators to improve cybersecurity across the board. Frankly, we need to help here with new legislation, in my view, to provide more authority to do that.

Finally, homegrown threats directly put our citizens at risk. It has become apparent in the Committee's investigation into the events of January 6th, the Department's Office of Intelligence and Analysis (I&A) fell short in reporting on the growing threat.

The attack on the Capitol on January 6th was a sobering reminder of the domestic threats we face. These threats are becoming increasingly complex, and DHS must move to quickly evolve, adapt, and address these now so that the Nation is not left unprotected. DHS must be clear about its mission and the tools at its disposal to counter these threats, and, of course, balance freedom of expression with our security concerns.

There is also a growing concern about the increasing number of assaults targeting Federal law enforcement and government facilities. Attacks on law enforcement officers are an unacceptable attack on the rule of law and the safety and security of the American people.

Of course, in addition to these man-made threats, the predictions for this year's hurricane season, which starts in a few days, indicate another higher than average number of significant storms headed our way. Those risks are always there, and that is part of DHS' role as well through the Federal Emergency Management Agency (FEMA).

Each of these issues reflects the very real threats our homeland faces. Having sound policies and strategies, resourcing plans, and effective implementation governance across the department are essential to addressing them. And having the right people in place is essential. If you are confirmed as part of the core leadership team of our Nation's third largest department, you will each have a responsibility to ensure that the Department is able to secure our country and meet the demands of today's complex, evolving, and dynamic threat environment.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Ranking Member Portman.

Next, each of our witnesses is going to be formally introduced by some of our Senate colleagues.

First, we have a video from Senator Reed to introduce Colonel Tien.

**OPENING OF HONORABLE JACK REED, A UNITED STATES  
SENATOR FROM THE STATE OF RHODE ISLAND**

Senator REED. Chairman Peters, Ranking Member Portman, and Members of the Committee, I am pleased to introduce John Tien, President Biden's nominee to serve as the Deputy Secretary of Homeland Security.

I first met John in 1997 when he was an active-duty U.S. Army Captain transferring from the command of an M1A1 Abrams tank company at Fort Hood in order to begin teaching assignments at West Point United States Military Academy (USMA). Since then, he has continued to excel and impress. He came to Washington, D.C., in the late 1990s as a White House fellow, serving in the Office of the United States Trade Representative (USTR), where he worked on several interagency actions supporting the USTR engagements with the World Trade Organization (WTO) and other entities.

The next 12 years of John's Army career represented the kind of operational command and strategic planning experience that have prepared him for the role of Deputy Secretary. He was the second in command of the 11th Armored Cavalry Regiment at Fort Irwin, a battalion commander in Germany, a combat-deployed Army task force commander in Iraq in some of the most difficult fighting, a National Security Council (NSC) Staff Director for Iraq in the Bush Administration, and the National Security Council Senior Director for Afghanistan and Pakistan in the Obama Administration.

In all of these experiences, John demonstrated a commitment to our Nation that embodies what we need at the Department of Homeland Security: a public servant who has led men and women in high-stakes operations and fought to defend the Constitution of the United States. His military awards and decorations reflect this service and include the Bronze Star Medal, the Combat Action Badge, and the Valorous Unit Award.

As a Member of this Committee, the Deputy Secretary's role at DHS is one of the most challenging assignments in the Federal Government because of the size and broad responsibilities of the Department. For this job, we need a person who not only understands this complex agency but who can also effectively manage its more than 240,000 employees.

In the last 10 years in the private sector, John has shown that he has the skills to meet this managerial challenge. Indeed, he has held a number of senior executive positions at Citigroup, overseeing tens of thousands of employees in different locations across the global and helping to manage multi-billion-dollar revenue streams and budgets. John brings a wealth of experience and credentials to this post: first in his class at West Point; indeed, the first Asian American to achieve this distinction; a Rhodes scholar; a 24-year veteran of the United States Army; and a decade of private sector leadership. He has earned the respect and endorsement of a bipartisan group of national security and government leaders from the last four administrations who have written on his behalf. These leaders have said that they believe John Tien is exceptionally well qualified to be the next Deputy Secretary of Homeland Security. I wholeheartedly agree, and I urge you to support his nomination.

Thank you.

Chairman PETERS. Next Mr. Silvers will be introduced by one of our own distinguished Members of this Committee——

Senator CARPER. No, I thought I was introducing him. [Laughter.]

Chairman PETERS. You are indeed. Senator Carper, you are recognized for your introduction.

#### **OPENING STATMENET OF SENATOR CARPER**

Senator CARPER. Thank you, Mr. Chairman, Ranking Member, to Rob and Alison and his family. I want to say to Colonel Tien that our colleague Jack Reed was going through all your experience and everything, in Delaware when people have a resume like that, you know what we say about them? We say they are showing off. That was really impressive. My family and I have been using United States Automobile Association (USAA) for auto insurance and other insurance for, gosh 50 years. At USAA they have a saying: "We know what it means to serve." When I read your resume and got more familiar with that, and Rob Silvers' as well, I just thought: You know what it means to serve. All of you know what it means to serve. We are grateful for that.

The last time I was asked to introduce a nominee for this Department was John Kelly who was nominated to be our Secretary. I sat on one side of him, and the late Senator John McCain sat on the other side, and it was an honor for Senator John McCain and for me, and it is an honor to be asked to do this today.

I was present when we created the Department of Homeland Security literally in this room. I worked with Democrats and Republicans, led by Senators Susan Collins and Joe Lieberman, and we took the hand-off from the 9/11 Commission, who gave us really great ideas and great input. You may recall, colleagues, they gave us something like 42 recommendations from the 9/11 Commission, unanimous, a Commission led by former New Jersey Governor Tom Kean and former Congressman Lee Hamilton, who was one of my mentors for me when I was new in the U.S. Senate.

But I want to say, as someone who has watched and was present at the creation and very much involved in helping the Department of Homeland Security to be assembled and to grow and to mature, how proud I am of the Department and the men and women who serve today and the men and women who have served.

Last month alone, I led a congressional delegation (CODEL) down to El Paso and had a chance to be with a number of folks from the U.S. Customs and Border Protection (CBP) and I could not have been more impressed and more grateful for the tough jobs that they are doing down there and doing well.

My wife and I traveled out to California to see one of our sons and do a bunch of business visits down there for technology purposes, and I had an opportunity just to watch the Transportation Security Administration (TSA) in action and to say how impressed I was with them. So you have been part of a great organization, several of you, and God willing you will be confirmed and have an opportunity to lead in new and important ways.

I would just say that the most important characteristic or one of the most important qualities in any organization I have ever been a part of in terms of being successful is leadership. It is always

leadership. I do not care if you are a baseball team. I do not care if you are a college university. I do not care if you are a business. I do not care if you are a committee in the Senate. It is always leadership. We are really blessed by first-caliber, first-rate leaders here in this day in these nominees, so we thank you for that.

I want to say also John Tien is married to a wonderful woman named Tracy. I think she might be sitting behind him. Tracy, would you stand up, please? We do not normally do this. Tracy, God bless you. Thank you for sharing a very good man with all of us.

I thank Jonathan's wife, Lauren, who is here. Lauren, would you stand up? Lauren, thank you. Lauren also has—Jonathan, help me. Doesn't she have a Jewish name or a Hebrew name? Is it "Sabbath"? What is it?

Mr. MEYER. It is the word "Shulamite," which comes from the word "Shalom."

Senator CARPER. Ah, there you go. All right. Very nice to see you, Lauren.

Rob Silvers, where is Alison? Great to see you. Not only are these guys blessed with wonderful wives, but they also have children. I think John and Tracy have a couple of daughters, Amanda and Rebecca. Jonathan Meyer and Lauren have a couple of children: Ezra, right out of the Bible, and Jordana, also right out of the Bible. Rob Silvers and Alison have a couple of kids: Ricky—and I tried to figure out if Ricky was named after Ricky Nelson or Rickey Henderson, the great baseball player—and Heidi.

I want to say to the spouses how important it is that you be here. Every one of us who sits up on this side of the dais can tell you we do not do these jobs by ourselves. Those of us who are lucky enough, we have a spouse who is very helpful and critical when we need it and supportive when we need that as well. So we thank each of you, Tracy, Lauren, and Alison, for sharing your spouses with us—not with this Committee, not with this body, but with our country.

The Department of Homeland Security, as we know, is an agency with a budget of about \$50 billion and a staff of almost a quarter of a million men and women. DHS is charged with a number of critical missions in protecting our Nation. The Ranking Member went through some of those, as did the Chairman.

As I listened to Rob run through the threats that we expect this Department to be prepared to address, it reminded me of a great song called "The Song Remains the Same." The mission actually remains the same, but actually it does change over time, when some things were more critical and more important than others. It is a handful of things to keep an eye on and a watch on, and we are grateful for that.

DHS is charged with several critical missions in protecting our Nation, and as the Department mission statement says, it says, "The threat environment continues to evolve. We must work together to ensure a safe, secure, and prosperous homeland." That is really the mission. From the clear and present threat of domestic terrorism to responding to the increases in cybersecurity and ransomware attacks on our critical infrastructure, to helping distribute relief and response in the face of natural disasters, there

is no shortage of work to be done. It has been that way for 20 years, and it will continue to be for as long as we are a Nation.

Now more than ever, it is crucial that the Department have Senate-confirmed, qualified leadership, and that is why I am pleased to introduce Rob Silvers today, President Biden's need to be the Under Secretary for Strategy, Policy, and Plans of the Department of Homeland Security. Part of the mission of the Under Secretary is to coordinate and develop policy among the various DHS components and advise the Secretary and the Deputy Secretary.

Mr. Silvers is an excellent choice to serve as the Department's policy lead because he brings significant experience across these wide-ranging mission spaces, serving for nearly 6 years at the Department from 2011 to 2017, a part of the time I was privileged to be Ranking Member and also the Chairman of this Committee, serving alongside of an old friend named Tom Coburn, who we just had a memorial service for in Tulsa, Oklahoma, last month to celebrate his life.

I had the pleasure of meeting Rob Silvers during his last tenure at the Department. Mr. Silvers served as Assistant Secretary for Cyber Policy, and he also led the Department's work on cyber incident response policy. That was a busy job then, and it is a busy job today.

Before he was appointed Assistant Secretary, Mr. Silvers served as DHS Deputy Chief of Staff helping to oversee management and policy across DHS' 240,000 employees and 22 component agencies. This experience will serve Mr. Silvers well if he is confirmed as Under Secretary. He knows the Department, and he will be ready to serve on day one. No on-the-job training (OJT) for him. No need for any of these nominees to have on-the-job training. You will be ready to go from the get-go.

The American people are counting on seasoned leadership at DHS after years of vacancies at the agency. I applaud President Biden for nominating Rob Silvers, and I encourage our colleagues to confirm him swiftly.

Again, to Mr. Silvers, to his wife, Alison, and their family Ricky and Heidi, we want to thank you for your willingness to serve and for the willingness of your families to serve, to share you with all of us.

With that, I bid you good luck. Thank you.

Chairman PETERS. Thank you, Senator Carper.

We now have a video from Senator Sherrod Brown to formally introduce Mr. Meyer.

#### **OPENING OF HONORABLE SHERROD BROWN, A UNITED STATES SENATOR FROM THE STATE OF OHIO**

Senator BROWN. Chairman Peters, Ranking Member, my Ohio colleague, Senator Portman, I am proud today to introduce to the Committee a proud son of Ohio, Jonathan Meyer, who President Biden has nominated to serve as General Counsel of the Department of Homeland Security.

As the Chief Legal Officer (CLO) of the Department, he would be charged with protecting America's rights and liberties that fall under the Department's work. Jon grew up in Cincinnati, with a few years living in Jerusalem. He graduated summa cum laude



from Cincinnati's Walnut Hills High School. He earned his undergraduate degree from Harvard, he earned a Master's in Public Affairs from Princeton and his law degree from Columbia.

Jon has dedicated his life to public service. He spent 7 years on Capitol Hill in both Houses of Congress on both sides of the aisle, including working for Ohio's own Congressman Bill Gradison. He also served—and I believe Bill Gradison—in fact, I more than believe—was Congressman Portman's predecessor. He served in high positions in the Executive Branch as both the Deputy Assistant Attorney General in two administrations at DOJ and as Deputy General Counsel at the Department of Homeland Security where the President has nominated him to return as General Counsel. At DHS, Jon's service earned him the respect of his peers. He was awarded both the Secretary of Homeland Security's Outstanding Service Medal, which is DHS' highest civilian honor, and the U.S. Secret Service (USSS) Director's Honor Award, among other honors. Four of the five people who held the position to which Jon is nominated, General Counsel, not only support his nomination, but have written to the Committee to publicly express that support.

Public service is an honor and a privilege. Jon understands that. He is ready to get to work for the American people whom we all serve.

Thanks, Mr. Chairman, for giving me a few moments.

Chairman PETERS. It is the practice of this Committee to swear in our witnesses, so if each of you will please stand and raise your right hand? Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. TIEN. I do.

Mr. SILVERS. I do.

Mr. MEYER. I do.

Chairman PETERS. You may be seated.

The Committee will now hear from each of our nominees. Colonel Tien, you may proceed with your opening remarks.

**TESTIMONY OF JOHN TIEN,<sup>1</sup> NOMINEE TO BE DEPUTY  
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. TIEN. Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee, it is an honor to appear before you today. I would like to thank President Biden for nominating me, Secretary Mayorkas for wanting me to be on his team, and Senator Reed for giving me that very kind introduction. To Senator Reed, you continue to be a great public servant role model to all of us who graduated from West Point.

In fact, it was 34 years ago to this very day, May 27, 1987, along with my 1,000 plus fellow classmates, that I graduated from West Point and commissioned as a Second Lieutenant in the United States Army. Our West Point Class of 1987 motto is "Our Country We Strengthen."

For my next 24 years of active-duty service, I tried to do just that: strengthen our country. I did it in peacetime; I did it in wartime. In 2006, I was given the privilege to lead more than 1,100

<sup>1</sup> The prepared statement of Mr. Tien appears in the Appendix on page 48.

Soldiers, Sailors, Airmen, and Marines in combat operations in Iraq as the Task Force 2-37 Armor Battalion Commander. If confirmed, it would be the honor of my lifetime to once again serve alongside my fellow Americans, and in this case, alongside the 240,000 amazing Homeland Security employees, in helping safeguard our homeland.

Safeguarding our homeland, whether it is in the Army or in the Department of Homeland Security, is a team effort for me and my family. In that light, I am so happy that my life partner since senior year of high school is here with me today, my wife, Tracy. I love you and I thank you for supporting me in this next possible life chapter of service. To our two daughters, Amanda and Rebecca, who are watching this live: I am so proud of the kind of human beings and American citizens that you have become. I want to thank my three sisters, uncle and aunt, mother-in-law, and other extended family who have supported me throughout my life to include sending all of those great care packages to me and my soldiers when we were deployed to Iraq. I also want to acknowledge three people who are no longer with us here today: my father, John Tien, Sr.; my stepfather, Thomas Hennessy; and my mother, Deborah Hennessy, who recently died of Coronavirus Disease 2019 (COVID-19). I know they would have all been proud of me, especially my mother, that I may get another chance to serve this great Nation.

As for my birth father, John Tien, Sr., he, along with my grandparents and his two brothers and sister, escaped the likely persecution of Communist China after World War II. As a young college student, my father was so proud to become a naturalized U.S. citizen in the late 1950s. When it was time for me to go to college, he asked me to consider giving back to the country that welcomed our family decades earlier. He asked me to go to West Point. Admittedly, I first went to West Point out of a family obligation. However, by the time I graduated, I realized what a privilege it was to be able to call myself a West Point graduate and officer in the United States Army.

The mission of DHS is to secure the Nation from the many threats we face. The threats that our Nation face today are evolving and originate both here in the homeland and abroad. The Department must not just be vigilant; it must be ready. If confirmed as the Deputy Secretary, one of my roles is to be the Department's Chief Operating Officer (COO). In this role, I will help ensure the Department is ready and that it executes its missions responsibly both in terms of wisely using the resources given to us and doing so through the enforcement of our Nation's laws.

Just as the threats to the Nation are evolving, the Department will need to be flexible, will need to evolve its capabilities, and will need to work with our partners at the Federal, State, local, tribal, and territorial (SLTT) levels. We will also need to work with partners abroad and with the private sector, where I have spent the last 10 years of my professional life. In short, we need partners.

As the Department evolves and executes its mission over the coming years and if I am confirmed, I look forward to partnering with all of you on this Committee and our other congressional partners. It would be an honor to join you in the service of the Nation.

Thank you, and I look forward to your questions.

Chairman PETERS. Thank you, Colonel Tien, for your opening remarks.

Mr. Silvers, you are recognized for your opening remarks.

**TESTIMONY OF ROBERT P. SILVERS,<sup>1</sup> NOMINEE TO BE UNDER SECRETARY FOR STRATEGY, POLICY, AND PLANS, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. SILVERS. Thank you, Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee. I am honored to appear before you as the nominee for Under Secretary for Strategy, Policy, and Plans.

I thank the President for nominating me, Secretary Mayorkas for his confidence in me, and Senator Carper for his introduction and for his longstanding support for the Department of Homeland Security.

I want to recognize my family: my wonderful wife, Alison, and our beautiful children, Ricky and Heidi. They have made possible my career in public service. That service to our country is not just my own, but theirs as well. Thank you. I am also grateful to my parents and my brother, who over the decades have offered endless support.

DHS safeguards our Nation. Its varied components are a source of strength because they allow DHS to harness its many capabilities to tackle challenges. To do this, the Department needs a centralized hub to ensure it has policies and strategies in place to accomplish the mission. The Office of Strategy, Policy, and Plans is that hub—the nerve center for policy development and for advising on the best options.

Recent incidents, from SolarWinds to Colonial Pipeline, have only further highlighted the urgency to secure critical infrastructure and Federal networks from cyberattacks. If confirmed, I will focus closely on fortifying DHS' efforts on this critical work. The President's recent cybersecurity Executive Order (EO) and new authorities enacted by Congress in recent years set a powerful foundation on which to build.

DHS also must protect the American people from terrorism. DHS must remain ever vigilant to attacks directed from abroad, and it also must address the alarming rise in domestic violent extremism. If confirmed, I will prioritize ensuring that DHS is doing everything in its means to address the challenge, including by equipping our communities and law enforcement around the country with tools and information to keep our country safe.

The Department must secure our borders. It must be relentless in disrupting the human-and drug-trafficking organizations that inflict so much devastation. It must administer our immigration system securely and humanely. DHS must continue its support for the COVID-19 pandemic response, and it must facilitate the lawful flows of trade and travel that power this economy.

DHS also must look forward to emerging threats. This includes threats arising from the adoption of advanced technologies and

<sup>1</sup> The prepared statement of Mr. Silvers appear in the Appendix on page 138.

threats to economic security and our ability to compete with China in the century ahead.

If confirmed, I will be tireless and I will work closely with Congress on a bipartisan basis to achieve success.

I last served at DHS as the Assistant Secretary for Cyber Policy. I led Department cybersecurity policy for incident response and critical infrastructure protection, amongst other things. In that position, I saw the incredible talent of the men and women of the Office of Strategy, Policy, and Plans.

I also previously served as the Department's Deputy Chief of Staff. I oversaw policy and operations across the entire DHS mission set and workforce, and that workforce performs essential and heroic service every single day. I would be privileged to join and support them once again as Under Secretary.

Thank you to the Committee for considering my nomination. I look forward to your questions this morning.

Chairman PETERS. Thank you for your opening comments, Mr. Silvers.

Mr. Meyer, you are recognized for your opening comments.

**TESTIMONY OF JONATHAN E. MEYER,<sup>1</sup> NOMINEE TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. MEYER. Good morning, Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee.

I am honored to appear before you today as President Biden's nominee to serve as General Counsel of the Department of Homeland Security. I am grateful to the President and to Secretary Mayorkas for the trust they have placed in me and to you for your consideration of my nomination. I would also like to thank Senator Brown for his kind introduction. As a son of Cincinnati, Ohio, I am deeply honored to have my home-State Senator introduce me and to have my hometown Senator serve as Ranking Member of this hearing.

I am also grateful to my family and friends for their support through this process. In particular, I would like to recognize my wife, Dr. Lauren Strauss, who is here with me today and without her love and support I would not be here. Our son, Ezra Meyer, and our younger daughter, Naomi, are here in Washington watching online hoping their Dad does not embarrass them. Also in my mind and heart is our oldest child, Corporal Jordana Meyer, who is currently serving in the Israel Defense Forces (IDF), and—her military schedule permitting—is watching this hearing online.

I also wish to acknowledge the love and support of my parents, Rabbi Margie Meyer and Professor Michael Meyer, as well as my brother, Danny, and sister Rebecca. We are a close family, and I value their love and support above all else.

I am also deeply grateful for the support and friendship of four former General Counsels of the DHS—two Democrats and two Republicans—who have endorsed my nomination. It would be the highest honor of my professional life to be confirmed as General Counsel of DHS, to return to the office where I worked previously

<sup>1</sup> The prepared statement of Mr. Meyer appear in the Appendix on page 224.

and to lead the 2,500 attorneys who serve there. They are committed public servants and talented lawyers.

I have devoted most of my 29-year legal career to public service. I spent 7 years on Capitol Hill, serving in both chambers and on both sides of the aisle. I served in the Departments of Justice and Homeland Security, in both career and political positions. I have practiced law at three major law firms, including my current professional home, Sheppard Mullin Richter & Hampton. I am deeply grateful to my Sheppard colleagues for their support. I believe all of these experiences have prepared me for the position to which I have been nominated.

The Office of the General Counsel (OGC) plays a vital role in the proper functioning of DHS. With the able assistance of OGC attorneys, the General Counsel serves as the chief legal officer of the Department and the senior legal adviser to the Secretary and other officials. The General Counsel oversees litigation, regulations, and responses to internal and external oversight, including, of course, oversight by Congress. If confirmed, you have my word that I will give issues of congressional the highest priority and, as I have in the past, will do everything in my power to improve DHS' responsiveness.

If confirmed, I intend to reinvigorate, unify, and empower the attorneys of OGC. Too often too little heed is paid to the experienced and insightful wisdom of the rank and file of OGC. I have served with these men and women. I know them. I know the immense value and incisive legal acumen that they bring to bear on behalf of the American people. In my view, the successful General Counsel is the one who appreciates these attributes and marshals them in service of our country.

Exactly 90 years ago, in 1931, my grandfather, Karl Mattaeus Meyer, of blessed memory, was admitted to the bar and went to work for his government. A mere 2 years later, however, that career ended suddenly, when he was fired by that government for being a Jew. Although he and his family—including my father—escaped Nazi Germany and built wonderful new lives here, my grandfather, for whom my son, Ezra, is named, was never able to practice law again.

I have always viewed my legal career as a continuation of the one my grandfather began, but was forced to abandon. In every legal office I have occupied, the first items to go up on the wall, and the last to be taken down, are two old documents framed side by side: his hiring and his firing by the Nazis. They serve as a reminder to me of the critical role that lawyers must play in preserving democracy and protecting our rights. If I am confirmed, you have my solemn promise that I will always remain true to those values.

Thank you. I welcome your questions.

Chairman PETERS. Thank you, Mr. Meyer, for your opening statement.

There are three questions that the Committee asks of every nominee. I am going to ask each of you to respond briefly with just a yes or no.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to

which you have been nominated? We will start with Colonel Tien and work that way for each of these questions.

Mr. TIEN. No.

Mr. SILVERS. No.

Mr. MEYER. No, Mr. Chairman.

Chairman PETERS. Second, do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. TIEN. No, Mr. Chairman.

Mr. SILVERS. No, Mr. Chairman.

Mr. MEYER. No, sir.

Chairman PETERS. Last, do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. TIEN. Yes, sir.

Mr. SILVERS. Yes.

Mr. MEYER. Yes, sir.

Chairman PETERS. Very well. Colonel Tien, the Department of Homeland Security unfortunately has struggled with very low employee morale since its creation, and certainly a priority, I think, for every single Member of this Committee is to ensure that the career workforce at the DHS has the support that they need to keep our country safe and are expecting that type of leadership within the organization.

Can you briefly describe how you plan to engage and empower the DHS workforce if you are confirmed.

Mr. TIEN. Chairman Peters, thank you very much for that question. If confirmed as the Deputy Secretary of the Department of Homeland Security, one of my roles will be to be the chief operating officer, as I mentioned in my introduction. One of my other roles, though, is to be the second in charge (2IC)—that is what we call it in the United States Army—the “second in charge”—the second in charge to Secretary Mayorkas, which means that I would have wingtip-to-wingtip and end-to-end leadership and management responsibilities across the Department in support of Secretary Mayorkas.

Part of any leader’s responsibility is to ensure that they are enabled, they are empowered, and they are supported to execute their mission. To me, that is where the genesis of all things that push and reinforce and help people establish what they view as their worth, as their contribution to the mission comes from, and to where the genesis of possibly their morale comes from.

I would view my responsibility as first ensuring they understand I appreciate them and the role they have in the Department; and, second, I would look and say, “Am I doing everything that I can as the Deputy Secretary, as the chief operating officer, and as the 2IC to enable, empower, and support them?”

Thank you, sir.

Chairman PETERS. I am very glad to see the Biden administration is prioritizing the serious threat of domestic terrorism and violent extremism. However, I think it is absolutely crucial that Americans’ civil rights and civil liberties are protected at the same time that we are dealing with this complex and evolving threat.

So my question is for you, Mr. Meyer. If confirmed as General Counsel, you would be responsible for facilitating oversight of various components of DHS, including the Office of Civil Rights and Civil Liberties (CRCL) as the Department executes its civil intelligence operations. Tell me how you would ensure that the Office of Civil Rights and Civil Liberties is able to properly conduct oversight over the Department's civil intelligence operations.

Mr. MEYER. I think that is a really important issue, Mr. Chairman. Thank you for raising it. As you know, when the Department of Homeland Security was created, in large part by this Committee, it made a point in the legislation creating the Department to create strong internal oversight bodies, including in particular the Civil Rights and Civil Liberties Office, and the Privacy Office. It is vitally important that they be involved in all major decisions and, in particular, as you mentioned, in intelligence review.

In response to your question more directly, I think it is important and it is a role that the General Counsel in particular can play to make sure that CRCL is always at the table when it should be there. In the past, I believe there has been a tendency at times, not intentional, but to think of OGC as being a proxy for CRCL when, in fact, there is an office devoted to that and an officer—a Presidentially appointed officer, I believe—devoted to that. So it is the General Counsel's role to make sure that CRCL is at the table and is listened to and is giving input as part of my process reviewing intelligence issues or other issues.

Chairman PETERS. This week, it was announced that the TSA would for the first time move away from only voluntary cybersecurity guidelines and actually issue a security directive to the pipeline industry requiring pipeline companies to report cyber incidents to Cybersecurity and Infrastructure Security Agency (CISA) and TSA. It is being reported that in the future additional mandatory cybersecurity standards may be required for pipeline operators.

With that in mind, Mr. Silvers, this question is for you. Understanding that you had no role in that decision, but if confirmed, what role would your office play in making decisions to utilize Department authorities to issue cybersecurity regulations?

Mr. SILVERS. Thank you very much, Mr. Chairman, for the question. We all saw with the attack on Colonial Pipeline the devastating and cascading effects that a cyber attack even just on a single organization can have and the impacts that can be felt downstream by many innocent parties, and it is just vitally important that the Department of Homeland Security and other Federal agencies as well use all tools available and appropriate to mitigate those kinds of threats.

I saw the announcement of the recent security directive, and in terms of what the Office of Strategy, Policy, and Plans might have in that kind of decision in the future, I think it is actually a very powerful illustration of how multiple components within DHS bring capabilities and authorities to bear to address these challenges and the need for a central hub to bring together those capabilities and develop policies. TSA has the jurisdiction, the authorities to regulate pipelines. The Cybersecurity and Infrastructure Security Agency, has deep expertise in critical infrastructure cybersecurity more generally. The recent directive marries those two by leveraged

TSA's authorities with CISA's expertise in a way that I think is extremely promising.

Chairman PETERS. It is very clear that CISA is the lead Federal cybersecurity agency with respect to Federal systems and supporting critical infrastructure. But as you alluded to in that answer, there are other components other places where those cyber responsibilities reside as well. Coordinating that is critically important. Give the Committee a better sense of how you see your role in coordinating our cyber activities in an effective way.

Mr. SILVERS. Absolutely, Mr. Chairman. Cybersecurity is an important priority for multiple agencies and offices at DHS. We talked about CISA and TSA. The Secret Service and Homeland Security Investigations (HSI) specialize in criminal investigations of cyber crime. The U.S. Coast Guard (USCG) protects the maritime transportation environment from cybersecurity, and the list goes on. I think the Office of Strategy, Policy, and Plans is the organization within the Department that brings all that together to develop the best approaches, the best options, present those to the Secretary and the Deputy Secretary, also work with Congress on a bipartisan basis and other agencies.

Chairman PETERS. Senator Portman, you are recognized for your questions.

Senator PORTMAN. Thank you, Mr. Chairman. Again, I thank the witnesses for their testimony today and their willingness to step up and serve again in each case.

This Committee is the chief oversight Committee for the Congress, and in our Constitution the Legislative Branch has a fundamental responsibility to provide oversight. Probably the primary purpose of this Committee is oversight over the Executive Branch. To do that well, we have to have the agencies provide us information we need to do effective oversight.

Mr. Meyer, during our phone call yesterday, we talked a lot about that. We discussed my concern that in your prior role at DHS, you made congressional oversight of DHS difficult. The former of the Permanent Subcommittee on Investigations (PSI), whom many of you knew, Senator Carl Levin, complained about that. He said specifically in his report that, "DHS initially withheld documents and repeatedly resisted the Committee requests, which unnecessarily prolonged the Committee investigation." Those are pretty strong words. I have never seen that in any other PSI report that I did as Chairman of that Committee or others have done. I ask unanimous consent (UC) to enter those relevant pages of the report into the record,<sup>1</sup> Mr. Chairman.

So the question is: How can Senator Peters and me and Senator Ossoff and Senator Johnson be assured that we will not get that kind of treatment should you be confirmed in this new important role at DHS as General Counsel?

Mr. MEYER. Thank you, Senator, for giving me an opportunity to respond to that. I enjoyed our conversation yesterday, and I appreciate the opportunity to address this publicly.

<sup>1</sup>The PSI report excerpt appears in the Appendix on page 287.



First of all, I would like to respectfully disagree with one of your comments, which is that what I did when I was at DHS in the past was make oversight more difficult. You are referring to——

Senator PORTMAN. I was quoting Senator Levin on that, a Democrat from Michigan who was Chair of PSI at the time.

Mr. MEYER. I do not recall Senator Levin ever saying anything specifically about me. But if I may, as I recall, the investigation you are speaking about and the report you are speaking about occurred in 2011, 2012. I arrived in 2011. That was the very beginning of my time at DHS. I would absolutely agree with you that that particular investigation involving fusion centers was very difficult and was not the Department's best moment in responding to oversight.

But I would like to point out that by the time I left DHS in 2016 and had been running oversight response for 5 years, we had improved our responsiveness by 120 percent. We had reduced our response time by 60 percent at the same time that the volume of incoming requests had doubled.

There is no question that there was a process involved there. As I recall, I believe you mentioned yesterday that one of the issues that the Subcommittee had concerns with was the fact that DHS was unable to produce emails for technological reasons, but yet the National Archives and Records Administration (NARA) subsequently was able to do so. Honestly, my response to that unfortunately was not surprise. I do not recall it, but I am not surprised, because what I do recall is huge technological challenges that we had at DHS in oversight response, and that was a large part of what I addressed and, if I am confirmed, would focus on addressing again.

I said in my opening statement that I would make congressional oversight my highest priority if I were confirmed. I am a big believer in congressional oversight. As you know, I have spent time both on the Hill and at DHS and in the Executive Branch. I actually spent more time conducting oversight in the Senate than I have at DHS. I, like you——

Senator PORTMAN. I appreciated that Committee in your testimony this morning, and I heard it. I will also enter into the record, because you mentioned it—I was not going to—the back-and-forth, the letters regarding the PSI request for emails for a specific DHS official. PSI was told—and, again, you were the one that had the lead on this—that those emails were not available, and later we found out that they were. I will enter that into the record<sup>1</sup> since you mentioned it.

Again, I appreciate your general commitment to being more responsive to Congress.

Let me ask some specific questions. If confirmed, do you commit to responding in a timely manner to requests from the Committee? Just yes or no.

Mr. MEYER. Absolutely, sir.

Senator PORTMAN. If confirmed, do you commit to providing all documents requested by this Committee without redacting unless it is agreed to beforehand? Yes or no.

<sup>1</sup>The letters referenced by Senator Portman appears in the Appendix on page 292.

Mr. MEYER. I will make every effort to do so, Senator. Obviously, I, even as General Counsel, do not have control over that.

Senator PORTMAN. You would have the most control over it, as I understand it. What would you redact? What would you feel you had the right to redact unless, again, you had worked something out with us in advance? I think there are situations like that.

Mr. MEYER. I believe the Executive Branch traditionally will redact information, for example, that is subject to Executive privilege.

Senator PORTMAN. Just so you know, this Committee does not recognize any assertions of that sort, or national security, because, we are the oversight Committee, unless, again, we have the opportunity to discuss that in advance.

Mr. MEYER. Senator, let me be clear. I would absolutely discuss it in advance. The Constitution requires us and the courts have made it clear that the oversight process must be an accommodation process. I am sorry if I misunderstood or misspoke. I would welcome every opportunity to communicate with you, with your staff, and anybody else on the Hill about these issues. Oversight is about communication and accommodation.

Senator PORTMAN. If confirmed, do you agree to provide any fact witnesses requested by this Committee to be interviewed?

Mr. MEYER. Yes, sir.

Senator PORTMAN. How about the Inspector General (IGs) office? DHS Office of Inspector General also has concerns, as you know, sometimes about not being able to get information. Would you provide witnesses or documents requested by the IG?

Mr. MEYER. Absolutely. I think OIG oversight is quite important.

Senator PORTMAN. Thank you, Mr. Meyer. I appreciate that.

Mr. Tien, your distinguished military service is extraordinary, and the leadership you demonstrated in uniform has been talked about today. Could you also talk about how your private sector background qualifies you to be the next Deputy Secretary, in particular how you think the private sector could be brought in as a partner more effectively?

Mr. TIEN. Ranking Member Portman, thank you very much for that question, and I appreciate your acknowledgment of my military service. By acknowledging my military service, you are really acknowledging the military service of all the great Americans who have come before me or who are currently serving, so thank you, sir.

In terms of my private sector experience, there are many different ways that the Department of Homeland Security is already, can, and should be partnering with the private sector. In particular, I think about the most recent—and this is just an example, obviously, of the most recent example around the cyber attack on the Colonial Pipeline. The Colonial Pipeline organization did not have to acknowledge or report to CISA that they had undergone a ransomware attack.

Now, I understand just being a private citizen today that President Biden says in the future we will require that. It is this kind of partnership that I believe that the private sector must have with the public sector, must have with the Federal Government, in particular DHS, obviously, and reverse, for the public sector, for the

Federal Government, and for CISA in particular at DHS to have—it is a two-way street in terms of that communication.

The private sector serves—we know this. They have constituents, too. They are called “customers.” They are called “clients.” At least in the United States of America, those clients, those constituents, and those customers are the same constituents for us.

In the service of the American people, in particular in the protection of all of the critical infrastructure, not just the pipeline but all of the 16 critical infrastructure sectors, I believe that the private sector can and should and the public sector can and should be strong partners.

Senator PORTMAN. Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Ranking Member Portman.

We are in the middle of a vote series now in the Capitol, so I am going to be leaving to go vote. I am going to pass the gavel to Senator Carper, and, Senator Carper, you are also recognized for your questions.

Senator CARPER [presiding]. You know I may not want to give it back. [Laughter.]

Just kidding. Thanks, Mr. Chairman.

I want to say again, Senator Lankford, I do not know if you were here in time to hear all the opening statements, but, oh, my God, I just sit here thinking of all the witnesses we have had, all the nominees we have had over the years, what a distinguished group we have before us today. Again, our thanks to all of you for your willingness to serve.

I am going to start with a question, for Mr. Silvers, who is nominated for the position of Under Secretary for Strategy, Policy, and Plans. Over the years, a number of our colleagues and I have worked to give the Department of Homeland Security the resources that are necessary to carry out its various missions, and that certainly includes the cyber mission, which we have alluded to already today. I was especially proud of the bipartisanship that was shown in Congress when we passed the Cybersecurity and Infrastructure Security Act of 2018, a couple of years ago.

The Cybersecurity and Infrastructure Security Agency, was created after your time at the Department, Mr. Silvers, when you had last served I think as the Assistant Secretary for Cyber Policy at the Department.

As such, if confirmed in your new role as Under Secretary for Strategy, Policy, and Plans, how do you plan to work with the Director of CISA to improve our Nation’s cybersecurity and cyber posture? What are some of the top cybersecurity policies and initiatives you would look to implement at DHS?

Mr. SILVERS. Senator Carper, thank you very much for the question. CISA is indeed the quarterback for the Federal Government’s protection of both critical infrastructure and Federal civilian agency networks from cyber threats. It is the national cyber defense center. If I am confirmed, I would look very much forward to working closely with, if she is confirmed—and I hope she will be—Jen Easterly at CISA, as well as others in the Department who have oversight over cybersecurity at the Secret Service, Homeland Security Investigations, the TSA, and otherwise.

I think there is a lot of work to do. Initial priorities, Senator, I believe certainly include enhancing the Department's work to elevate the cybersecurity of Federal civilian agencies. SolarWinds was just a devastating example of vulnerability to very sophisticated threat actors and the types of catastrophic consequences that can result. I think the new Executive Order from the President will strongly bolster the ability to do that critical work, and I would expect to work closely with CISA on those issues, including to increase visibility across Federal agency networks for CISA, to implement a regime of mandatory deployment of technologies like endpoint and detection response and the like.

I also think protection of critical infrastructure in the private sector—85 percent of critical infrastructure in this country is privately owned—that has to be an enormous priority, and Colonial Pipeline is just the latest example of how important that mission is. I would look to partner closely with CISA and also with the private sector on those critical efforts, amongst other priorities.

Senator CARPER. Thank you.

A second question. This would be a question for Colonel Tien. The over 240,000 folks who serve at the Department of Homeland Security around the world have taken on the critical mission of protecting our homeland day in and day out, as you know. Whether they work to secure our borders, our Ports of Entry (POE), respond to emergencies, respond to natural disasters or secure our critical infrastructure, the work that they do every day is vital. They have my thanks; they have our thanks for all that they do.

If confirmed, Colonel Tien, you will be responsible for the day-to-day business and management of operations as well as the workforce at DHS. How has your experience in the military shaped your leadership style and prepared you for this new role at the Department, if confirmed?

Mr. TIEN. Senator Carper, thank you very much for that question. If I may, veteran to veteran, you certainly know and you certainly remember when I enjoyed our conversation around your time in the Navy, my time in the Army, and I would not say everything I know and learned about leadership I learned in my first few years in the United States Army, but I learned a lot of it when I was a first lieutenant tank platoon leader M1A1 Abrams tank in Germany, leading troops in support and ready to defend in terms of the Cold War. Everything I learned about leadership, most of it, I learned as a tank platoon leader in Germany. The reason I say that is that the 240,000 amazing Americans who have stepped up, taken the same oath of office that you have and that I did, to support and defend the Constitution of the United States against all enemies, foreign and domestic, is so inspiring to me. As I think about what we need to do for them and what we owe to them both in terms of the management, in terms of the leadership, it inspires me again.

If I get the opportunity, if I am confirmed, sir, to become the Deputy Secretary of the Department of Homeland Security, my main commitment will be to serve them, to lead them, to manage them, to enable them, to empower them, and to support them in the same way that I certainly aspired to do as a tank platoon lead-

er in Germany when I was in the United States Army. Thank you, sir.

Senator CARPER. In addition to what you learned about leadership—and I appreciate what you said about what you learned in that capacity—just mention a thing or two you learned from your parents that would help make you a better leader. I am going to ask this same question of our other nominees.

Mr. TIEN. Quickly, sir—and I say “quickly” because it will be an emotional moment for me—I have already talked about my birth father and the example that he set by literally saying we have a commitment to the United States of America for taking our family in so many decades ago.

From my mother, who, again, recently died of COVID-19, she was the daughter of two Chinese immigrants who also escaped persecution from Communist China. She was born in New York City, and then, unfortunately, she was orphaned at the age of 2. If it were not for some amazing nuns in Virginia, not too far from here, and the foster care system, I probably would not be sitting here today. She probably would not have made it to the age of 80 before she died of COVID-19.

What I learned from my mom—and, really, she taught me a lot about servant leadership because what she did was she poured all of her love that she really did not get from her birth parents into my sister, Jacqueline Tien Levin, and I. I learned how to be a great servant leader from my mother.

Senator CARPER. That is great.

Very briefly, Mr. Silvers, same question. What did you learn from your parents with respect to leadership?

Mr. SILVERS. Senator Carper, my parents, David and Patty, taught me to work very hard, that you get what you earn, and to try to be active in your community to make the world a better place.

Senator CARPER. Thank you.

Mr. Meyer.

Mr. MEYER. With regard to my parents, let me say that from my father I learned integrity. I have never known a person with more integrity than my father. We often even joke that we do not believe he has ever willingly jaywalked. But, more seriously—

Senator CARPER. I never trusted guys like that. [Laughter.]

Mr. MEYER. Whenever I am faced with a significant ethical or moral dilemma, I think about my father. He is also a model of modesty. He is a very accomplished, world-renowned historian. You would never know it by meeting him.

My mother is a model of resilience and a model for how to treat people. She is a wonderful person who has sympathy and empathy for everyone she meets, and she is a person, as I mentioned in passing in my opening statement, she is a rabbi. When she graduated from college, she could not become one because women could not be rabbis. She went back in her mid-forties and became one. That is no easy task. So I have a huge amount of admiration for her.

Senator CARPER. It sounds like your mother adheres to the Golden Rule: Treat other people the way we would want to be treated.

Or they say in the Jewish faith, I think, do not do unto others that you would not have done to you.

Mr. MEYER. Absolutely, sir.

Senator CARPER. All right. A fellow who knows a thing or two about the Golden Rule is our next Senator who is now recognized, James Lankford from the great State of Oklahoma.

#### **OPENING STATEMENT OF SENATOR LANKFORD**

Senator LANKFORD. Senator Carper, thank you very much. To the witnesses, thanks for going through this process. It is not a fun process, to say the least, but thanks for being willing to be able to step up and to be able to serve.

Mr. Silvers, you and I had a great conversation. Thanks for the time to be able to just pick your brain on some of these things. I wanted to be able to follow up. During the time when you had served in DHS during the Obama Administration, President Obama wrote a letter that came from DHS basically asking for a review of the Victims of Trafficking and Violence Protection Act (TVPPRA) and said this needs to be fixed. This was during that surge that was happening in 2014 and 2015. This letter came in 2014. I do not know if you had a part in writing that. Obviously, you were in the middle as In the role there as Deputy Chief of Staff at DHS. Do you agree that TVPPRA needs to be addressed? President Obama was at that spot during 2014. You may have been a part of, as I said, writing that letter. Do you think there is a need for readdressing that policy?

Mr. SILVERS. Senator, thank you, and I enjoyed our conversation as well. Senator, I am not familiar with that letter. I do know that TVPPRA generally plays an important role in setting up the framework for the treatment of unaccompanied alien children amongst others who come to our border and that that statute more broadly is meant to serve the very important objective of protecting victims of human trafficking. I am not familiar with—

Senator LANKFORD. Is it working as it was designed to at this point? And does it help us? Obviously, we have yet another crisis at the border at this point, and part of the challenge is this is not mostly from Mexico. This is from other than Mexico. Does TVPPRA play a role in this?

Mr. SILVERS. Senator, that is something that I would want to look into with my team if I am confirmed. I need to understand the issues better and the current operations, if confirmed.

Senator LANKFORD. OK. Fair enough.

Mr. SILVERS. I promise to look into it.

Senator LANKFORD. Mr. Meyer, there is a lot of conversation about temporary protected status. Just a few days ago now, the Biden administration extended temporary protected status to Haitians that are in the country, but did not just extend it to those who had already had it before, actually increased it from 2017 to the present and just looped everyone into it. That is a pretty broad definition of temporary protected status and expansion of this.

Are there any limits or boundaries to temporary protected status?

Mr. MEYER. Senator, thank you for the question. I have not studied the legalities of temporary protected status, at least not re-

cently, but I can say this: The word “temporary” is in the name. The law dictates presumably that it be temporary. If I were confirmed, I would absolutely be happy to look at the law regarding temporary protected status and get back to you and would be happy to work with you on it if—

Senator LANKFORD. You do not know at this point of any boundaries of who could be included in that and the time period? You have not tracked that? Because, obviously, that is a very big issue at this point affecting a lot of people.

Mr. MEYER. Correct, Senator. I have not had the opportunity to track that over the past 4½ years when I have been in private practice and away from DHS, but I would be happy to do so if I were confirmed.

Senator LANKFORD. One of the questions to be able to follow up what Senator Portman was talking about as well, talking about the oversight time period, and in previous roles how difficult it was to be able to get information. There was a House oversight hearing in 2016. This is not about getting information. I just want to get your understanding of this. You made the statement that, “Congress is entitled to oversight under the Constitution and under various laws. It is entitled to look into any matter that is a legitimate oversight that serves a legislative interest.”

Help me understand the term “is a legitimate oversight that serves a legislative interest”? And does the administration define that, or does Congress define that?

Mr. MEYER. Thanks for that question, Senator. I believe when I said that, I was not stating an opinion. I was doing my best to summarize the law as it has been stated by the courts on this. I think the answer to your question is ultimately it is the courts who decide that. But that is why it is important also what the Constitution and the courts have told us, that the Legislative and the Executive Branches need to engage in a process of accommodation. If I were confirmed as General Counsel, I would absolutely do all in my power to accommodate Congress in its oversight requests, because it is our job, wherever possible, to provide that information to Congress. It is dictated by our constitutional framework. It has been dictated by the courts. I as General Counsel would have it as my duty to follow the law.

Senator LANKFORD. So your default is the legislature has the understanding of what is a legislative interest; otherwise, they would not ask. But a court could step in and protect the Executive Branch. Is that where you are on this?

Mr. MEYER. Yes, my default is the Congress determines what is a legislative interest, absolutely.

Senator LANKFORD. OK. That is helpful.

Mr. Silvers, we did not get a chance to be able to talk about this today, and we had a long conversation, but there was an Inspector General investigation that happened on Mr. Mayorkas dealing with EB-5 applications. There was one that was two Democratic donors and a Huawei executive. It was while you were there. There seems to be some email threads relating to that where you were looped into some of those conversations and then at one point asked, “Get me out of this conversation unless there is a national security issue

here. Take me out of this thread,” dealing with that particular issue.

Were you part of the interview process with the Inspector General when the investigation was going on with Mr. Mayorkas and what was happening with these EB-5 folks and the Huawei executive trying to be able to get access?

Mr. SILVERS. Senator, thank you for the question. I was interviewed by the Inspector General as part of the investigation, as I understand it, as were no people involved in the EB-5 program. I cooperated fully, and the Inspector General never followed up with me with any concerns with respect to my conduct.

Senator LANKFORD. OK. Anything that you have learned through that process that would be different for the future?

Mr. SILVERS. Senator, I think that Secretary Mayorkas, after that report came out, acknowledged that the actions that he had taken had created a perception among some in U.S. Citizenship and Immigration Services (USCIS) that there were improprieties, and he took responsibility for that, and he took away lessons. From that episode, I took away lessons, too. I learned that when you are in leadership in a large organization, you have a large team, and they may perceive things, and it is important to set the right tone with your team and important to manage not just reality but perceptions as well. And I did learn—that is the take-away for me.

Senator LANKFORD. In this particular case, it was a Chinese executive that was trying to get access to the EB-5 process, that there were notifications to your office and other offices that this person looks like and this company looks like they are connected to Chinese intelligence, and they are trying to do this in multiple locations. There were some warnings that were coming to you as well. It was Hillary Rodham Clinton’s brother, Terry McAuliffe, who is former Governor of Virginia, and this Huawei executive all working together in the process. I think there is a reason that that would have the appearance of some improprieties in the process, so I do not think it was just it had some bad look to it. It does not smell right to anybody in the process. I think it is one of the challenges of leadership to be able to make sure—if it does not smell right, it is probably not right.

Mr. SILVERS. Senator, thank you. Respectfully, for most or nearly all, I believe, of the timeline of that case that was the subject of the IG report, I think I was not yet at the Department of Homeland Security. I am confident that if there were ever raised a concern about national security, Chinese counterintelligence threats, that the only line I would have taken would have been those need to be run to ground and decided by national security experts.

I take the threat from China incredibly seriously. I think it is a generational challenge to the national interests of this country, and I think everything I have done in government service is consistent with that. Everything I would do again in government service, if confirmed, will be consistent with that.

Senator LANKFORD. OK. Thank you.

Thank you, Mr. Chairman.

Chairman PETERS [presiding]. Thank you, Senator Lankford.

Senator Scott, you are recognized for your questions.



### OPENING STATEMENT OF SENATOR SCOTT

Senator SCOTT. Thank you, Chairman Peters. Thank you for holding this hearing. I thank each of you for your willingness to serve, and you guys, each of you, have backgrounds that reflect that you have the ability to do these jobs well. So thank you for your willingness to serve. I do not think it is easy at a time where everything seems to be pretty partisan up here to serve, so I wish you the best of luck.

It has been important to me that I have gone to the border. I think a lot of us have gone to the border. I think it is important that the President goes to the border. I do not understand why the President has not gone to the border and talked to Border Patrol and gotten information on the ground why we have the surge that we have now.

It appears to me it is a crisis. I know the White House does not want to call it that, but it sure appears to be. I just want to let you all know I plan on holding new nominations not because of your qualifications, but until the President goes to the border, I am going to hold the nominations, hopefully with the goal that the President will go see what is going on at the border and hopefully take more action.

I think the first question I have, the thing that surprised me since I have been up here is that it does not appear as much in the Federal Government people are committed to following the law. They can pick and choose what laws they want to enforce. First off, two things. One, are you committed to following the law? Whatever the law is, whether we like it or not, we have to follow the law, and also be as transparent as possible. All of us on both sides of the aisle, we want information to be able to do our jobs. If I could hear from each of you?

Mr. TIEN. Yes, sir, Senator Scott, this is John Tien. The answer to both your questions are yes, sir, absolutely, sir. Yes, sir, absolutely, sir.

Mr. SILVERS. Senator Scott, yes, of course, I commit to following the law if confirmed. With respect to congressional oversight, when I was in the front office of Jeh Johnson, the former Secretary, he said something once to me. He said, "You know, Congress is like our board of directors. They are not at the office every day, but we report to them, and they can change our direction if they want to. We need to treat them with respect." And that stuck with me, and I commit to you, if confirmed, I will follow that approach.

Senator SCOTT. Thanks.

Mr. MEYER. I completely agree. I have never heard about that story, but I think that is a great analogy. I will obviously and it is, in particular, my duty as General Counsel to follow the law. I think to a great extent, the law requires transparency. But even to the extent it does not, I think transparency is very important.

Senator SCOTT. Actually, I was Governor for 8 years. It is easier. If you give everybody everything, it is hard for people to complain, right?

Mr. MEYER. I agree.

Senator SCOTT. If you say, look, this is what the law is, if you do not like the law, then I would say, "Go to the legislature. Change the law. I am not doing that." I do not think they changed

what we enforced when I was Governor of Florida, so I do not believe in it.

Mr. Tien, how comfortable do you feel that FEMA will be ready to deal with hurricane season? In my 8 years, we had four major hurricanes. FEMA was a great partner. They really did a good job. I think I told you the lady that runs the Southeast, Gracia Szczech, is outstanding. FEMA has been stretched. Homeland Security I think has been stretched with COVID, the border. How comfortable are you that FEMA can do their job if we have a hurricane this year?

Mr. TIEN. Sir, the first thing I—Senator Scott, thank you very much for that question. The first thing I would like to say is to take my hat off to salute the tens of thousands of employees who are in FEMA. I had the opportunity about a month ago to go down to Mercedes-Benz Stadium. I accompanied my daughter, who was getting her first and then eventually her second Pfizer shot at that mass vaccination site, and it was both impressive and so inspiring to see FEMA, the private sector, Mercedes-Benz Stadium and everybody who is involved in that, working together to support the United States of America and to help us recover from this global pandemic. So my hat is off to FEMA, and I agree, they have so many challenges, not just now but always.

I am a private citizen, and as you know, I am not privy to everything that FEMA has going on. But given my short interactions with them, not just in terms of Mercedes-Benz Stadium but across some of my exposure to them during my preparatory briefs, I believe in FEMA. I believe in those employees. I believe in the newly confirmed Director of FEMA. If confirmed, I look forward to working more with you and your team, especially given your State, Florida, and your exposure to hurricanes certainly. Thank you, Senator.

Senator SCOTT. Yes, it was a real challenge. We had four of them. I learned a lot. I learned in every one of them. I am sure you will learn as you go through all these disasters.

Can we talk a little bit about China and the slave labor? In your roles, is there anything that you can do to try to stop the amount of products that are produced in Communist China with slave labor coming into the United States?

Mr. TIEN. Senator Scott, when I think about what China's responsibility is in the world and what their responsibility is as a global leader in the world, right now—and, again, I say this as a private citizen—I am not privy to any intelligence. I am not privy to all of the different analyses, whether it is in Homeland Security or other places. But China understandably acts in their best national interest. When they act in their best national interest and it becomes a threat to the United States of America, I think it is the responsibility of anybody who has taken the oath of office, the same one that you took, the same one I took when I was in the United States Army to support and defend the Constitution of the United States of America against all enemies, foreign and domestic. We have a responsibility, if confirmed, to then deal with that, to include any use of slave labor as you have characterized it.

Mr. SILVERS. Senator, I would be happy to answer that question. I saw, I believe it was in 2020, that Customs and Border Protection imposed orders restricting the importation of tomatoes and cotton

from Xinjiang Province that are generated with forced labor. I strongly support that kind of action. What is happening in Xinjiang Province is a crime against humanity, and I believe it is the moral obligation of the United States to take action and not to allow profit from that kind of abhorrent activity or conduct by the Chinese Government. I would work very closely with you and others, if confirmed, to take on that challenge and others coming from the Chinese Government threat streams, if confirmed.

Senator SCOTT. Thanks.

Mr. MEYER. And to add to what Mr. Silvers said, as he referenced, I think a key entity on this subject is Customs and Border Protection, because if those products are coming through and if they are illegal, CBP has the authority to seize them and to prevent them from coming in and thereby to harm the people who are making money off of this slave labor and forced labor. So that is absolutely a place where we can focus. And like Mr. Silvers, I would welcome the opportunity to work with you on it to the extent we want to try and strengthen those laws.

Senator SCOTT. Thanks. Thanks for your willingness to serve.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Scott.

Senator Hassan, you are just back from the votes. I will give you a moment here, but you will be recognized for your questions.

#### **OPENING STATEMENT OF SENATOR HASSAN**

Senator HASSAN. Thank you so much, Mr. Chair. I really appreciate this hearing, and I thank all of our nominees not only for being here this morning and for your testimony and statements, but for your past service and your willingness to serve again. I join the rest of my colleagues in thanking your families, too, because nobody does this by themselves.

If you are confirmed, I also really look forward to working with all of you to keep our homeland safe, secure, and free.

I want to start with a question to you, Colonel Tien. Thank you so much for your distinguished previous service and your willingness to serve again. The Deputy Secretary of the Department of Homeland Security frequently acts as chief operating officer for the Department, helping to ensure that the various operational and support offices all function cohesively. DHS must manage multi-million-dollar procurements and staff more than 250,000 positions throughout the world.

The Deputy Secretary must also manage a wide array of mission areas and support functions and dive deep into key policy issues and operational requirements. Colonel, can you tell us about how your background in the military, with the National Security Council, and managing within a complex organization like Citigroup prepares you to serve in this position?

Mr. TIEN. Thank you very much, Senator Hassan. I appreciate the question. When I think back across my experiences in the Army, at the Executive Office of the President (EOP) when I was a White House fellow at the U.S. Trade Representative Office, two different tours, one with the Bush Administration, one with the Obama Administration, on the National Security Council, and then really my last 10 years, there is no specific template that I am

going to bring if I am confirmed as the Deputy Secretary, a specific template that I would bring from the Army or a specific template I would bring from the NSC or a specific template from Citigroup.

I think for any leader who has been nominated for a position like this, it is the responsibility and it is the obligation for that leader and for that manager to think about how to best synthesize those experiences.

Where I would come to this particular role, if I was confirmed, in particular as the chief operating officer, I would think about really two things and then a third sort of tactical thing. But the two philosophical things are that I would be a servant leader, No. 1. I spoke about that a little bit earlier. Servant leaders empower, enable, and support and make sure that their organization and that everybody in those subordinate component organizations, the 250,000 that you mentioned, are enabled, empowered, and supported. The second would be a management style, right? You cannot just be a leader, especially in an organization as diverse as you described. You also have to be a manager. I think given the fact that I have not, like my fellow nominees here, I have not served in DHS prior. I have always been, I believe, I certainly have aspired to be an inclusive and collaborative manager, an inclusive and collaborative managers, because those 250,000 employees that you reference, they are the ones who are on the ground, who are on the front lines, and who have the expert knowledge. I would want to make sure I was inclusive and collaborative with them.

The third thing I will close with, it is more of a tactical approach, which is given how disparate and diverse the Department of Homeland Security is, spread across 22 different operational components, there is also opportunity. There is opportunity, and we can always improve. We can always evolve in terms of how the Department integrates with each other, communicates with each other, ensures interoperability, in order to create the most optimal result for the Department to accomplish the mission.

Senator HASSAN. Thank you for that. I will just add that also, in addition to internal stakeholders, you have external stakeholders, too. Part of the mission here is making sure you are collaborating and communicating well with them and empowering the internal stakeholders to do the same. I look forward to seeing you in that role.

I want to turn to an issue with you, Mr. Silvers, that is a very specific one I am hearing a lot about from my constituents in New Hampshire right now. There are just a lot of frustration with the ongoing limitations on travel across the U.S.-Canadian border due to the COVID-19 pandemic. We have families and business folks with relationships that, before the pandemic, were going back and forth across the border all the time.

As Under Secretary for Strategy, Policy, and Plans, you will play an important role in leading and coordinating international engagements at the Department of Homeland Security. If confirmed, Mr. Silvers, what steps would you take in order to safely lift the limitations on travel across the Northern Border?

Mr. SILVERS. Senator, thank you very much. That is an incredibly important question, and if I am confirmed, it will be amongst my highest early priorities to address the resumption of non-

essential travel on our Northern Border and our Southern Border. The pandemic has upended the way of life in our border communities. People in those communities go to school, work, visit property, visit friends in the ordinary course, and they cannot do that right now.

I believe that—obviously, we are in the middle of a public health crisis, and the science has to lead on these kinds of questions of when it is safe to resume. But I believe in the meantime it is essential that the U.S. Government and the Government of Canada be planning for reopening so that when the science allows for it, those restrictions can be relaxed as quickly as possible so that life can get as close to normal as possible quickly. I commit to you that, if I am confirmed, I will engage early with my government of Canada counterparts to address these issues.

Senator HASSAN. Thank you.

Mr. Meyer, I want to follow up on a theme of questions you heard from Ranking Member Portman. The Office of General Counsel is tasked with facilitating timely responses to congressional requests for information from the Department of Homeland Security. The last administration frequently struggled to fulfill that obligation. If confirmed, Mr. Meyer, what steps would you take to facilitate and ensure timely and thorough answers from DHS to congressional inquiries?

Mr. MEYER. Thanks for that question, Senator. Several initial steps. The first, of course, is to arrive, if I am confirmed, and to see what the current state of play is with regard to oversight response. I have not been there. I was not there in the prior administration; I have not been there in this administration. The first thing to do is an assessment.

Second, what you need to do is simply to prioritize it. That involves not only sending a message throughout the Department that oversight response is a priority, but it also involves devoting resources, making sure you have the personnel, making sure you have the technology available to gather the documents and the information that you need and transmit it. Unfortunately, that has not always been a given at the Department of Homeland Security. We need to do that.

And then, last, I think communication, to reach out to the Hill and say, OK, what do you need? What are you dissatisfied with? What can we do to improve our work? It is vitally important to do that.

Senator HASSAN. Thank you very much.

Thank you, Mr. Chair.

Chairman PETERS. Thank you, Senator Hassan.

The Chair recognizes Senator Ossoff for your questions.

#### **OPENING STATEMENT OF SENATOR OSSOFF**

Senator OSSOFF. Thank you, Mr. Chairman. Thank you to our nominees. Congratulations on your nominations. Thanks for your willingness to serve.

Mr. Tien, a fellow Georgian, the recent ransomware attack targeting the Colonial Pipeline has once again made clear how vital it is that we secure our critical infrastructure. As you well know as a Georgian, the port of Savannah is a critical site not just in

Georgia's infrastructure but in our national infrastructure, one of the fastest-growing ports in the world, the largest single terminal container facility in the Western Hemisphere, third busiest port in the country.

If confirmed, will you commit to meeting with me and officials from Savannah and the Georgia Ports Authority to discuss how DHS can most effectively ensure the cybersecurity of the port of Savannah and other critical infrastructure nationwide?

Mr. TIEN. Senator Ossoff, thank you very much for the question. The first thing I will say I will absolutely commit to meeting with you and the officials that you mentioned in our home State. You and I have had these discussions before, but as we know, the port of Savannah is critical to all of the different free trade that we have discussed. It is also critically important to the 3rd Infantry Division at Fort Stewart. And so for so many different reasons, those being one of—port entries being one of the major parts of our 16 critical infrastructure sectors, it absolutely is one of the things that I would make a priority, and I would look forward to traveling with you to see the port of Savannah and meet with those officials.

Senator OSSOFF. Thank you, Mr. Tien.

Mr. Meyer, since I joined this Committee, it has become clear to me that DHS has had and continues to have serious issues responding to congressional requests, including from the Permanent Subcommittee on Investigations, which I chair, and this has been an issue under Democratic and Republican administrations, including during your previous tenure at the Office of General Counsel. One common and troubling problem has been the refusal of DHS and its components to produce documents concerning matters that may also be the subject of ongoing litigation or other Federal investigations.

In your view, Mr. Meyer, does the existence of related ongoing litigation or investigation provide a valid reason for DHS not to respond to congressional requests?

Mr. MEYER. In my view, Senator Ossoff, the first and default position of DHS should always be to provide the information that Congress is asking for, including the Permanent Subcommittee on Investigations, which has a well-deserved and well-earned reputation for substantive and bipartisan oversight.

As you know, when litigation is involved, it typically, almost virtually always involves the equities of other agencies, in particular the Department of Justice but often others as well. It is the role of DHS and the DHS OGC to coordinate with those agencies and work through their equities as well. But I can tell you that if I were confirmed as the General Counsel at the Department of Homeland Security, my default would always be to provide the information if at all possible.

Senator OSSOFF. With respect, Mr. Meyer, when it comes to investigations, for example, an ongoing investigation that the Subcommittee has undertaken into serious allegations of abuse of detainees at privately run detention facilities under U.S. Immigration and Customs Enforcement (ICE) jurisdiction, the equities of other Executive Branch departments, whether that is relevant to our oversight efforts is a decision that we will make. I want to ask you again, does the existence of related ongoing litigation or investiga-

tions provide a valid reason for DHS not to respond to congressional requests for information?

Mr. MEYER. I am not familiar with that investigation, Senator. I would be happy, if confirmed, to look into it and would do all within my power to produce the information you are seeking. But I cannot, without familiarity with that investigation or a particular litigation, give you an answer to that question.

Senator OSSOFF. Mr. Meyer, I appreciate that, but just to be clear, that actually was not my question regarding that specific investigation. My question is: Does the existence of related ongoing litigation or investigation about any matter provide a valid reason for DHS not to respond to congressional requests for information?

Mr. MEYER. I believe historically, Senator Ossoff, the Executive Branch, going back decades, administrations on both sides of the aisle, has at times withheld information relating to litigation. I believe that is a longstanding position of the Executive Branch. It is not something I would have control over. To the extent I would, though, as I say, my default would always be to produce documents and produce information.

Senator OSSOFF. Thank you, Mr. Meyer, and the pledge from you to do everything you can to facilitate the production of documents and ensure, in particular, ICE cooperation with our investigation and other investigations we may undertake, including through testimony by ICE officials, including by ensuring that ICE facilitates testimony by ICE contractors, would make more comfortable supporting your nomination. So can you pledge today to work with my staff to ensure that we quickly receive the documents and cooperation we need with respect to these ongoing investigation of serious alleged abuses of detainees at ICE facilities?

Mr. MEYER. Absolutely, and I welcome the opportunity.

Senator OSSOFF. Thank you so much, Mr. Meyer.

Mr. Chairman, I yield.

Chairman PETERS. Thank you, Senator Ossoff.

Senator Rosen, you are recognized for your questions.

#### **OPENING STATEMENT OF SENATOR ROSEN**

Senator ROSEN. Thank you. I want to thank all the nominees here for your willingness to serve. The Department of Homeland Security is an agency that is vital, and we appreciate your willingness to serve.

I want to talk a little bit about combating anti-Semitism. Mr. Silvers, like many Americans, I am alarmed. I am deeply concerned about the recent rise in anti-Semitic incidents, not just in the United States but, of course, all around the world. It is unfortunately not a new trend.

Over the past few years, it has just been alarming, and it has included one of the deadliest attacks against a Jewish community in modern American history of the Tree of Life Synagogue in Pittsburgh. The Nonprofit Security Grant Program (NSPG) that makes FEMA grants eligible to nonprofit organizations like synagogues, churches, Jewish community centers, other community centers for target hardening and other security enhancements that help prevent against these terrorist attacks.

Unfortunately, in fiscal year (FY) 2021, in the DHS budget, the last administration failed to request a specific funding amount for the program. Mr. Silvers, will you advocate for future DHS budget requests to include a specific allocation for the Nonprofit Security Grant Program that is sufficient to meet the growing needs of this program to keep houses of worship secure?

Mr. SILVERS. Senator Rosen, thank you. I share your alarm and horror at the rise in anti-Semitism, anti-Semitic violence, and the rise of domestic violent extremism more generally. This is an issue that is personal to me. When I was last at the Department, I played a strong role working with Jewish community stakeholders and other faith-based community stakeholders to strengthen the Nonprofit Security Grant Program, which I think is among the most essential programs that the Department administers. It provides critical resources to faith-based and other nonprofit organizations around the country so that they can harden their defenses, protect themselves, their congregants, and others.

Now in my personal capacity, I serve on the board of directors of the Secure Community Network (SCN), which is the Jewish community's nonprofit security organization. I absolutely commit to you that, if I am confirmed, I will work to strengthen the Nonprofit Security Grant Program in any way I can and even further. The good news is it has been strengthened. When I was at DHS, I think that the funding level was something around \$20 or \$25 million a year. It is now at \$180 million a year. I was a volunteer on the Biden campaign. I helped work on the campaign pledge to strengthen the Nonprofit Security Grant Program and to convene faith-based communities, including the Jewish community, including Muslim, Christian, Hindu, Sikh, and other communities to assess that program and see if it is meeting their needs.

Senator ROSEN. Thank you. I appreciate that because as founder and co-chair with Senator Lankford of the first ever Senator Bipartisan Task Force for Combating Anti-Semitism, I would like to invite you, Mr. Silvers, to collaborate with us—and so far we have 54 members of the Senate on our task force—to combat growing anti-Semitism and hate broadly across the United States in every single community.

I have some other questions, but I was just hoping I would get your commitment that you will engage with our task force to further our shared goal of keeping Americans safe.

Mr. SILVERS. You have it, Senator. Thank you.

Senator ROSEN. Mr. Silvers, yes?

Mr. SILVERS. You have my commitment, Senator. Thank you very much.

Senator ROSEN. Thank you.

I want to move on. I am going to continue to speak with you about our cyber workforce, because we have really a huge shortage in our workforce. Of course, recent unprecedented cyber attacks like the SolarWinds and Colonial Pipeline, they demonstrate the urgency of equipping the U.S. Government with cyber talent across the board. This is needed to prevent and respond to attacks. And so to address this gap, I recently introduced bipartisan legislation with Senator Blackburn establishing a Civilian Cybersecurity Reserve at both DHS and Department of Defense (DOD). This bill au-



thorizes civilian cybersecurity personnel to serve in temporary positions as Federal civil service employees to supplement existing agency cybersecurity personnel.

Mr. Silvers, if confirmed, will you work with me to ensure that DHS can mobilize and really surge up cybersecurity capacity at our times of greatest need?

Mr. SILVERS. Senator Rosen, absolutely. I believe the shortfall of cybersecurity talent in this country is a national security issue. I will look forward, if confirmed, to working with you and other Members in any way possible to create pipelines of cyber talent to benefit the DHS workforce and also to benefit the private sector cybersecurity workforce. I think it is a wonderful and laudatory goal. I look forward to working with you on that, if confirmed.

Senator ROSEN. Thank you. The last thing I would like to ask you about is a little bit about our Urban Area Security Initiative (UASI). It is a program that is critically important to law enforcement in Las Vegas and the surrounding areas, and the funding level depends in part on population density, special events, and other tourism-related factors.

In normal times, the Las Vegas Strip, our downtown areas, has some of the busiest hotels in the world with 50 million people coming through. We host events like the consumer electronic show and so many others. But with the pandemic that shuttered our economy and the closure of the Las Vegas Strip and, of course, the dropoff in tourism and international tourism still yet to come back, I am concerned this is going to negatively impact that UASI formula and Las Vegas' allocation. We use that to fund long-term projects. I am concerned that our city may lose funding because of the pandemic.

We have been in touch with FEMA about this. FEMA has been really responsive, so that is positive. But, Mr. Silvers, can you commit to taking a look at the funding formula? Any exceptions we may have to make in light of the pandemic for the last year would not be reflective of what we would need going forward. I want to be sure that we have reliable funding to keep our Las Vegas Strip, downtown, all of those 50-million-plus tourists safe.

Mr. SILVERS. Senator, absolutely. You have my commitment to work with you on that issue, if I am confirmed. I also, if confirmed, would be pleased to engage with FEMA Administrator Criswell on that issue. I well understand the concern for you and your State.

Senator ROSEN. Thank you. I so appreciate all of you being here today. I yield back.

Chairman PETERS. Thank you, Senator Rosen.

Senator Hawley, you are now recognized for your questions.

#### **OPENING STATEMENT OF SENATOR HAWLEY**

Senator HAWLEY. Thank you very much, Mr. Chairman, and thanks to all the witnesses for being here. Congratulations on your nominations.

Mr. Tien, if I could just start with you, let me start with a pretty fundamental question. Do you believe that illegal entry at our borders, any of our borders, should remain a crime? There is debate about this, so I would just like to get your view on it. Do you think it ought to remain a crime?

Mr. TIEN. Senator Hawley, thank you very much for that question. When I think about when I was nominated for this role, the very first thing I thought about the Department of Homeland Security was that its main mission is to safeguard and protect our homeland, and it does it through 240,000 great employees, folks who are on the border, CBP and others, and part of that mission is to enforce our Nation's laws. I absolutely support enforcing our Nation's laws, and if confirmed, I would look forward to reviewing all of the different elements, some of them the one you just discussed, to understand what are all the different options that are on the table, to include potentially the one you just discussed.

Senator HAWLEY. So you do not have a position now, you are saying? You are not ready to say today that you think that illegal entry ought to remain a crime?

Mr. TIEN. As a private citizen and then, if confirmed, I would absolutely commit to enforcing our Nation's laws for sure.

Senator HAWLEY. I am asking if you think as a policy matter it ought to remain a crime. It is currently a crime. There is a lot of debate about whether or not it should remain a crime. Do you think it should remain a crime? That is my question.

Mr. TIEN. Again, I just want to restate, Senator Hawley, respectfully, that if confirmed, I would absolutely inform our Nation's laws.

Senator HAWLEY. OK. In other words, you are not going to answer my question about it remaining a crime. That is interesting. I think it is not a particularly difficult question. It is one I have posed to multiple nominees. I think it is telling. I think it is very telling.

I am asking you this because I think it is vital that DHS enforce our immigration laws, also support law enforcement as they work to control surges in illegal migration like we are seeing right now. I am worried that it is not happening, and that is why I am asking. Just this Tuesday, the Washington Post reported ICE agents saying—I am quoting now—"It feels like the administration does not have our backs."

Under the new administration's rules restricting enforcement, ICE has carried out fewer than 3,000 deportations last month, which is a record low. I think it is critical that ICE be able to continue to execute its mission unhindered and ensure that crossing the border illegally carries consequences.

So let me ask you this: If confirmed, will you fully and completely support ICE in its mission of interior enforcement?

Mr. TIEN. If confirmed, Senator Hawley, one of my roles—and I discussed it in my opening statement—will be to be the chief operating officer for the Department of Homeland Security, and in that role my mission and the way I tend to lead and tend to manage is to ensure that I would empower, enable, and support all of the components, to include ICE, in the execution of their mission.

Senator HAWLEY. OK, good. So you would fully and completely support them and their mission of interior enforcement. That is a yes.

Mr. TIEN. My statement is that, if confirmed, I would support ICE in their full execution of their mission at that time.

Senator HAWLEY. OK. I think that is a yes. Maybe we can try for some yes or no answers. In the first 4 months of 2021, we had over 530,000 illegal crossing attempts at the border. Do you think that this is an acceptable level of illegal entries?

Mr. TIEN. Senator Hawley, thanks for that statement and for that question. When I think about what is happening at the Southwest Border, the first thing I think about—and it is a personal one. I am a private citizen right now. But as a private citizen, I think about my family's escape from Communist China. I think about the fact that they were in a country that they wanted to stay in, frankly, Nationalist China. Then World War II happened, and Communist China came in, and it was likely they were going to be persecuted. When I think about what has happened at the Southwest Border, I think about all those families who are coming from the Northern Triangle who are escaping likely persecution. Why would they want to leave that country? As a private citizen, that is where my first feelings go. I view the fact that they have taken that step as one of the things that we will probably have to resolve.

Again, I say this as a private citizen. That is my view in terms of what is going on at the Southwest Border. I know it is a personal one, and if confirmed, I would look forward to working with you and understanding your viewpoints on what is happening at the Southwest Border.

Senator HAWLEY. I hear you saying that you are not particularly concerned about this level of illegal migration.

Mr. TIEN. What I am saying is that, if confirmed as the Deputy Secretary of Homeland Security, in the role of the chief operating officer, I would absolutely do everything I can to enable, empower, and support anybody who is down at the Southwest Border to execute their mission.

Senator HAWLEY. I am trying to understand what your viewpoints are here, and you are rather systematically evading my questions. So you are not being confirmed to a judgeship where you have to be neutral. You are being confirmed to a policy role, so let me just try one more time so the record can reflect. I am asking you, there have been 530,000 illegal attempts, crossing attempts at the border in the first 4 months of 2021. I want to know if you think that that is a problem. Your answer suggests you do not think it is a problem because you understand why these people are coming. I did not hear a word about the cartels, by the way. I did not hear a word about human trafficking. I did not hear a word about drug smuggling. I did not hear a word about any of that, which, frankly, worries me. But let us try again.

Do you think it is a problem or not?

Mr. TIEN. If confirmed, Senator Hawley, my view is—and I think you know about my biography and my experiences. I think you heard my response to Senator Hassan before. It is a tough situation at the Southwest Border. It is a tough situation for all those families who are escaping persecution from the Northern Triangle and coming there. There are thousands—you have mentioned statistics. There are thousands of migrants who have come to the border. I have a history, and the reason I mentioned my bio before, Senator Hawley, is I have a history, I have the experience of being air dropped—I put it in air quotes—“air dropped” into difficult and

tough situations. I believe that, if confirmed as the Deputy Secretary, one of my roles, again, as the chief operating officer is to empower, enable, and support those who are executing the mission, the 240,000 employees—they are not all, obviously, at the border—who are executing that mission.

Senator HAWLEY. All I can say to that is the fact that you do not seem to be concerned about—you say it is a complicated situation. What is not complicated about it is that the cartels control the Southern Border. What is not complicated about it is that every person who crosses that Southern Border is doing so with the help of the cartels. The cartels are exploiting these people. They are exploiting them. They are exploiting children. They are exploiting migrants. They are running drugs that are flooding into my State and killing people in my State. That is not complicated. I would like to see some appreciation of the fact that the exploitation of children that is happening at our Southern Border, the smuggling of children that is happening at our Southern Border, and the drugs that are pouring across that border and into States like mine is a serious problem that you take seriously and want to do something about. But I have not heard—I have given you multiple chances now. We have consumed 7 minutes, and I have not heard a word of that from you, which, frankly, I think is unbelievable.

I have questions for the rest of you. I will give those to your for the record.<sup>1</sup>

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Senator Hawley.

Senator Padilla, you are recognized for your questions.

#### **OPENING STATEMENT OF SENATOR PADILLA**

Senator PADILLA. Thank you, Mr. Chairman. A few questions.

I want to start with Mr. Silvers, and let me preface it by saying with a background in engineering, I constantly look to data to help inform my thinking and policymaking, so I took particular note in an answer on your questionnaire where you stated that collecting and disseminating immigration-related data should be an important priority, not just for me but for all my colleagues. You also committed to working with DHS' operational components to improve data collection and dissemination.

I cannot emphasize enough the importance of streamlining data collection and dissemination in DHS and its component agencies. DHS' inconsistency in collecting and disseminating data in recent years has repeatedly led to confusion in this Committee.

For example, charts were used both in this Committee and on the floor of the Senate to demonstrate supposedly the number of individuals crossing the border over the last year. The graphics that were used showed apprehensions of immigrants dipping shortly after the Trump administration ordered expulsions of migrants under Title 42.

The problem, according to immigration experts, was that while DHS' data showed border encounters and apprehensions going down at this point, DHS actually stopped counting Title 42 expulsions as "apprehensions." The data, therefore, was misleading.

<sup>1</sup> The questions from Senator Hawley appear in the Appendix on page 214 and 282.

DHS' charge in data collection and dissemination is creating misinformation that only makes it more difficult for the public to understand and, sadly, for policymakers to understand as we are seeking to legislate important data to get a true understanding of what is happening at the border.

So can you just briefly discuss how you would plan to improve and streamline, again, the collection and dissemination of important data within DHS and its component agencies?

Mr. SILVERS. Senator Padilla, thank you very much. It is a really important issue, because I believe in the adage that you cannot manage it if you cannot measure it. I think that collecting immigration-related data, border-related data, is just a critical component of a comprehensive border management strategy and a comprehensive immigration system administration strategy.

The Office of Immigration Statistics is at DHS. I am a private citizen now, but my understanding is that recently they have made tremendous strides and are doing a lot of innovative work to collect and disseminate those kinds of metrics. The components—ICE, Customs and Border Protection, U.S. Citizenship and Immigration Services—also collect and disseminate their own data. I can absolutely commit to you that, if I am confirmed, I will work together with those DHS offices and agencies to streamline, improve data collection and dissemination. I think you need that to do your job overseeing the immigration and border system as a Member of Congress. I would commit to working with you as well.

Senator PADILLA. Thank you. Let me pull out another specific area that comes to mind when we look at data, beginning with two data points. In fiscal year 2010, 11,230 servicemembers were naturalized, immigrants serving that became United States citizens. In contrast, that number in fiscal year 2020 was 4,530, more than a 50-percent drop. A number of policy decisions made under the Trump administration has resulted in the sharp drop in the number of military naturalizations. For example, the process for military members to receive a certification of honorable service to expedite their naturalization application was made more onerous and, again, fewer servicemembers stationed abroad were able to have their applications processed due to the closing of USCIS offices. So affording women and men who are willing to serve and in some cases paid the ultimate sacrifice in defense of our Nation and our democracy, they deserve a fair pathway to citizenship and naturalization.

So what steps can USCIS take in conjunction with the Department of Defense to help facilitate military naturalizations, not make them more onerous?

Mr. SILVERS. Senator Padilla, I have attended military naturalization ceremonies. They are amongst the most beautiful events that the U.S. Government holds. To see people who are fighting, putting their lives on the line for a country that is not yet their own but that they aspire to be a part of, and then to take that step is a pure and beautiful thing. It is also an important component of keeping a fighting force and maintaining a strong fighting force with those who are ready to serve ably. If I am confirmed, I commit to you to removing any unnecessary barrier to members, men and

women in our military services taking that next step and naturalizing to become United States citizens.

Senator PADILLA. I look forward to working with you on that.

A final question, Mr. Chair. This one is for Colonel Tien. I know, Mr. Chair, that you touched earlier in the hearing on the issue of domestic terrorism, but I would like to ask more specifically about the DHS task force that has been established. In April, the Department announced it would conduct an internal review to root out extremism, and specifically the review would focus on rooting out white supremacy and domestic violent extremism, including in Customs and Border Protection and Immigration and Customs Enforcement.

I am reminded of the news we learned in 2019 where a Facebook group that included participation of 9,500 current and former Border Patrol agents, where they made jokes about migrant deaths, circulated vile images, and made disrespectful comments against female Members of Congress who visited detention centers, when that group became public.

Colonel Tien, could you discuss the importance of this review for the Department's internal culture and how a transparent review affects the Department's public image?

Mr. TIEN. Senator Padilla, thank you very much for that question. The first thing I will say is I am very glad—again, this is as a private citizen—that Secretary Mayorkas has taken this step to conduct an internal DHS review on domestic violent extremism, very similar to what the Department of Defense has done around their stand-down for very similar purposes. I will say again, as a private citizen, my individual opinion as it stands now is racism, white supremacy, hateful ideology, especially when it converts and becomes action and breaks the law, is an anathema to the very ideals and the very principles of what makes this Nation so unique, so differentiated in the world. It is abhorrent.

In terms of the DHS internal review, there is, from what I understand—again, I am not privy; I am not in the Department now. But from what I understand, it is a review not about thought control. It is about action control, and it is about making sure—again, I say this as a private citizen. I have not been privy to all of the different elements of how they are doing the review. It is really about saying there is no place for this kind of white supremacy, this kind of racist and hateful ideologies, especially if it converts into action and especially if it breaks the law. If confirmed, Senator, you have my commitment to ensure that that DHS internal review is fully supported.

Senator PADILLA. Thank you very much.

Thank you, Mr. Chair.

Chairman PETERS. Thank you, Senator Padilla.

Senator Sinema, you are recognized for your questions.

#### **OPENING STATEMENT OF SENATOR SINEMA**

Senator SINEMA. I appreciate the nominees joining us today, and I thank them for their interest in serving our Nation. DHS plays a key role in several issues of critical importance to Arizona, including border security and management, domestic and inter-

national terrorism, and cybersecurity. I look forward to addressing those issues today.

My first question is for Colonel Tien. Our Nation faces a crisis at our Southwest Border. Ensuring that U.S. Customs and Border Protection, Immigration and Customs Enforcement, and the entire DHS organization are properly coordinating and efficiently working with State, local, and tribal partners is an important part of the Deputy Secretary's portfolio and will make Arizona safer.

How will your previous experience help you improve DHS efficiency and interagency cooperation? What steps do you want to take, if confirmed, to ensure DHS components are successfully working with other Federal partners such as the Department of Health and Human Services (HHS) and State local, and tribal entities?

Mr. TIEN. Senator Sinema, thank you very much for that question. One of the things of my experiences across the last 34 years has been in very different types of organizations: in the United States Army, in the National Security Council, and certainly over the last 10 years within Citigroup in the financial services sector. Across all those different times, I have had opportunities to have to create integration, to increase and improve integration, interoperability, and communications. These are the types of experiences that I would attempt to establish within the Department of Homeland Security.

In particular, I think about my time as a battalion commander leading those 1,100 great soldiers, sailors, airmen, and marines in Iraq when we came in, and it was a very different kind of fight in 2006 and 2007 and the counterinsurgency warfare in Iraq in Tal Afar and Ramadi, and we needed to integrate not just with other army units. We needed to integrate across joint operations. We needed to integrate across the interagency, the great colleagues from State and United States Agency for International Development (USAID), and we had to do it under some incredibly difficult conditions.

You spoke about the situation at the Southwest Border. First, let me just say to you I know obviously Arizona is a border State. I know it affects you very locally, very personally, and so I appreciate everything that you and your colleagues are doing to secure the border there.

The last thing I will say is the Department of Homeland Security was created partially—or, actually much in response to the fact that there needed to be better integration, better interoperability, and better communications. And given, if confirmed, my role as the chief operating officer of the Department of Homeland Security, I see that, the very things that you spoke about, the task and purpose, to do that integration, to improve the interoperability, to improve that communication across the interagency down to Federal, State, local, tribal, and territorial as one of the main priorities that I would have.

Thank you, Senator.

Senator SINEMA. Following up on this general topic with Mr. Silvers, improving coordination between DHS component agencies must be a key goal for the Office of Strategy, Policy, and Plans. In Arizona, we have seen challenges arise due to a lack of coordina-

tion between ICE and CBP about how best to ensure migrants are treated fairly and humanely. Now, this has made our communities less safe and our borders less secure. If confirmed, what initial steps will you take to improve communication and coordination between ICE and CBP?

Mr. SILVERS. Senator Sinema, thank you very much for that question. The three immigration agencies within DHS—USCIS, ICE, and CBP—all play a critical and integrated role in the immigration and border broader system, and it is just imperative that they coordinate closely with each other. I am not familiar with the current opportunities and challenges for that, sitting here as a private citizens or the specific concerns you raise now. I commit to you—I have seen—in my last period of service at DHS, I have seen very effective coordination between those agencies on critical issues, and I commit to you to doing everything in my power to convene those agencies, if confirmed, and to ensure good coordination. I am sure Secretary Mayorkas is already doing much in that regard, and if confirmed, I would join in that effort.

Senator SINEMA. Thanks.

I would like to return to Colonel Tien here, focusing on border security specifically, DHS faces a wide variety of terrain across the Southwest Border. In Arizona alone, DHS has had to secure the border in urban environments such as Nogales, deserts around Yuma, and mountainous terrain near New Mexico.

So what steps do you plan to take to ensure proper analysis and data drives resources, infrastructure, and operational decisions regarding border security needs and goals?

Mr. TIEN. Thank you very much, Senator Sinema, for that question. Again, I know that Iraq is not Arizona, obviously, but as you were asking the question, my first thought went to the comparison between very different terrains that my unit in Iraq had to deal with. We also had a border with Syria. We had urban terrain in Tal Afar, and we had rolling hills, very similar—I do not know obviously, Arizona as well as you do, but it was challenging. When I think about all of the different things that our Border Patrol agents have to go through, my hat goes off to them again. They are operating in difficult conditions in terms of environment and in terms of weather, and they do it every single day, upholding their oath of office to support and defend the Constitution against all enemies, foreign and domestic.

So as the chief operating officer, if confirmed, for the Department of Homeland Security, again, I commit to you that I would empower, I would enable, I would support, and I would do it as a result—partially as a result of my visit to the border which I would hope to do with you and any of the other Members of this Committee within a reasonable amount of time, if confirmed.

Thank you, Senator Sinema.

Senator SINEMA. Thank you.

Mr. Chairman, my last question is for Mr. Meyer. One of my goals for improving border management is the need to improve legal orientation and access to capital for migrants. This is one reason I recently introduced bipartisan legislation with Senator Cornyn. What are some of the road blocks Congress needs to consider



as it seeks to improve legal orientation and information for migrants in DHS custody?

Mr. MEYER. Thank you, Senator Sinema. I share your concern for the availability of legal resources to people at the border. I think it is a very important issue, and I welcome the opportunity to work with you and I guess with Ranking Member Portman on it as well.

I think one of the chief constraints, as is so often the case, is going to be resources. It takes resources to be able to provide legal counsel and legal advice, particularly at the level that individuals deserve. We need to find a way to get those resources there.

It is also going to be about training, making sure that the resources that are made available are properly trained and knowledgeable and can serve their clients as best they can and provide the judgment and the advice that good legal resources are meant to provide.

I think those are some of the key issues, and, again, I welcome the opportunity to work with you on that if I am confirmed.

Senator SINEMA. Thank you.

Thank you, Mr. Chair.

Chairman PETERS. Thank you, Senator Sinema.

To each of our nominees, I want to take this moment to thank you once again for your willingness to serve in these critical positions. We appreciate your answers to the questions from my colleagues here today.

I will say for the record that all of the nominees have made financial disclosures<sup>1</sup> and have provided responses to biographical and prehearing questions<sup>2</sup> submitted by this Committee. Without objection, this information will be made part of the hearing record<sup>3</sup> with the exception of the financial data, which is on file and available for public inspection in the Committee offices.

The hearing record will remain open until 12 p.m. tomorrow, May 28th, for the submission of statements and questions for the record.

With that, this hearing is now adjourned.

[Whereupon, at 12:24 p.m., the Committee was adjourned.]

<sup>1</sup> The information of Mr. Tien appears in the Appendix on page 50.

<sup>2</sup> The information of Mr. Silvers appear in the Appendix on page 140.

<sup>3</sup> The information of Mr. Meyer appears in the Appendix on page 226.



## A P P E N D I X

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### **Chairman Peters Opening Statement As Prepared for Delivery**

**Nominations of John K. Tien to be Deputy Secretary, DHS; Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and Jonathan E. Meyer to be General Counsel, DHS**  
**May 27, 2021**

The Committee will come to order.

Today, we are considering three nominations for important roles at the Department of Homeland Security, Colonel John Tien to be Deputy Secretary, Robert Silvers to be Under Secretary for Strategy, Policy, and Plans, and Jonathan Meyer to be General Counsel.

Welcome to each of you and to your family members joining us today. Congratulations on your nominations, and thank you for your previous service and for your willingness to take on these critical positions at DHS.

The threats facing our nation today are very different from those we faced when the Department was created in the aftermath of the 9/11 terrorist attacks. However, DHS's mission remains the same, to safeguard the American people.

To successfully carry out this essential mission, DHS needs committed and qualified leaders, leaders who will support and empower the more than 250,000 dedicated employees who serve across the Department.

The lack of consistent leadership at DHS during the last administration exacerbated many of the Department's longstanding challenges.

I am encouraged by the strong leadership Secretary Mayorkas has shown since taking office earlier this year, and I am pleased that we are now considering three highly-accomplished, and truly dedicated public servants for senior roles at the Department.

Mr. Tien is a retired U.S. Army Colonel, whose 24-year career includes three combat tours in Iraq and national security roles in the Clinton, George W. Bush, and Obama White Houses. For the past decade, Mr. Tien has been a leader in the private sector, where he has held senior executive roles at Citigroup and managed complex organizations and operations.

Mr. Silvers' public service includes several senior roles at the Department of Homeland Security, including Deputy Chief of Staff and Assistant Secretary for Cyber Policy during the Obama Administration. As a lawyer in the private sector since 2017, Mr. Silvers has been a leader on cybersecurity, data privacy, and artificial intelligence issues.

Mr. Meyer's previous government service spans 17 years and includes senior roles in the Department of Justice, the U.S. Senate, and as the Deputy General Counsel for DHS during the Obama Administration. Since returning to private practice in 2016, Mr. Meyer's legal work has continued to focus on cybersecurity, technology, and homeland security.

We have received bipartisan letters of support for each of these nominees, including from former national security officials who served under both Democratic and Republican presidents. Without objection, these letters will be entered into the record.

All three nominees bring valuable experience from both the public and private sectors, perspective that is especially important as DHS works to build and strengthen critical partnerships.

The recent SolarWinds hack and Colonial Pipeline ransomware attack are only the latest reminders that the federal government, and DHS in particular, has more work to do on this front.

Partnerships, with the private sector, other federal agencies, and state and local entities, are essential to safeguarding the nation from evolving threats. From cyber-attacks, to the rise in domestic violent extremism, to the next pandemic, historic flood, or hurricane, the success of DHS depends on the success of its partnerships.

Congress must also be one of the Department's key partners. I expect that, if confirmed, you will all work closely and transparently with this Committee to tackle the pressing homeland security challenges we face.

I look forward to hearing more from each of you about your qualifications and plans to support the Department of Homeland Security mission to protect Americans from the threats we face today – and those we will face in the months and years ahead.

Opening Statement

**Ranking Member Rob Portman**

Homeland Security and Governmental Affairs Committee

*Nomination of John K. Tien to be Deputy Secretary; Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans; and Jonathan E. Meyer to be General Counsel of the Department of Homeland Security*

May 27, 2021

Thank you, Chairman Peters.

Welcome, Mr. Tien, Mr. Silvers, and Mr. Meyer. Thank you for your willingness to serve.

You each have been nominated for a position that impacts the direction and priorities of the Department of Homeland Security. If confirmed, you will influence and shape the programs and policies needed to combat many of our nation's most pressing threats.

This is a critical time for the Department. In the nearly twenty years since its inception, the dedicated personnel of DHS have worked to keep our nation safe. Since that time, the nature of the threat we face has evolved and the Department must evolve to meet it. However, in recent months, DHS has struggled to address risks in a number of areas.

**First, we are facing a crisis at the southern border.** As the Biden Administration, in its first days, unwound the previous Administration's immigration policies, we quickly saw the Department struggle to secure the border in the midst of a migration surge.

- I recently visited the southern border where I witnessed firsthand numerous Border Patrol facilities completely overwhelmed by the onslaught of migrants and unaccompanied children awaiting transfer to HHS and other more permanent facilities.
- Last month, over 108,000 single adults were apprehended at the border, up from over 96,000 apprehensions in March and seven times greater than last April. On top of that, the Border Patrol

conservatively estimates over 40,000 people who crossed illegally “got-away” and were not apprehended in April.

- We cannot ignore the need for sound policies to stem the surge. It is unacceptable to shift the burden to frontline personnel and ask them to manage the consequences of bad decision-making.
- Further, migration surges strain the capacity of the Department to fulfill its other missions at the border, such as intercepting the flow of dangerous drugs into our country. In fact, as our law enforcement personnel became overwhelmed with the migration surge, drug traffickers knew precisely how to press their advantage.
- This leads to a genuine risk to our citizens: Reports show that seizures of fentanyl coming across the border have more than tripled in 2021 compared to 2020. This is happening at a time, during the pandemic, when overdoses are rising in the United States, including in my home state of Ohio.

**Second, cyberattacks threaten our data, national security secrets, and essential pillars of our society.** Attacks like SolarWinds, Microsoft Exchange, and mostly recently, Colonial Pipeline demonstrate risks we face from cyberattacks.

- As the SolarWinds attack unfolded, it became clear that the Department—the agency tasked with securing federal networks—was itself compromised. DHS should be an example for federal agencies, but it was hacked. It’s clear that our federal cyber defenses are lacking.
- Cyberattacks can also have real-world implications, as we saw in the Colonial Pipeline attack. Cybercriminals shut down a major U.S. fuel pipeline for several days, leading to fuel shortages up and down the East Coast. DHS plays an important role in supporting critical infrastructure cybersecurity and it must work to better support critical infrastructure owners and operators to improve cybersecurity across the board.

**Finally, homegrown threats directly put our citizens at risk.** It has become apparent in the Committee's investigation into the events of January 6, the Department's Office of Intelligence and Analysis fell short in reporting on the growing threat.

- The attack on the Capitol on January 6 was a sobering reminder of the domestic threats we face here at home. These threats are becoming increasingly complex and DHS must move to quickly evolve, adapt, and address these now, so that the nation is not left unprotected. DHS must be clear about its mission and the tools at its disposal to counter these threats.
- There is also a growing concern about the increasing number of assaults targeting federal law enforcement and government facilities. Attacks on law enforcement officers are an unacceptable attack on the rule of law and the safety and security of the American people.

In addition to these man-made threats, predictions for this year's hurricane season, which starts in a few days, indicate another higher than average number of significant storms expected to come our way. The risks are always there.

Each of these issues reflects the very real threats our homeland faces. Having sound policies and strategies, resourcing plans, and effective implementation governance across the department are essential to addressing them. If you are confirmed as part of the core leadership team of our nation's third largest department, you will each have a responsibility to ensure that the Department is able to secure our country and meet the demands of today's complex and dynamic threat environment.

Thank you.

**Written Statement of John Tien**  
**Nominee for Deputy Secretary**  
**U.S. Department of Homeland Security**  
**Before the**  
**U.S. Senate Committee on Homeland Security and Governmental Affairs**  
**May 27, 2021**

Chairman Peters, Ranking Member Portman, and distinguished members of the Committee,

It is an honor to appear before you today. I would like to thank President Biden for nominating me, Secretary Mayorkas for wanting me to be on his team, and Senator Reed for giving me that kind introduction. To Senator Reed, you continue to be a great public servant role model to all of us who graduated from West Point.

In fact, it was 34 years ago to this very day on May 27, 1987, along with my 1,000 plus fellow classmates, that I graduated from West Point and commissioned as a Second Lieutenant in the United States Army. Our West Point Class of 1987 motto is "Our Country We Strengthen."

For my next 24 years of active-duty service, I tried to do just that: strengthen our country. I did it in peacetime and I did it in wartime. In 2006, I was given the privilege to lead more than 1,100 Soldiers, Sailors, Airmen, and Marines in combat operations in Iraq as the Task Force 2-37 Armor Battalion Commander. If confirmed, it would be the honor of my lifetime to once again serve alongside my fellow Americans, and in this case, the 240,000 amazing Homeland Security employees, in helping safeguard our homeland.

Safeguarding our homeland, whether it is in the Army or in the Department of Homeland Security (DHS), is a team effort for me and my family. In that light, I am so happy that my life partner since senior year of high school is here with me today, my wife Tracy. I love you and thank you for supporting me in this next possible life chapter of service. To our two daughters, Amanda and Rebecca, who are watching this live: I am so proud of the kind of human beings and American citizens that you have become. I want to thank my three sisters, uncle and aunt, mother-in-law, and other extended family who have supported me throughout my life to include sending all of those great care packages while deployed in Iraq. I also want to acknowledge three people who are no longer with us: my father, John Tien Sr.; my stepfather, Thomas Hennessy; and my mother, Deborah Hennessy, who recently died of COVID-19. I know they would have all been proud of me, especially my mother, that I may get a chance to serve the Nation again.

As for my birth father, he, along with my grandparents, and his two brothers and sister escaped the likely persecution of Communist China after World War II. As a young college student, my father proudly became a naturalized U.S. citizen in the late 1950s. When it was time for me to



consider college, he asked me to consider giving back to the country that welcomed our family decades earlier. He asked me to go to West Point. Admittedly, I first went to West Point out of a family obligation. However, by the time I graduated, I realized what a privilege it was to be able to call myself a West Point graduate and officer in the United States Army.

The mission of DHS is to secure the Nation from the many threats we face. The threats that our Nation face today are evolving, and originate both here in the homeland and abroad. The Department must not just be vigilant, it must be ready. If confirmed as the Deputy Secretary, one of my roles is to be the Department's chief operating officer. In this role, I will help ensure the Department is ready and that it executes its missions responsibly both in terms of wisely using the resources given to us and doing so through the enforcement of our Nation's laws.

Just as the threats to the Nation are evolving, the Department will need to be flexible, will need to evolve its capabilities, and will need to work with our partners at the Federal, State, Local, Tribal and Territorial levels. We will also need to work with partners abroad and with the private sector, where I have spent the last ten years of my professional life. In short, we need partners.

As the Department evolves and executes its mission over the coming years and if I am confirmed, I look forward to partnering with all of you on this committee and our other Congressional partners to help us evolve and help us be ready. It would be an honor to join you in service to the Nation.

Thank you, and I look forward to your questions.

**REDACTED**

## HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

### 1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Deputy Secretary of the Department of Homeland Security	April 22, 2021

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
John	Kai	Tien	Jr.

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 4202 Whitby Way SE		
City: Smyrna	State: GA	Zip: 30080	City: Smyrna	State: GA	Zip: 30080

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
None					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1963	New Haven, Connecticut, USA

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
Tracy	Franklin	Tien	

<i>Spouse's Other Names Used (current spouse only)</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Tracy	Lee	Franklin		X	May/1963      Est <input type="checkbox"/>	August/1988      Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Amanda	Jo	Tien	
Rebecca	Lauren	Tien	

## 2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/ online school)	<u>Date Began</u> <u>School</u> (month/year) (check box if estimate)	<u>Date Ended</u> <u>School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date</u> <u>Awar</u> <u>ded</u>
Harvard Kennedy School	University	Est <input type="checkbox"/> Aug/2007	Est Present <input type="checkbox"/> <input type="checkbox"/> Jul/2008	None	
U.S. Army Command and General Staff College	University-level military school	Est <input type="checkbox"/> Jul/1999	Est Present <input type="checkbox"/> <input type="checkbox"/> Jun/2000	None	
Oxford University	University	Est <input type="checkbox"/> Sep/1987	Est Present <input type="checkbox"/> <input type="checkbox"/> Jun/1989	B.A. was conferred as an Oxford M.A. in July 1994	July 1989
United States Military Academy, West Point	University-level military academy	Est <input type="checkbox"/> Jul/1983	Est Present <input type="checkbox"/> <input type="checkbox"/> May/1987	B.S.	May 1987
University of California, Irvine	University	Est <input type="checkbox"/> Sep/1981	Est Present <input type="checkbox"/> <input type="checkbox"/> May/1983	None	
United States Military Academy, West Point	University-level military academy	Jul/1981	Sep/1981	None	

### 3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non- Federal Employment), Self- employment, Unemployment, Federal Contractor, Non- Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/ Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Non-Federal Employment	Citigroup	Managing Director	Atlanta, GA	Feb/2016	Present
Non-Federal Employment	Citigroup	Managing Director	Jacksonville, FL	Aug/2011	Feb/2016
Active Military Duty Station	U.S. Army/The Pentagon	Colonel	Washington, DC	Jun/2011	Aug/2011
Active Military Duty Station	U.S. Army/The White House	Colonel	Washington, DC	Jul/2008	Jun/2011
Active Military Duty Station	U.S. Army/Army War College	Colonel	Cambridge, MA	Jun/2007	Jul/2008
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant Colonel	Friedberg, Germany	Feb/2007	Jun/2007
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant Colonel	Iraq	Jan/2006	Feb/2007
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant Colonel	Friedberg, Germany	Jul/2004	Jan/2006
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant Colonel	Iraq	Jun/2004	Jul/2004
Active Military Duty Station	U.S. Army/11 <sup>th</sup> Armored Cavalry Regiment	Lieutenant Colonel	Fort Irwin, CA	Jun/2000	Jun/2004
Active Military Duty Station	U.S. Army/Command and General Staff College	Major	Fort Leavenworth, KS	Jul/1999	Jun/2000

Active Military Duty Station	U.S. Army/The White House	Major	Washington, DC	Jul/1998	Jul/1999
Active Military Duty Station	U.S. Army/United States Military Academy	Captain	West Point, NY	Jul/1996	Jul/1998
Active Military Duty Station	U.S. Army/4 <sup>th</sup> Infantry Division	Captain	Fort Hood, TX	Dec/1992	Jul/1996
Active Military Duty Station	U.S. Army/Armor Officer Advanced Course	Captain	Fort Knox, KY	May/1992	Dec/1992
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant	Erlangen, Germany	May/1991	May/1992
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant	Iraq	Dec/1990	May/1991
Active Military Duty Station	U.S. Army/1 <sup>st</sup> Armored Division	Lieutenant	Erlangen, Germany	Jul/1989	Dec/1990
Active Military Duty Station	U.S. Army/Oxford University	Lieutenant	Oxford, United Kingdom	Sep/1987	Jul/1989
Active Military Duty Station	U.S. Army/Fort Knox Kentucky	Lieutenant	Fort Knox, Kentucky	May/1987	Sep/1987
Active Military Duty Station	U.S. Army/United States Military Academy	Cadet	West Point, NY	Jul/1983	May/1987
Unemployed/Enrolled in college	University California, Irvine	Student	Irvine, CA	Aug/1982	July/1983
Non-Federal Employment	California State University	Administrative clerk	Long Beach, CA	Jun/1982	Aug/1982
Non-Federal Employment	Cerritos Bowling Alley	Janitor	Cerritos, CA	Jun/1982	Aug/1982

**(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.**

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
None		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>

		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>

#### **4. Potential Conflict of Interest**

**(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I will sign and transmit to the Department's Designated Agency Ethics Official, which will be provided to this Committee. I am not aware of any other potential conflicts of interest.

**(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.**

None.

#### **5. Honors and Awards**

**List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.**

Rhodes Scholarship (1987-1989)

White House Fellowship, Clinton Administration (1998-1999)

Top Ten Veteran Business Leader, City of Jacksonville Chamber of Commerce and Jacksonville Business Times (2014)

John Tien Distinguished Graduate Room, Historic Thayer Hotel, West Point (dedicated 2016)



United States Army:

Defense Superior Service Medal, U.S. Army (2011)

Bronze Star Medal with one oak leaf cluster, U.S. Army (1991 and 2007)

Meritorious Service Medal with three oak leaf clusters, U.S. Army (1996, 1998, 2004 and 2007)

Army Commendation Medal, U.S. Army (1992)

Army Achievement Medal, U.S. Army (1990)

Navy Unit Commendation, U.S. Army (2007)

Presidential Unit Citation, U.S. Army (2004)

Iraq Campaign Medal with one campaign star, U.S. Army (2007)

Valorous Unit Award, U.S. Army (1991)

Southwest Asia Service Medal with three campaign stars, U.S. Army (1991)

Saudi Arabia Liberation Medal (1991)

Kuwait Liberation Medal (1991)

Global War on Terror Expeditionary Medal, U.S. Army (2004)

Global War on Terror Service Medal, U.S. Army (2004)

Combat Action Badge, U.S. Army (2007)

Parachute Badge, U.S. Army (1985)

Presidential Service Badge, U.S. Army (2010)

## 6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).



<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
The Warrior Alliance	October 2017 – Present	Board member
VETLANTA	January 2018 – Present	Advisory Board member
Bob Woodruff Foundation	June 2018 – Present	Leadership Council member
New Politics	July 2019 – Present	Leadership Council member
Howard and Sheri Schultz Family Foundation	September 2019 – Present	Advisory board member
Georgia Gwinnett College	October 2017 – Present	Visiting (volunteer) guest lecturer
Leadership Atlanta program	August 2017 – Present	Alumni participant in selected programs
United States Military Academy (West Point) Association of Graduates	May 1987 – Present	Alumni participant in selected programs
Council on Foreign Relations	2005 – Present	Member participant in selected programs
French American Foundation Young Leader program	1998 – Present	Alumni participant in selected programs
NationSwell	2015 – Present	Member participant in selected programs
Veterans of Foreign Wars (VFW)	1992 – Present	Life Member
American Legion	Dec 2020 – Present	Member
American Veterans (AMVETS)	Dec 2020 – Present	Member
Disabled American Veterans (DAV)	Dec 2020 – Present	Life Member

Veterans Leadership Development Group	2019 – Present	Member
Veterans 2 Industry	2019 – Present	Non-board advisor
Foreign Policy for America	Feb 2021 – Present	Member
The Mission Continues, Atlanta Platoon	2016 – Present	Member
Team Rubicon	2016 – Present	Member
Team Red White and Blue	2016 – Present	Member
Desert Storm VII Corps Veterans Association	1992 – Present	Member
National Security Leaders for America	April 2021 – Present	Member
The Jimmy and Rosalynn Carter Center	December 2020 – Present	Board of Councilors
FourBlock Veterans Organization	2016 – Present	Volunteer leadership instructor
Draper Richards Kaplan Foundation	May 2019 – April 2021	Volunteer venture partner/portfolio board member as needed
DiversityPop.com (sub-organization to Patriapps)	Sep 2020 – April 2021	Seed Investor at co-founder level (fully divested in April 2021)
National Security Leaders for Biden	June 2020 – April 2021	Member
The Mission Continues	2012 – June 2019	Board Chair, 2015 – June 2019 Board Member, 2012 – 2015
Asia Society 21 Young Leader	2008 – 2008 (estimated)	Alumni

## 7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

No.

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
Not Applicable			

(C) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

None.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
N/A			

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

I have taken steps to recount each of the political contributions I've made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. In addition to reviewing my own records, I have searched public databases including the Federal Elections Commission's public disclosure site, and nonprofit Web sites that track political contributions. Out of an abundance of caution, I have included here some donations which are listed in the public record as occurring on the same date, and which I believe may be duplicative based on my personal records. A few contributions listed below are not reflected in the public record, but are nonetheless disclosed based on a review of my personal records and recollection.

<u>Name of Recipient</u>	<u>Amount(\$)</u>	<u>Year of Contribution</u>
Citigroup Political Action Committee – Federal	800	2021
Citigroup Political Action Committee – Federal	2600	2020
Jon Ossoff / Ossoff-Warnock Victory Fund	500	2020

Jon Ossoff / Ossoff-Warnock Victory Fund	500	2020
Rafael Warnock / Ossoff-Warnock Victory Fund	500	2020
Rafael Warnock / Ossoff-Warnock Victory Fund	500	2020
Biden for President / Biden Victory Fund	500	2020
DNC Services Corp/Democratic National Committee	400	2020
Biden for President	100	2020
Biden for President / Biden Victory Fund	500	2020
Alan Khazei for Congress	250	2020
Alan Khazei for Congress	50	2020
Alan Khazei for Congress	350	2020
Alan Khazei for Congress	250	2020
Biden for President / Biden Victory Fund	1000	2020
Alan Khazei for Congress	1000	2020
Alan Khazei for Congress	1000	2020
Biden for President / Biden Victory Fund	1000	2020
Biden for President / Biden Victory Fund	500	2020
Biden for President / Biden Victory Fund	1000	2020

Alan Khazei for Congress	1000	2020
Biden for President / Biden Victory Fund	1000	2020
Carolyn Bordeaux for Congress	250	2020
Citigroup Political Action Committee - Federal	2600	2019
Alan Khazei for Congress	250	2019
Service First Women's Victory Fund	500	2019
Service First Women's Victory Fund	500	2019
Biden for President / Biden Victory Fund	1000	2019
Mike Johnston for U.S. Senate	500	2019
Elissa Slotkin for Congress	5000	2019
DNC Services Corp/Democratic National Committee	500	2019
Seth Moulton for America	500	2019
Seth Moulton for America	500	2019
Ken Harbaugh for Congress	100	2018
Citigroup Political Action Committee - Federal	2600	2018
Elissa Slotkin for Congress	300	2018
Friends of Dan Feehan	500	2018

Dan McCready for Congress	500	2018
Ken Harbaugh for Congress	100	2018
Chrissy Houlahan for Congress	300	2018
Jason Crow for Congress	500	2018
Mikie Sherrill for Congress	300	2018
ActBlue	100	2018
Bill Nelson for US Senate	500	2018
Elissa Slotkin for Congress	1000	2018
Tom Malinowski for Congress	2700	2018
Stacey Abrams for Georgia Governor	1000	2018
Stacey Abrams for Georgia Governor	1000	2018
Stacey Abrams for Georgia Governor	250	2018
Lindy Miller for Public Services Commission for Georgia	250	2018
Lindy Miller for Public Services Commission for Georgia	500	2018
Citigroup Political Action Committee – Federal	2600	2017
Elissa Slotkin for Congress	200	2017
Seth Moulton Leadership Fund	2700	2017

Tom Malinowski for Congress	1000	2017
Joe Kopser for Congress	500	2017
Aaron Scheinberg for Congress	500	2017
Mikie Sherrill for Congress	500	2017
Chrissy Houlahan for Congress	500	2017
Ken Harbaugh for Congress	500	2017
Elissa Slotkin for Congress	500	2017
Elissa Slotkin for Congress	500	2017
Dan McCready for Congress	500	2017
Citigroup Political Action Committee - Federal	2600	2016
Seth Moulton for Congress	800	2016
Hillary Clinton Victory Fund	250	2016
Seth Moulton for Congress	2000	2016
Hillary Clinton Victory Fund / Hillary For America	5400	2016
Eric Greitens for Missouri Governor	1000	2016
Hillary Clinton for America	1700	2016

### 8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
BLOG: Citi Salutes 2020 Veterans Day	CitiGroup Blog <a href="https://blog.citigroup.com/2020/11/a-renewed-sense-of-gratitude-for-our-veterans/">https://blog.citigroup.com/2020/11/a-renewed-sense-of-gratitude-for-our-veterans/</a>	November 2020
BLOG: The Art of Association – Veterans Day 2020	The Art of Association <a href="https://www.theartofassociation.org/blog/how-post-911-veterans-are-helping-mend-our-social-fabric">https://www.theartofassociation.org/blog/how-post-911-veterans-are-helping-mend-our-social-fabric</a>	November 2020
CHAPTER: Action Front – The 2 <sup>nd</sup> Dragoons at 73 Easting	Book: By Their Deeds Alone: America's Combat Commanders on the Art of War. <a href="https://www.amazon.com/Their-Deeds-Alone-Americas-Commanders/dp/0891418075">https://www.amazon.com/Their-Deeds-Alone-Americas-Commanders/dp/0891418075</a>	2003
MEDIUM.com letter (later became a USA Today Op-Ed): Veterans calling for fair and free elections	MEDIUM.com Post <a href="https://medium.com/@VetElections/so-many-americans-have-sacrificed-for-our-democratic-ideals-its-time-to-do-our-part-aa75f9cf2345">https://medium.com/@VetElections/so-many-americans-have-sacrificed-for-our-democratic-ideals-its-time-to-do-our-part-aa75f9cf2345</a>	August 2020
Fair elections are at risk; nation must act now: military veterans (usatoday.com)	USA Today (co-authors: Greg Behrman; Mary Beth Bruggeman; Wes Moore; Jake Wood; Jeff Eggers; Nathaniel Fick; Zach Iscol; Jen Easterly; Emily Nunes Cavness; Jeremy Butler; John Tien).	August 2020
Book chapter: How the West Was Won: Strategic Leadership in Tal Afar	Published book (Westview Press): Military Leadership: In Pursuit of Excellence edited by Robert Taylor, William Rosenbach, Eric Rosenbach	2009
War College Fellowship (at Harvard Kennedy School) paper: Smart Power Applied to the Long War	Harvard Kennedy School <a href="https://www.scribd.com/document/57125894/Smart-Power-Applied-to-the-Long-War">https://www.scribd.com/document/57125894/Smart-Power-Applied-to-the-Long-War</a>	April 2008

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.



<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
National Security Policy-Making: an unclassified case study – the 2009 Afghanistan-Pakistan Strategic Review	The 9th annual Homeland Defense and Security Education Summit, Orlando, Florida (speech attached in PDF)	September 27, 2015

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
PODCAST: The Warrior Alliance (veterans non-profit) – Transitioning Veterans to the Community	<a href="https://podcasts.apple.com/us/podcast/john-tien-managing-director-citigroup-twa-board-member/id1450278431?i=1000459310124">https://podcasts.apple.com/us/podcast/john-tien-managing-director-citigroup-twa-board-member/id1450278431?i=1000459310124</a>	December 2019
PODCAST: Supply Chain Now – VETLANTA (veterans non-profit) (also provided as a WEBINAR)	<a href="https://supplychainnow.com/episode-208/">https://supplychainnow.com/episode-208/</a> <a href="https://www.youtube.com/watch?v=2v1bLEv_sQs">https://www.youtube.com/watch?v=2v1bLEv_sQs</a>	Podcast posted October 2019 Video webinar posted November 2019
PODCAST: Department of Defense Reads (non-profit) profile and review of John Tien's reading recommendations	<a href="https://anchor.fm/dodreads/episodes/Colonel-John-Tien--USA-Ret-elj8ba">https://anchor.fm/dodreads/episodes/Colonel-John-Tien--USA-Ret-elj8ba</a>	October 2020
PODCAST: FourBlock (veterans non-profit) – biographical profile of John Tien and applying military leadership lessons learned in the civilian workplace.	<a href="https://podcasts.apple.com/us/podcast/first-generation-americans-obligation-privilege-to/id1482161364?i=1000462337206">https://podcasts.apple.com/us/podcast/first-generation-americans-obligation-privilege-to/id1482161364?i=1000462337206</a>	January 2020
WEBINAR sponsored by Matrix Solutions: why hiring veterans is a good thing.	<a href="https://www.matrixres.com/blog/2020/10/building-a-bridge-between-the-military-and-civilian-workplace">https://www.matrixres.com/blog/2020/10/building-a-bridge-between-the-military-and-civilian-workplace</a>	October 2020
WEBINAR hosted by Center for New America Security: Race in the Military	<a href="https://www.cnas.org/events/virtual-roundtable-a-conversation-on-race-in-the-military-1">https://www.cnas.org/events/virtual-roundtable-a-conversation-on-race-in-the-military-1</a>	October 2020
WEBINAR hosted by Center for New American Security: Best practices for an effective U.S. Presidential Transition	<a href="https://www.cnas.org/events/national-security-forum-preparing-the-next-president">https://www.cnas.org/events/national-security-forum-preparing-the-next-president</a>	October 2016

VIDEO Blog: Citigroup supports First Lady Michelle Obama's Joining Forces	<a href="https://blog.citigroup.com/2012/09/joining-forces-citi-celebrates-veterans-hiring-milestone-with-first-lady-michelle-obama/">https://blog.citigroup.com/2012/09/joining-forces-citi-celebrates-veterans-hiring-milestone-with-first-lady-michelle-obama/</a>	September 2012
VIDEO: Georgia Gwinnett College commencement speech	<a href="https://www.youtube.com/watch?v=GGce-TLNc0o">https://www.youtube.com/watch?v=GGce-TLNc0o</a>	August 2018
VIDEO: PyschArmor training course on helping veterans community organizations develop a data strategy to better support their missions	<a href="https://psycharmor.org/courses/developing-a-data-strategy/">https://psycharmor.org/courses/developing-a-data-strategy/</a>	November 2019
VIDEO: My favorite high school teacher	<a href="https://www.youtube.com/watch?v=Qm0QfVdsQM">https://www.youtube.com/watch?v=Qm0QfVdsQM</a>	September 2010
VIDEO: Discussing Diversitypop mobile phone app on Veterans Day 2020	<a href="https://cheddar.com/media/veteran-backed-app-diversitypop-treats-inclusion-diversity-as-a-personal-discovery">https://cheddar.com/media/veteran-backed-app-diversitypop-treats-inclusion-diversity-as-a-personal-discovery</a>	November 2020
WEBINAR: Strategic Leadership Academy discussion of leadership principles	<a href="https://www.youtube.com/watch?v=z5WQuh0Zvyc">https://www.youtube.com/watch?v=z5WQuh0Zvyc</a>	October 2020
PUBLIC APPEARANCES THAT HAVE NO TRANSCRIPTS AVAILABLE.		
Employing U.S. Veterans Conference. Panelist.	<a href="https://employingusvets.com/spring-2019/">https://employingusvets.com/spring-2019/</a>	May 2019
Citi Salutes Realizing Your Dream competition for veterans-owned small businesses. Judge.	<a href="https://businessplan.vets.syr.edu/getstarted/2014-business-plan">https://businessplan.vets.syr.edu/getstarted/2014-business-plan</a>	January 2014 (estimated)
BlazeSports gala to support disabled veterans rehabilitation programs.	<a href="https://blazesports.org/blazesports-hosts-annual-triumph-of-the-human-spirit-awards/">https://blazesports.org/blazesports-hosts-annual-triumph-of-the-human-spirit-awards/</a>	December 2019
Veterans On Wall Street. Moderator for a fireside chat with Team Rubicon CEO and Founder, Jake Wood.	<a href="https://veteransonwallstreet.com/what-we-do/events/vows-symposium/agenda/">https://veteransonwallstreet.com/what-we-do/events/vows-symposium/agenda/</a>	November 2020
Introduction of Dave McCormick at Citi Salutes fireside chat	<a href="https://www.youtube.com/watch?v=Pvh4henD3ms">https://www.youtube.com/watch?v=Pvh4henD3ms</a>	July 2019
West Point Black Alumni Do More Together virtual leadership summit. Panelist.	<a href="https://summit.domore2gether.org/agenda">https://summit.domore2gether.org/agenda</a>	October 2020.

Speech: Emory University Veterans Association	<a href="https://www.emorybusiness.com/2017/10/05/retired-col-talks-advantages-of-veterans-in-corporate-america-during-vetconnect-dinner/">https://www.emorybusiness.com/2017/10/05/retired-col-talks-advantages-of-veterans-in-corporate-america-during-vetconnect-dinner/</a>	October 2017
Books or articles in which John Tien has been quoted or referenced extensively. This is not an exhaustive list.		
Obama's Wars by Bob Woodward	<a href="https://www.amazon.com/dp/B00457WTC6/ref=dp-kindle-redirect?_encoding=UTF8&amp;btcr=1">https://www.amazon.com/dp/B00457WTC6/ref=dp-kindle-redirect?_encoding=UTF8&amp;btcr=1</a>	2010
Ordinary People: Extraordinary Heroes from Afghanistan and Iraq by Will Merrill Jr.	<a href="https://www.amazon.com/Ordinary-People-Extraordinary-Heroes-Afghanistan-ebook/dp/B06Y296B2C">https://www.amazon.com/Ordinary-People-Extraordinary-Heroes-Afghanistan-ebook/dp/B06Y296B2C</a>	2017
The Soul of a Deal by Richard Wolpert	<a href="https://www.amazon.com/dp/B083L9SGMJ/ref=dp-kindle-redirect?_encoding=UTF8&amp;btcr=1">https://www.amazon.com/dp/B083L9SGMJ/ref=dp-kindle-redirect?_encoding=UTF8&amp;btcr=1</a>	2018
ALIST (Asian American online magazine) profile	<a href="https://issuu.com/alist_magazine/docs/alist_spring_2017/6?ff">https://issuu.com/alist_magazine/docs/alist_spring_2017/6?ff</a>	2017
West Point Leadership: Profiles of Courage, editor Daniel E. Rice	<a href="https://www.amazon.com/West-Point-Leadership-Profiles-Courage/dp/0989147304">https://www.amazon.com/West-Point-Leadership-Profiles-Courage/dp/0989147304</a>	2013

## 9. Criminal History

Since (and including) your 18<sup>th</sup> birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)  
No.
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?  
No.
- Have you been charged, convicted, or sentenced of a crime in any court?  
No.
- Have you been or are you currently on probation or parole?  
No.
- Are you currently on trial or awaiting a trial on criminal charges?  
No.
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?  
No.

**If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).**

N/A

A) Date of offense:

a. Is this an estimate (Yes/No):

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
- 2) Firearms or explosives: **Yes / No**
- 3) Alcohol or drugs: **Yes / No**

D) Location where the offense occurred (city, county, state, zip code, country):

E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**

1) Name of the law enforcement agency that arrested/cited/summoned you:

2) Location of the law enforcement agency (city, county, state, zip code, country):

F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**

1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):

2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

3) If no, provide explanation:

G) Were you sentenced as a result of this offense: **Yes / No**

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**

K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

L) If conviction resulted in probation or parole, provide the dates of probation or parole:

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**

N) Provide explanation:

### 10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

I have never been the subject of citation as described above. Several federal regulators oversee my current employer, Citigroup, and they have been subject to regulatory actions.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				




(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

### 11. Breach of Professional Ethics

(A) Have you ever been disciplined 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? Exclude cases and proceedings already listed.

No.

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
N/A			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

### 12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

**REDACTED**

REDACTED

**13. Lobbying**

**In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).**

No.

**14. Outside Positions**



☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

#### **15. Agreements or Arrangements**

☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

#### **16. Additional Financial Data**

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

**REDACTED**

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

  
John K. Tien, Jr.

This 6<sup>th</sup> day of May, 2021

**REDACTED**

UNITED STATES OFFICE OF  
GOVERNMENT ETHICS



April 30, 2021

The Honorable Gary C. Peters  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by John Tien, who has been nominated by President Biden for the position of Deputy Secretary, Department of Homeland Security.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David J. Apol  
General Counsel

Enclosures

**REDACTED**

April 25, 2021

Mr. Joseph B. Maher  
Designated Agency Ethics Official  
Department of Homeland Security  
2707 Martin Luther King Jr Ave, SE  
Washington, DC 20528

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Secretary of the U.S. Department of Homeland Security. It is my responsibility to understand and comply with commitments outlined in this agreement.

#### SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program

regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government.

I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

#### SECTION 2 – EMPLOYMENT RELATED INTERESTS IN WHICH EQUITY IS HELD

Upon confirmation, I will resign from my position with Citigroup. I hold stock and unvested restricted stock with Citigroup. I do not hold any stock options, restricted stock units, or phantom stock. My unvested restricted stock will vest on an annual schedule each January until 2025. Consistent with Citigroup policy, I am eligible to retain my unvested restricted stock options because I meet their age and service requirements and am not departing the company for employment with a “significant competitor.” Additionally, I will receive a matching contribution to my defined contribution plan for calendar year 2021 in March 2022. The amount is fixed and will be pro-rated based on the number of days I work for Citigroup in 2021. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Citigroup, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

#### SECTION 3 – OTHER RESIGNATIONS

Upon confirmation, I will resign from my position with The Warrior Alliance. For a period of one year after my resignation from this entity, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

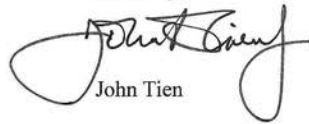
#### SECTION 4 – FAMILY TRUST

I will retain my position as trustee of a family trust. I will not receive any fees for the services that I provide as a trustee during my appointment to the position of Deputy Secretary. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of this trust, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

SECTION 5 – PUBLIC POSTING

I have been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,

A handwritten signature in black ink, appearing to read "John Tien", with a large, stylized loop at the end.

John Tien

**U.S. Senate Committee on Homeland Security and Governmental Affairs  
Pre-hearing Questionnaire  
For the nomination of John Tien to be  
Deputy Secretary, Department of Homeland Security**

**I. Nomination Process and Conflicts of Interest**

1. Did the President or the Secretary of the Department of Homeland Security (DHS) give you specific reasons why you were nominated to be the next Deputy Secretary of DHS, and if so, what were they?

No.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Secretary? If so, what are they, and to whom were the commitments made?

No.

4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest were resolved in accordance with the terms of an ethics agreement that I signed and transmitted to the Department's Designated Agency Ethics Official, and which was subsequently provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Please provide the name of any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.



I did not retain any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity in any formally retained or contracted status with regard to this nomination and no fees or otherwise were paid for such services.

## II. Background of the Nominee

### 6. Why do you want to serve as DHS Deputy Secretary?

Duty. Honor. Country. That is the motto of my undergraduate alma mater, the United States Military Academy at West Point. This is how I have lived my life since I entered West Point in 1983. After graduating from West Point in 1987 and for 24 years of service in the active-duty United States Army, I served the duties the Army assigned to me and I believed I did so with honor in service of the Country and our fellow U.S. Citizens. Even after my time in the Army came to an end with my retirement as a Colonel in 2011, I looked to serve the Nation where I could and I did so through significant volunteer service in support of several U.S. military veterans and military family causes and organizations. Now that the Nation has called on me again to consider public service, I am again ready to serve, if confirmed, in the role of the Deputy Secretary of Homeland Security with honor, and in service to the Country and our fellow U.S. citizens. Our country faces a multitude of threats, many of which have evolved and intensified since my time in the US Army. I accepted this nomination in order to bring my decades of service in the U.S. Army and my management skills from the private sector to bear on the mission of the Department of Homeland Security.

### 7. What specific background, experience, and attributes affirmatively qualify you to be DHS Deputy Secretary?

I believe that my past experiences in the United States Army, the Clinton Administration, the George W. Bush Administration, the Obama Administration, and the private sector affirmatively qualify me to fulfill the duties and responsibilities of the Deputy Secretary to include, but not limited to the chief operating officer role.

In May 1987 at West Point, I raised my right hand and took the oath of commissioned officers and swore to support and defend the Constitution of the United States against all enemies, foreign and domestic. For 24 years, every day, every month, and every year, I did all that I could to ensure that I was personally upholding that oath, that the Soldiers assigned to my units were upholding that oath, and that our collective efforts were upholding that oath. My experience in the Army instilled in me a moral purpose of service to the Nation and taught me how to lead fellow U.S. citizens during times of high volatility, uncertainty, complexity, and ambiguity. That experience also taught me how to deal with a wide array of people (both foreign and domestic) who had their own goals and sought to carry out their own agendas. I learned to work with all of them in pursuit of common goals.

In three different Administrations – Clinton, George W. Bush, and Obama – I learned a great deal about how the Federal government can and should work in the service of the Country and our fellow U.S. citizens. We are not a perfect Union, but I am inspired by the fact that we all, no matter what party affiliation, want it to be a perfect Union. My time in all three Administrations helped me see how and why the interagency process works and how, in collective purpose and action, we can develop and then execute better policies to serve the Nation. I also saw and understood the significant contributions made by the Legislative branch. I worked well with members and staff from Congress in all three Administrations.

During the last ten years of my professional life, I have worked at one of the country's largest financial services company, Citigroup. The company is actually similar in size to DHS with approximately 220,000 Citi employees, as well as tens of thousands of contractors on payroll. It is also a global company with significant operations in North America, Latin America, Europe, Africa, and Asia. As a managing director for all ten years, I served as a leader within the top 2% of the bank's hierarchy of leadership. As a result, every role that I had whether it was as a COO, CAO, CTO, or Business Transformation Head, I led and managed thousands or had oversight of projects and efforts that impacted tens of thousands of people across the world. I know that DHS is not Citigroup or vice versa. By design, the missions are significantly and substantively different. However, I believe the leadership and management skills that I learned at Citi will be useful in how I help the Secretary manage and lead the Department of Homeland Security as we all seek to serve and protect the Nation and our fellow U.S. citizens.

As a Soldier, I went to war three times to defend the Constitution against foreign enemies in Iraq. I encountered those enemies in many ways to include close combat. As a leader, I unfortunately lost many good Soldiers who gave their lives defending the Constitution. As the readers of this document know and are living it now, defending the Constitution is the most honorable action I think a citizen of the United States can do. I thank you for what you are doing and if confirmed, I would be honored to serve alongside you again.

8. Please describe:

a. Your leadership and management style.

I believe I am a servant leader. I believe that my role as a leader is to enable and support those on my team to be the best that they can be so that we all together can best achieve our organization's stated mission.

My management style is to start any process with inclusive collaboration and when the time comes, make the decision myself or empower the most appropriate decision-maker.

b. Your experience managing personnel.

I have led and managed men and women in the United States Army to include commanding an Armor battalion in combat, as a member of the National Security Council Staff (NSC), and for the past ten years in several senior executive roles at Citigroup. In the Army in 2006-2007, I commanded over a thousand Soldiers (to include a few Airmen, Sailors, and Marines) in combat in Iraq as the Task Force 2-37 Armor Battalion commander in the Iraqi cities of Tal Afar and Ramadi. During the Obama Administration in 2009-2011, I stood up and then managed and led a National Security Council directorate consisting of interagency career civil servants from the U.S. Agency for International Development (USAID), the Department of Defense, the Central Intelligence Agency (CIA), the Defense Intelligence Agency (DIA), and the Department of State. For the past ten years at Citigroup, I have served as a senior executive in several large management and leadership roles: (1) I was the Chief Administration Officer for the Global Consumer Bank Operations and Technology organization that had more than 80,000 employees who lived in and operated across North America, South America, Europe, Africa, and Asia; (2) I was the Chief Operating Officer for a Citi Retail Services credit card portfolio that had more than 1000 employees who lived in and operated across North America and Asia; (3) I was the Chief Operating Officer and Chief Technology Officer for a Citi Retail Services credit card portfolio that included oversight of more than 2000 employees who lived in and operated across North America and Asia; and (4) as the Head of Business Transformation for the entire U.S. Consumer Bank.

c. What is the largest number of people that have worked under your supervision?

Direct supervision: 2000. Oversight for various programs and projects: 80,000.

9. Please give examples of times in your career when you disagreed with your superiors and advocated your position. Were you ever successful?

When I was a battalion commander in Iraq from 2006-2007, I disagreed with my immediate commander about how to deploy my assigned units within one of our sectors of responsibility. As the brigade commander, he understandably had a broader set of objectives to achieve to include securing different parts of his area of responsibility. However, he and his commander (a division commander) asked for my best military advice, and I gave it. I also took them on foot and vehicular patrols through the local Iraqi neighborhoods that were still very dangerous, and recovering from years of Al Qaeda and insurgent control and intimidation. I explained and demonstrated how each of my deployed forces were directly contributing to us achieving our stated mission and intended purpose for being there: to provide security to the region to allow for local civil and economic recovery. Both the brigade commander and the division commander said they understood and appreciated my approach as well as my candor. The three of us compromised on the solution, and I only had to re-deploy 33% of the original forces that my brigade and division commander originally wanted to re-position within the brigade area of operations.



During my last ten years in the private sector, disagreement with superiors and advocating my position was part of my role as a responsible senior leader. Candid feedback is expected and desired in the areas of the firm I worked, operated, and led. During the past year, I specifically noted that the organization needed to undertake a business transformation to ensure that we were meeting our stated mission to responsibly serve our clients, customers, and other stakeholders to include our government regulators. As of this month, I believe that the firm has fully adopted my recommended courses of action to responsibly transform.

10. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

As I stated in my response to question 8.a., my leadership style is servant leadership and my management style is to start any process with inclusive collaboration and when the time comes, make the decision myself or empower the most appropriate decision-maker. Thus, my goal is to ensure that all views, dissenting or otherwise, are given equal room to be shared and that useful dialogue occurs with subordinates, peers, and superiors.

When I was a battalion commander in Iraq in 2006-2007, I commanded several company-sized units (150 plus Soldiers and other U.S. Servicemembers) that were deployed throughout an Iraqi city that had more than 250,000 Iraqi civilians who spanned several Iraqi demographics to include Sunni, Shia, and Turkmen. Our area of responsibility did not neatly fit many of the other Iraqi cities by having a nearly homogeneous make-up: specifically loyal to the former Saddam Hussein government; loyal to the then current Shia government; or overly influenced by the Kurdistan leaders. With that context and in response to this question, I offer this example: I sought out my subordinates' viewpoints early and often – in this case, Army company commanders (Army captains who were two ranks below me). Specifically, I asked them how my dialogues with their Sunni and/or Shia and/or Turkmen sheikhs were being viewed within their local areas of responsibility. One of my company commanders said to me, "Sir, I respect you, my men respect you, and I have and will continue to follow you in combat. However, when you meet with my local Sheikh counterpart, you take away my power to influence him. He knows that you are the American Commander of all of Tal Afar. I need you to take a step back and to better coordinate your bi-lateral engagements with my neighborhood sheikhs." As I said, I strive to be a servant leader and so I stepped back, coordinated better, and together, we achieved our stated mission and intended purpose.

At the NSC both in the Bush and Obama Administrations, I knew that my past experiences while broad, were still grounded in what I knew from my civilian education and deployments to the Iraqi war zone. As a result, I believe I established an environment where my NSC directorate staff members, who came from across the interagency, could provide me not just information and analysis, but with critical observations on how we as a directorate were presenting policy analysis and recommendations to the National Security Advisor, the Principals Committee, and the President.

11. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country.

As part of the NSC staff lead policy team, I supported the troop and civilian “surge” to support U.S. operations in Afghanistan that President Obama announced in a nationally televised speech on December 1, 2009. The conceptual policy and the human and monetary cost of the December 2009 troop and civilian surge was noted by opinion polls, in the media, and for some in Congress as being somewhat unpopular. At the time, I believed that until we changed the stated mission given to the then Commander of the International Security Assistance Force that we should adequately support him and the ISAF mission. If successful, I believed that a successful ISAF mission would significantly contribute to a safer and more secure U.S. homeland. When my views were made public through Bob Woodward’s book *Obama Wars*, I was criticized by some for overstepping my bounds as a serving U.S. Army officer. However, when the Army assigned me to the NSC staff in 2008, I was under the understanding that I was being assigned to the NSC staff to provide my best military and policy advice to the National Security Council leaders. I did that based on what I believed to be in the best interest of the United States of America.

12. What would you consider your greatest success as a leader?

Of all the combat arms battalions (more than 1000 U.S. Servicemembers), in my brigade combat team (more than 10,000 U.S. Servicemembers), my battalion had the fewest killed-in-action (KIA) and severely wounded-in-action (WIA) in the brigade’s assigned area of operations. I believe that my servant leadership approach to enable, empower, and support my subordinate commanders and their troops enabled our unit to safely and securely hand over the Iraqi City of Tal Afar of 250,000 civilians to the Iraqi military and civilian authorities in October 2006. From November 2006 to February 2007, my battalion and I were similarly able to achieve the lowest U.S. KIA and WIA in my next assigned area of responsibility in their northern area of operations in Ramadi. When my task force and I handed off the northern part of Ramadi (north of the Euphrates River) and in comparison to when we took over this area of operations five months earlier, we handed off an area of operations that was significantly more stable, more locally secure through thousands of newly trained Iraqi police (trained by U.S. military units under my command), and better governed through their own local customs and approaches (a mixture of tribes and civil authorities). Historians who study Operation Iraqi Freedom call this chapter in the Iraq War: the Al Anbar Awakening. My military task force and I were awarded the Navy Unit Commendation (as we served under the 1<sup>st</sup> Marine Division in Al Anbar Province) for “outstanding heroism in action against the enemy.” While it was a collective effort on the part of a thousand plus U.S. Servicemembers, U.S. Department of State, USAID, and hundreds of Iraqi partners, I do believe that what my units and partners did in both Tal Afar and Ramadi represented my greatest success as a leader.

13. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

Despite achieving the successes as noted in answer #12 above, I consider my greatest failure to be that I still was not able to bring all of my Soldiers home. There are wives, mothers, fathers, and children who have only their memories of their loved ones who I failed to bring home. While my battalion's operations in 2006-2007 were considered a tactical and a strategic success (strategic success given the locations of Tal Afar and Ramadi in Al Anbar Province), I consider the fact that not everybody came home with me to be my greatest failure as a leader.

I learned that no amount of planning and empowering and resourcing can assure 100% success. While we had what we needed to fight our part of the war in Operation Iraqi Freedom, if I am ever in the position to again lead or manage those who we ask to support and defend the Constitution of the United States that I can and should do everything I can to ensure that those fellow citizens have what they need to accomplish their stated mission.

14. During your career, has your conduct as a government employee ever been subject to an investigation or audit by an agency Inspector General, Office of Special Counsel, Department of Justice, agency Equal Employment Opportunity office or investigator, or any other federal investigative entity? If so, please describe the nature of the allegations/conduct and the outcome of the investigation(s) or audit(s).

No.

### III. Role of the Deputy Secretary of DHS

15. Please describe your understanding of the role and responsibilities of the Deputy Secretary of DHS, including how you view the role in relation to the Secretary?

The Deputy Secretary of DHS is the chief operating officer (COO) of the organization. The Deputy Secretary is the second-in-charge of DHS and reports to the Secretary.

16. If confirmed, what are the highest priority items you intend to focus on? What do you hope to accomplish during your tenure as Deputy Secretary?

If confirmed, I will focus on the six overarching missions for the Department: (1) counter terrorism and homeland security threats; (2) secure the U.S. borders and approaches; (3) secure cyberspace and critical infrastructure; (4) preserve and uphold the Nation's prosperity and economic security; (5) strengthen preparedness and resilience; and (6) champion the DHS workforce and strengthen the Department.

17. What actions will you take to ensure better cohesion and cooperation among all DHS components?



If confirmed, and in the role of the COO, I will work on further developing the infrastructure of the department. Based on my reading of publicly available documents, the guidance provided in the 2020-2024 DHS Strategic Plan appears to be rational and relevant: “over the next four years, DHS will continue to mature as an institution by increasing integration, clarifying roles and responsibilities, championing its workforce, advancing risk-based decision-making, and promoting transparency and accountability before the American people. In an important step forward, DHS will continue to consolidate Support Components and the Office of the Secretary on the St. Elizabeth’s Campus, which will further promote integration.”

18. As you advise the Secretary, what qualities will you look for in recommending people for DHS’s other leadership positions?

If confirmed, I will respectfully seek out the guidance of my manager and leader, the Secretary of Homeland Security, other DHS political appointees, and experienced DHS civil servants. History does not start with me. They are experts in what kind of fellow U.S. citizens we need in our leadership ranks to accomplish DHS’ mission. I will also seek out people who embody the DHS mission and want to: “help secure our borders, airports, seaports and waterways; research and develop the latest security technologies; respond to natural disasters or terrorists acts; and analyze intelligence reports.” Of course, I will bring my own views to the hiring equation. In the Army, in the three Administrations (Clinton, Bush, and Obama) that I worked in, and at Citigroup, I have always sought out people who are teammates, mission-oriented, and by their nature, inclusive and collaborative. In fact, this is why at Citigroup, I started a firm-wide initiative called Citi Salutes ([www.CitiSalutes.com](http://www.CitiSalutes.com)) that aimed at hiring thousands of U.S. military veterans and military family members. Similar to General Electric’s famously successful veterans talent program, one of my Citi Salutes effort was to stand up a junior military officer leadership talent program where we would hire high-potential U.S. company grade (10 years or less experience) officers and rotate them through a two-year training program. The return on investment has been tremendous both in terms of these junior military officer’s individual contributions and how they have fundamentally improved the culture for the good in their local Citigroup locations (which number in the thousands of employees at each U.S. site). Service at DHS is already a privilege and so I will also want to make sure that those we recruit fully understand the privilege to be employed in the service of the Nation and that to do so at least within my purview, they will need to be teammates, mission-oriented, and by their nature, inclusive and collaborative.

#### IV. Policy Questions

##### *DHS Mission and Priorities*

19. What do you see as the greatest threats to the homeland, and how will you work to mitigate these threats if confirmed as Deputy Secretary?

I believe the greatest threats to the homeland align to what the Department's stated prioritized objectives are to include threats concerning: terrorism, both international and domestic; cyber space; our critical infrastructure; the illicit drugs that are making their way across our borders in a variety of means to include those that increase U.S. exposure to opioids; and the ongoing issues caused by the global pandemic. Of note, I believe that the pace at which technology is evolving gives our adversaries greater opportunity to attack us in asymmetric and dangerous ways to include cyber attacks. White supremacist violence that threatens non-white communities across the country is adding to an already growing threat of domestic threats. Communist China is doing all that it can to undermine our economic security. Finally, I believe that COVID-19 and its rapid spread and debilitating effects on the Nation demonstrates how immensely vulnerable our nation is to bioweapons. If confirmed, I look forward to reviewing how the Department is dealing with all of these threats, and then further determine how to best mitigate them.

20. In your view, how has DHS's core mission evolved since its inception, if at all? What do you think DHS's core mission should be for the next decade?

At its inception, DHS was created to safeguard the Nation from terrorist threats or attacks to include detecting, preventing, preparing for, protecting against, responding to and recovering from terrorist attacks.

Today, I believe it is relevant and useful that DHS ties its core mission to what happened on September 11, 2001. As discussed in an earlier question, the threats from terrorism remain real and present and as the July 2002 White House National Strategy on Homeland Security stated, the terrorism threat was then both international and domestic. The components of that national strategy remain core to the DHS mission today, as I discussed in question #16. In essence, the need to safeguard the Nation remains similar to the July 2002 strategy. However, the methods by which threat actors seek to carry out attacks against the United States has changed in many ways. In addition, the Nation also faces threats from near-peer competitors that leverage asymmetric means from mis- and disinformation, to cyber espionage, to foreign malign influence to threaten the homeland. The ability to adapt and look over the horizon of the evolving threat is important for any mission involving the security of the homeland. As the Department's current website says: "as the complex threat environment continues to evolve and loom, the Department will embody the relentless resilience of the American people to ensure a safe, secure, and prosperous Homeland." If confirmed, I look forward to further examining the threat landscape that faces the Nation, as informed by the classified analysis prepared by the intelligence community for which I am not currently privy. Furthermore, if confirmed, I will endeavor to solicit appropriate analyses from those within DHS, Congress, and other entities about the nature of these threats and whether we should change DHS's core mission over the next decade.

21. In 2019, DHS released its Strategic Plan for Fiscal Years 2020-2024. What is your view of this plan?



I have read this document. Based on my reading and when comparing it to DHS' current website and other publicly available documents, it appears to me that the plan remains relevant and useful in how the Department is executing its stated mission. If confirmed, I look forward to further evaluating the Strategic Plan with the benefit of internal briefings from the Department, as well engaging Congress and other experts as to whether DHS should adapt this Plan further in support of the Department's stated mission.

22. The Homeland Security Act (HSA) requires the Department to produce, every four years, a Quadrennial Homeland Security Review (QHSR). What, if any, are the most significant changes in America's security environment since the publication of the 2014 QHSR?

I have reviewed the 2014 Quadrennial Homeland Security Review online. While the 2014 QHSR stated that risks are evolving in a changing world, all of the risks listed in the overview of the document include ones that remain just as relevant today: cyber threats, biological concerns including pandemics, nuclear terrorism, transnational criminal organizations that include illicit drugs, and natural hazards that are becoming more costly to address. As I discussed in question #20, it is the methods by which these threats are manifested and executed that has changed. The ability to adapt and look over the horizon of the evolving threat is important for any mission involving the security of the homeland. As the Department's current website says: "as the complex threat environment continues to evolve and loom, the Department will embody the relentless resilience of the American people to ensure a safe, secure, and prosperous Homeland." If confirmed, I look forward to evaluating current efforts to craft a QHSR that adequately addresses an ever-changing threat landscape. Assuredly, if confirmed, I will solicit analyses on this security environment from key subject matter experts at the Department, from Congress, and other experts about the nature of these threats.

23. In addition to providing federal leadership with respect to homeland security, DHS plays a large role in coordinating the activities of other federal, state, local, private sector, and international stakeholders, but has faced challenges in this regard. GAO and others have reported that the appropriate homeland security roles and responsibilities within and between the levels of government and the private sector are evolving and need to be clarified.
- a. What are your plans to strengthen DHS's coordination efforts and partnerships?
  - b. What would be your plan for reaching out to other agencies or organizations to partner with them on the development and implementation of homeland security programs?
  - c. What are some specific ways in which DHS could work collaboratively with other federal or nonfederal organizations to improve performance outcomes?

If confirmed, I would look forward to further evaluating the role that DHS plays in coordinating the activities of other federal, state, local, private sector, and international stakeholders. As gleaned from my analysis of public records, hearing

testimony and key strategy documents like the QHSR, nearly every facet of the Department's mission relies on engaging with other federal agencies; state, local, territorial and tribal partners; or with private sector entities. Therefore, as the Department's chief operating officer, strengthening these relationships will be an integral part of ensuring that the Department is well managed and functioning with peak efficiency. If confirmed, I commit to exploring opportunities to strengthen DHS's coordination efforts and partnerships, to fostering outreach out to other agencies or organizations with shared goals as the Department, and to identify ways in which DHS could work more collaboratively with other federal or nonfederal organizations to improve performance outcomes.

24. As you know, DHS has not had re-authorization legislation in some time. Are there particular legislative changes or initiatives that are needed to better ensure the Department is operating effectively and that may enable you to better accomplish the new administration's objectives? If so, please explain what those are.

If confirmed, I would look forward to examining the strengths and weaknesses of the Department in order to identify potential gaps in authorities that require legislative actions to address.

#### *Management*

25. What do you believe are the most important actions DHS should take to strengthen overall management of the Department?

If confirmed, I would look forward to evaluating and then prioritizing the most important actions DHS should take to strengthen the overall management of the Department. As I said in question #17, if confirmed, in the role of the COO, I will work on further developing the infrastructure of the Department. Based on my reading of publicly available documents, this guidance provided in the 2020-2024 DHS Strategic Plan appears to be rational and relevant: "over the next four years, DHS will continue to mature as an institution by increasing integration, clarifying roles and responsibilities, championing its workforce, advancing risk-based decision-making, and promoting transparency and accountability before the American people. In an important step forward, DHS will continue to consolidate Support Components and the Office of the Secretary on the St. Elizabeth's Campus, which will further promote integration."

26. Do you believe structural changes or other reforms are necessary for DHS to continue to effectively protect the homeland from overseas and domestic threats? If confirmed, how would you evaluate potential reforms?

If confirmed, I would look forward to evaluating the current recommended structural changes or other reforms that are necessary for DHS to continue to effectively protect the homeland from overseas and domestic threats. The evaluation of any reforms would start and finish with developing a clear and measurable set of evaluative criteria and which are tied to the Department's stated mission and prioritized objectives.

27. Do you believe an external review, commission, or blue ribbon panel should be created to provide nonpartisan recommendations to the Department on structural reforms in order to remove any existing bias for the status quo?

I am told that the Department receives important counsel, direction and oversight from the more than 75 committees and subcommittees in Congress, and I would certainly want to understand the recommendations for structural reform that these committees and subcommittees have to offer. Moreover, as I understand, the Department is subject to non-partisan oversight from both the Government Accountability Office and from the DHS Inspector General's Office. Finally, as I understand, the Secretary is in the process of reconstituting the Homeland Security Advisory Council, which in the past has always included relevant recommendations from former Department officials, thought leaders and private sector partners on the matters of the Department. Before I would commit to the establishment of a blue ribbon panel, I feel obligated to first understand the totality of recommendations from these sources.

28. Morale of DHS employees consistently ranks among the lowest in the federal government. What do you see as the Deputy Secretary's role in improving morale at the Department? How specifically would you work to improve morale?

I would look forward to assessing the morale of all DHS employees both in terms of relative status to other federal government departments and what the root cause of the morale issues are. If confirmed, I would welcome the opportunity to help improve morale in the Department. Having never served in the Department, it would be imprudent for me to now state what I believe are the best ways to improve morale. However, and like any new leader, I would certainly make one of my first actions to get to know the people, their jobs, their view of the mission, and their concerns. In my prior roles in the Army, three different Administrations, and in the private sector, I have encountered similar situations and have had been able to improve morale in each instance. While there are many reasons for survey respondents to demonstrate indications of low morale, role and mission clarity is key to understanding where, why, and how one is contributing to the overall mission. Everybody and especially I would think anybody who came to work at DHS wants to be relevant and contribute in their daily lives to contributing to DHS' noble mission to safeguard the homeland. Improving morale in any organization is not an overnight fix, but it can be done and if confirmed, I will do all that I can to improve the morale at DHS.

29. If confirmed, will you commit to reviewing any DHS programs that you believe could be eliminated because they are ineffective, duplicative, wasteful, unnecessary, or have outlived their purpose and report that information to Congress?

Yes.

30. GAO and the DHS Inspector General play important roles in assisting Congress in overseeing DHS operations and management. As Deputy Secretary, how will you work to



ensure that GAO and the Inspector General have the access they need to carry out their evaluation, audit, and investigation functions?

If confirmed, I will comply with statutory guidelines and regulations to ensure the GAO and the Inspector General have the access they need to carry out their evaluation, audit, and investigation functions.

31. What role do you believe the Deputy Secretary should play in addressing the High Risk management weaknesses that have been identified by GAO?

Based on the COO role of the Deputy Secretary of DHS, I believe addressing the High-Risk management weaknesses would likely be a prioritized focus area for the Deputy Secretary. Based on my reading of publicly available documents, it does appear that DHS has directionally good momentum on improving how the Department is managing its High-Risk List issues. If confirmed, I would continue to build on that good momentum and continue to implement the integrated strategy and work with GAO in reducing the high-risks.

32. Under the Government Performance and Results Act, federal agencies are required to establish long-term, strategic goals and related annual performance goals and report on actual performance achieved. GAO and others have reported that a number of DHS programs lack outcome goals and measures, which may hinder the Department's ability to effectively assess the results of program efforts or fully assess whether the department is using resources effectively and efficiently, given various agency priorities for resources. Do you believe that DHS programs should have outcome goals and measures?

Yes.

- a. How would you demonstrate your commitment to establishing and achieving departmental performance goals?

If confirmed, I would look forward to assessing how the Department is currently establishing its outcome goals and measures and then based on that assessment, take the necessary steps to ensure the Department makes any changes so that it can better achieve its stated mission.

- b. How would you use performance information to improve performance results?

At its core, performance information needs to be based on sound criteria that is tied to mission requirements. If confirmed, I would first review the DHS requirements to provide performance and accountability reports to the President, Congress, and the public and then assess whether those reports are helping to ensure the Department is being effective in its performance and stewardship of resources.

33. In many areas, the responsibilities of DHS intersect with those of other cabinet departments. For example, the Public Health Emergency Medical Countermeasures

Enterprise (PHEMCE) coordinates five cabinet Departments, including DHS, to authorize and purchase medical countermeasures for chemical, biological, radiological and nuclear (CBRN) threats. How do you view the role of DHS vis-à-vis other cabinet departments, and what lessons from your previous work will help you establish or maintain effective working relationships with other Departments?

If confirmed, I would look forward to evaluating how DHS intersects with other cabinet departments and to include how the Public Health Emergency Medical Countermeasures Enterprise (PHEMCE) coordinates five cabinet Departments, including DHS, to authorize and purchase medical countermeasures for chemical, biological, radiological, and nuclear (CBRN) threats. My prior experiences include significant interagency coordination in the National Security Council staff oversight for the countries of Iraq, Afghanistan, and Pakistan and I agree that DHS must proactively and routinely have good working relationships with all relevant Departments to effectively accomplish the stated DHS mission.

*Emergency Management and COVID-19*

34. If confirmed, what will be your immediate and longer-term priorities for the Federal Emergency Management Agency (FEMA)?

FEMA performs critical work for Americans in the times of greatest need. While I must further evaluate FEMA's immediate and longer-term priorities as laid out by the new FEMA Administrator, I generally believe that FEMA must continue to make progress towards improving the delivery of emergency management support to state, local, territorial and tribal partners amid increasingly costly and damaging extreme weather events.

35. How do you evaluate the current state of national preparedness for emergencies and disasters, including the capabilities of individuals and communities?

As a private citizen, it appears that FEMA, other components of DHS and the federal government as well as private and non-profit partners are working with diligence and passion to deal with national emergencies to include, but not limited to the global pandemic and natural disasters.

While I know that FEMA has helped stand up hundreds of vaccination sites from small mobile sites to mass vaccination centers, I personally was so impressed when I accompanied my 26-year-old daughter for her first Pfizer vaccination shot in April at Mercedes Benz Stadium in downtown Atlanta which is a FEMA-led mass vaccination center. I've been to that stadium for several sporting events and to see this great private-public partnership serving a massive public health need was both amazing and inspiring.

If confirmed, I will work to evaluate FEMA's current state of preparedness for emergencies and disasters at FEMA and other DHS components and will work with the

Secretary and Congress to remediate any deficiencies discovered as part of that evaluation.

36. The largest share of DHS's budget authority is provided to FEMA to carry out its mission. What are your initial recommendations for improving DHS and FEMA's management of its grant programs?

As a private citizen, I do not have ability nor data to properly evaluate FEMA's management of its grant programs. If confirmed, I would look forward to reviewing FEMA's grant management system to ensure that it is transparent and accountable. Upon completion of my review, I will consult with the Secretary and Congress as appropriate about my findings.

37. What is your understanding of DHS's role in the federal government's response to the COVID-19 pandemic? Do you believe DHS was well-equipped to respond to a pandemic of this scale?

Based upon publicly available sources, my understanding of DHS's role in the federal government response to the COVID-19 pandemic is that the Department's efforts have facilitated a speedy, whole-of-government response in confronting COVID-19, keeping Americans safe, helping detect and slow the spread of the virus, and making the vaccine available to as many people as possible. Within the Department, it is clear that all of the DHS components are actively involved to: support vaccine distribution and management; protect air travelers and the American public; share information with the American public; and protect the DHS workforce.

38. If confirmed, what actions will you take to continue and strengthen DHS's efforts to respond to the ongoing pandemic?

I believe DHS responsibly stepped up and responded with passion and hard work in response to the unprecedented COVID-19 pandemic. If confirmed, I look forward to reviewing how DHS has adapted its capabilities to respond again to a pandemic of this scale. With that said, the COVID-19 pandemic has killed nearly 600,000 Americans, caused immense economic damage, and massively disrupted our daily lives. I know I am just one of millions of Americans who lost a family member or friend to COVID-19, but on January 10, 2021, my mother died from COVID-19. The loss of a single life is tragic and certainly was for me, but the scale of these losses from COVID-19 represents a collective failure of government to protect our citizens from deadly pandemics. If confirmed, I will work to ensure that every resource within the Department is employed to prevent a similar scale of negative impact on the Nation.

39. If confirmed, what actions will you take to ensure that the Department is better positioned to identify, address and respond to future pandemics?

As I mentioned above in question 38, the Department must do everything it can to ensure that pandemics never impact the United States in the way that the COVID19 pandemic



has. If confirmed, I look forward to reviewing DHS's internal efforts to respond to the ongoing pandemic and as appropriate, will consider actions to continue to strengthen DHS's pandemic response efforts.

40. In light of COVID-19, the United States' (U.S.) land borders with Mexico and Canada have been closed to non-essential travel since March 21, 2020. If confirmed, how would you collaborate with the Governments of Mexico and Canada to assist in combating the trans-national spread of COVID-19? Additionally, if confirmed, how would you evaluate re-opening the borders to lawful trade and travel?

If confirmed, I look forward to reviewing the current policies regarding the land borders with Mexico and Canada as well as the ongoing U.S. bi-lateral relationships with both countries. As appropriate, I will then consider the best ways to enable the borders to be open for lawful trade and travel and how best to collaborate with those two countries to combat the trans-national spread of COVID-19.

41. Please describe your understanding of DHS's capability to achieve the four goals identified in the 2014 QHSR for the mission to strengthen national preparedness and resilience.

Certainly, these 2014 QHSR goals all still have merit: (1) Enhance National Preparedness; (2) Mitigate Hazards and Vulnerabilities; (3) Ensure Effective Emergency Response; and (4) Enable Rapid Recovery. If confirmed, I look forward to reviewing DHS, Congress, and other experts' assessment of DHS' capabilities to achieve the four goals as well as these sub-goals which include, but are not limited to: empowering individuals and communities to strengthen and sustain their own preparedness; promoting public and private sector awareness and understanding of community-specific risks; providing timely and accurate communications; and ensuring continuity and restoration of essential services and functions.

42. What role do you think mitigation and resilience building will have in addressing federal disaster costs issues?

I believe that pre-disaster mitigation efforts that strengthen infrastructure and reinforce existing structure can save lives and exponentially decrease post-disaster recovery costs.

43. What steps are you planning to address the long-term solvency issues and other challenges with the National Flood Insurance Program (NFIP)?

It is my understanding that the National Flood Insurance Program serves as a key backstop for communities subject to flood losses. Moreover, as I further understand from public reporting, the National Flood Insurance Program routinely suffers from the threats of insolvency. Given the importance of this program to communities in flood plains across the country, I commit to reviewing the NFIP as Deputy Secretary—if confirmed—and working with the Secretary and Congress to take any appropriate actions to ensure the long term solvency of the program.

*Critical Infrastructure Security, Cybersecurity, and Election Security*

44. Please describe your understanding of DHS's capability to achieve the four goals identified in the 2014 QHSR for the mission to safeguard and secure cyberspace.

Certainly, these 2014 QHSR goals all still have merit: (1) Strengthen the Security and Resilience of Critical Infrastructure; (2) Secure the Federal Civilian Government Information Technology Enterprise; (3) Advance Law Enforcement, Incident Response, and Reporting Capabilities; and (4) Strengthen the Ecosystem. If confirmed, I look forward to reviewing DHS, Congress, and other experts' assessment of DHS' capabilities to achieve the four goals as well as these sub-goals which include, but are not limited to: partnering with critical infrastructure owners and operators to ensure the delivery of essential services and functions; ensuring government-wide policies and standards are consistently and effectively implemented and measured; responding to and assisting in the recovery from cyber incidents; and advancing international engagement to promote capacity building, international standards, and cooperation.

45. If confirmed, what are your immediate and longer-term plans for DHS's roles, authorities, and efforts in the cybersecurity area? What are the primary challenges DHS faces in this area?

Based on documents and sources that are publicly available including the Executive Order on Improving the Nation's Cybersecurity published by the White House on May 12, 2021, it appears that there are many ongoing efforts that are integrating and evolving DHS's and the entire federal government's roles, authorities, and efforts in the cyber security area. As that Executive Order stated, "the Federal Government must bring to bear the full scope of its authorities and resources to protect and secure its computer systems, whether they are cloud-based, on-premises, or hybrid. The challenges that the United States faces is from persistent and increasingly sophisticated malicious cyber campaigns that threaten the public sector, the private sector, and ultimately the American people's security and privacy." In response, the Federal Government must ensure that all departments, organizations, and agencies are optimally working in concert with one another.

46. Today there are more than 20 agencies across the federal government with roles and responsibilities associated with U.S. cyber capabilities. What role do you believe the Department should play in this ecosystem? Please describe your understanding of the Department's responsibilities for cybersecurity, both federal and non-federal.

It is my understanding that the Department has several roles when it comes to cybersecurity. Some of these roles include but are not limited to the following:

- Through the Cyber and Infrastructure Security Agency (CISA) the Department is entrusted to protect all civilian federal networks;



- Through CISA, the Department works to sector specific agencies to assist the 16 critical infrastructure sectors in protecting themselves from cyber threats;
- Through the DHS Office of Intelligence & Analysis and in partnership with CISA, the Department issues intelligence products about the nature of cybersecurity threats to DHS partners at all levels of government; and
- As the recent ransomware attack on the Colonial Pipeline demonstrated, the Department can play a role in responding to cyber attacks in ways similar to how the Department would respond to natural disaster.

This list is not comprehensive. With that said, the bulk of DHS's roles can be captured in the May 12<sup>th</sup> Executive Order's nine sections: (1) Policy; (2) Removing Barriers to Sharing Threat Information; (3) Modernizing Federal Government Cybersecurity; (4) Enhancing Software Supply Chain Security; (5) Establishing a Cyber Safety Review Board; (6) Standardizing the Federal Government's Playbook for Responding to Cybersecurity Vulnerabilities and Incidents; (7) Improving Detection of Cybersecurity Vulnerabilities and Incidents on Federal Government Networks; (8) Improving the Federal Government's Investigative and Remediation Capabilities; and (9) National Security Systems.

47. What do you view to be the most significant current and potential cyber security threats facing our nation, including threats to federal networks and critical infrastructure owners and operators?

The most significant current and potential cyber security threats facing our nation stem from nation-states and their proxies, transnational criminal organizations, and cyber criminals. As a private citizen as well as a leader in one of the 16 critical infrastructure sectors (financial services), the three most recent high-level cyber attacks (Solarwinds, Microsoft Server, and the Colonial Pipeline ransomware) clearly indicate that all three types of threat actors are currently working to undermine the United States cyber ecosystem.

48. What in your experience gives you the knowledge of how cyber threats differ from other threats that DHS is tasked with countering? What is your understanding of the range of cyber threat actors?

While cyber threats target our information, our data, and our technologies, the purpose and the results are similar to other threats to the U.S. homeland: the actions are used to subvert American power, American security, and the American way of life.

As I said in question #47, the range of cyber threat actors include, but are not limited to nation-states and their proxies, transnational criminal organizations, and cyber criminals. The state cyber threats include powers like China and Russia. Other cyber threat actors have different goals to include ideological, supporting illicit businesses, disruption of the American economy way of life, and simply financial crimes to extort money via ransomware.

49. What do you consider to be the greatest threats against our nation's election infrastructure, and how will you position DHS to help address them?

The greatest threats against our nation's election infrastructure stem from compromises to the integrity of: state-level voter registration systems, the preparation of election data (e.g., ballot programming), vote aggregation systems, and election websites. If confirmed, I look forward to evaluating CISA's role in assessing these threats and when appropriate, supporting CISA in their additional role to help mitigate these threats.

50. How will you address the challenge of recruiting and retaining the necessary personnel with critical cyber security expertise?

If confirmed, and in the role of COO, part of my role to be champion the DHS workforce and strengthen the department to include supporting the hiring of qualified cyber security professionals into CISA and across DHS. In the private sector, we value our equivalent counterpart cyber security professionals. Importantly, we see cyber security skill sets being integral across several different jobs in the private sector such as information security, data management, information technology, and data compliance. As a senior leader in my current firm, all of these professionals were either parts of the team I led or were key partners in ensuring our commitment to keep our customers' data and internal company processes safeguarded. I look forward to leveraging my own private sector experiences as I review and then possibly recommend how CISA, DHS, and the federal government conduct cyber security hiring and retention.

51. Over multiple administrations, federal agencies have failed to comply with cybersecurity requirements under the Federal Information Security Modernization Act ("FISMA"). If confirmed, what will you do to address these long-standing vulnerabilities?

As I understand it, FISMA lays out certain cybersecurity requirements for each federal agency. As we seek to protect federal networks, we must be mindful that we are only as strong as our weakest link. Consequently, ensuring that federal agencies follow through on their obligations under FISMA is critical to strengthening overall federal network security. If confirmed, I will assess DHS' compliance with all federal requirements to include the Federal Information Security Modernization Act ("FISMA") and as appropriate, take the actions to close any existing compliance gaps in a prioritized and diligent fashion.

52. Last year, DHS's own cybersecurity program was rated ineffective under FISMA. As the agency charged with administering FISMA requirements government-wide, DHS should be a model for other executive agencies. How will you address these weaknesses in the Department's program?

As I stated in question #51, if confirmed, I will assess DHS' compliance with all federal requirements to include the Federal Information Security Modernization Act ("FISMA")

and as appropriate, take the actions to close any existing compliance gaps in a prioritized and diligent fashion.

53. Under the National Defense Authorization Act of 2021, Congress established a National Cyber Director and an accompanying office in the White House. What is your plan for coordinating DHS's current responsibilities with the new Cyber Director to prevent confusion?

If confirmed, I look forward to working closely with the confirmed National Cyber Director and the Cyber and Infrastructure Security Agency Director to achieve the stated cyber security priorities of the Administration to include as outlined in the Executive Order dated May 12<sup>th</sup>.

54. What do you see as DHS's role in negotiating and maintaining partnerships with other countries on cybersecurity? What opportunities do you see for increased cooperation to combat international cybersecurity threats?

If confirmed, I look forward to working with other countries, as appropriate, on cybersecurity who share in our goal to secure our respective cyber ecosystems. Most cyber threat actors can and will be indiscriminate in their attacks irrespective of national borders and as a result, the opportunities for partnering with like-minded countries on cybersecurity will increase in the coming months and years.

55. Do you think the current DHS legislative authorities and programs are adequate for ensuring the cybersecurity of U.S. critical infrastructure? If not, what changes do you think are needed?

As I said in question #46, based on documents and sources that are publicly available to include the Executive Order published by the White House on May 12, 2021 and titled Executive Order on Improving the Nation's Cybersecurity, it appears that there are many ongoing efforts that are integrating and evolving DHS's and the entire federal government's roles, authorities, and efforts in the cyber security area.

56. Please explain your understanding of how DHS interfaces with the Department of Justice in responding to significant cyber incidents. What types of support do the departments offer one another, and how are the roles delineated? What plans do you have to support interagency response to cyber incidents?

As I understand, the Federal Bureau of Investigation conducts investigations into cyber incidents, the Department of Justice is in charge of prosecuting criminal cyber actors who break federal laws, and the Department of Homeland Security is responsible for preventing and mitigating cyber attacks. If confirmed, I look forward to reviewing how



DHS interfaces with the Department of Justice in responding to significant cyber incidents

57. One of DHS's most challenging missions is protecting physical and cyber critical infrastructure across 16 individual and unique sectors. In most of these sectors, DHS has little or no operational or regulatory authority and must rely on partnerships with other federal agencies, state and local governments, and private infrastructure owners and operators.

- a. How, if at all, would you recommend DHS change its approach under you to critical infrastructure protection?

As a private citizen, I have no direct knowledge of the Department's relationship with critical infrastructure operators and, if confirmed, I would evaluate these relationships for strengths and weaknesses. If confirmed, I look forward to reviewing DHS' operational and regulatory authorities and where appropriate, I would support an assessment of how to change those authorities to better meet the stated missions to protect the physical and cyber critical infrastructure across all 16 sectors.

- b. What steps do you think are necessary to strengthen communication and two-way information sharing with private sector owners and operators, while also safeguarding sensitive information?

By many accounts, the private sector owns 80 to 85 percent of the critical infrastructure of the United States. If confirmed, I look forward to reviewing more about how much is shared today and where appropriate, take steps to strengthen communication and two-way information sharing with private sector owners and operators, while also safeguarding sensitive information.

- c. Which sectors (i.e. electricity, banking, chemical, etc.) do you think are most critical to protect and how should DHS prioritize among them?

It is my understanding the Cybersecurity and Infrastructure Security Agency is responsible for working with the private sector and sector specific agencies in order to secure critical infrastructure from all forms of threats. My understanding is that no critical infrastructure sector is necessarily more important than the other and that the Department is obligated to all of its infrastructure protection resources to bear on this mission. With that said, the Department should prioritize any efforts to strengthen potential targets based on risk evaluations carried out by the Department. If confirmed, I look forward to reviewing how the 16 critical infrastructure sectors are evaluated both individually and in combination for strengths and weaknesses.

- d. How will DHS assess risks to various sectors and prioritize its efforts to those areas of greatest risk?

As I said above, if confirmed, I look forward to examining how the 16 critical infrastructure sectors are evaluated both individually and in combination for strengths and weaknesses. Upon completion of this examination, I pledge to share my results with the Congress, as appropriate.

*Intelligence and Information Sharing*

58. How do you envision DHS working with its partners in the federal intelligence community to ensure that intelligence information is both appropriately shared and protected from unwarranted disclosure?

From my time in the United States Army and serving on the National Security Council staff, I know that having access to actionable intelligence and comprehensive intelligence analyses are critical for protecting against national security threats. To that end, the Department's ability to support state and local partners is largely dependent on its ability to communicate actionable intelligence to these partners in a secure manner. If confirmed, I look forward to reviewing how DHS works today with its partners in the federal intelligence community to ensure that intelligence information is both appropriately shared and protected from unwarranted disclosure and then if needed, to help DHS modify such intelligence and information sharing.

59. In your view, what role should the Office of Intelligence and Analysis's (I&A) annual homeland threat assessment influence the overall priorities of the Department?

As I stated in question 58, actionable intelligence can and should lead to when and how organizations prioritize the use of their finite resources. If confirmed, I look forward to reviewing the role of the Office of Intelligence and Analysis's (I&A) annual homeland threat assessment in how that annual assessment can and should influence the overall priorities of the Department.

60. What in your view is the role of CRCL and PRIV in reviewing I&A intelligence products?

As I understand, these offices work to safeguard the privacy of Americans and to ensure that the Department does not take action that would undermine Americans civil rights or civil liberties. If confirmed, I look forward to reviewing the role of the Office for Civil Rights and Civil Liberties and the DHS Privacy Office play in the review of I&A intelligence analysis.

61. If confirmed, what steps will you take to improve information sharing among federal, state, local, and tribal officials and ensure the information is timely and valuable?

As I've seen in my time in the Army, with the NSC staff, and the private sector, organizations must share relevant information and if at all possible actionable information, otherwise, it is just data. If confirmed, I look forward to reviewing how

information sharing is done today among federal, state, local, and tribal officials and then assess to what extent the information is actionable versus being shared simply for awareness.

*Misinformation and Disinformation*

62. What are your views on the role of DHS in addressing misinformation and disinformation?

The American public deserves accurate information so they can make informed decisions about their lives and certainly about how to ensure they are safe and secure. As a result, misinformation and disinformation not only undermines the public's confidence in what they can believe, it also makes them less safe and secure. I believe that DHS should play a significant role in addressing the threats of misinformation and disinformation.

63. What actions will you take to ensure that the Department has the right policies and programs in place to address misinformation and disinformation regarding elections, specifically, and online, writ-large?

As I responded to question 62, the American public deserves accurate information so they can make informed decisions about their lives and certainly about how to ensure they are safe and secure. As a result, misinformation and disinformation not only undermine the public's confidence in what they can believe, it also makes them less safe and secure. If confirmed, I look forward to reviewing how the Department is mitigating misinformation and disinformation and then assess where my role as the Deputy Secretary can best be helpful to support their stated mission to building national resilience to mis-, dis-, and mal-information and foreign influence activities.

*Preventing Terrorism and Enhancing Security*

64. According to the QHSR, the Department's first mission is to prevent terrorism and enhance security. Please describe:

- a. The Deputy Secretary's role in ensuring that the Department executes this mission.

As the Chief Operating Officer of the Department, the Deputy Secretary has the responsibility for managing the day-to-day operations of the Department to include protecting Americans from terrorism and other homeland security threats. As the second-in-charge of the Department, the Deputy Secretary directly reinforces and supports all the Secretary's priorities of which counter terrorism and countering homeland security threats are two of the top priorities. When the Secretary is unable to perform the duties of the Secretary for counter terrorism and homeland security threat related events, meetings, or otherwise, the Deputy Secretary will serve in the Secretary's capacity.



- b. Operational or management challenges that the Department faces in executing this mission.

The operational and management challenges to accomplish this mission are large and complex. They include, but are not limited to: providing early warning for threats; integrating intelligence and threat information across DHS and the interagency; disseminating intelligence and threat information for domestic and international partners as needed; executing counterintelligence activities to protect the homeland security enterprise from espionage, insider threats, and external adversaries; disrupting foreign and domestic terrorist plots and attacks through aviation and surface transportation security, border security, and maritime security; preventing foreign threat actors from exploiting travel, trade, financial, and immigration systems for illicit purposes; countering malicious foreign influence efforts in the United States, including interference directed at undermining U.S. Government operations and democratic processes; protecting designated U.S. leadership and their families; managing and coordinating federal security operations for National Special Security Events; and protecting federal facilities; improving security of soft targets; countering weapons of mass destruction.

- c. What actions, if any, you recommend to improve DHS's operations to achieve this mission.

If confirmed, I look forward to reviewing how the Department conducts operations to achieve this mission and as appropriate, help develop ways DHS can improve these operations.

- d. As Deputy Secretary, how will you balance the need to protect the homeland while also protecting individuals' privacy, civil rights, and civil liberties?

It is my understanding that the Department must strike an importance balance between securing our country from a wide range of ever-evolving threats, while simultaneously ensuring that its security efforts do not undermine Americans' civil rights and civil liberties. To that end and as I noted in response to question 60, I was heartened to learn about the role of the DHS Privacy Office and the DHS Office for Civil Rights and Civil Liberties. These two offices serve important functions that will help me, if confirmed, and the rest of the Department's leadership strike the appropriate balance between our security and our liberties.

65. What role do you believe DHS should play in developing policies and plans to prevent international and domestic terrorism?

In my view, any federal agency should be ready to adapt to counter evolving threats and DHS should be no different. However, as a private citizen, I do not have the benefit of any internal analyses that would be able to inform my opinions of the adequacy of the

Department's role. However, if confirmed, I look forward to gaining this insight into the Department's efforts as it develops policies and plans to prevent foreign and domestic terrorism and as appropriate, I will provide input as to whether that role should be larger.

66. In September 2019, DHS published its Strategic Framework for Countering Terrorism and Targeted Violence. What are your views of this framework?

The Strategic Framework for Countering Terrorism and Targeted Violence usefully accounted for the changing nature of terrorism and targeted violence in America. If confirmed, I look forward to reviewing the Department's current approaches to countering all forms of terrorism and targeted violence as they emerge, evolve, and intersect. As the framework noted, it is important to continually improve the United States' ability to prioritize threats and subsequently more effectively allocate resources and personnel across the Department and which in turn, will allow the U.S. to better prevent terrorists and other hostile actors from entering the United States, and deny them the opportunity to exploit the Nation's trade, travel, and immigration systems.

67. What steps, if any, do you believe are required to develop and integrate a whole-of-government approach to prevent violent extremism in the U.S.?

Homegrown terrorism and violent extremist threats represent a clear threat to our country. Addressing a threat of this nature will, no doubt, require that all federal resources are brought to bear through a whole-of-government effort. If confirmed, I look forward to reviewing how DHS is integrating a whole-of-government effort across departments to prevent violent extremism in the United States and as appropriate, review the steps under development to further improve that integration.

68. What is your assessment of, and commitment to, community engagement to prevent terrorism, including counterterrorism, domestic terrorism and the rise in activities involving other violent extremists?

In order to address a range of terrorist and extremist related threats, the Department of Homeland Security must have a strong relationship with not just its state and local partners, but also with community organizations across the country. I have always valued consistent, cooperative, and proactive engagement in order to address challenges and fully commit to continuing this practice in the context of these threats if I am fortunate enough to serve as Deputy Secretary of Homeland Security. If confirmed, I look forward to reviewing DHS' current commitments to this community engagement and after that, will assess and as appropriate provide further guidance and direction.

69. The rise of domestic violent extremism, including white supremacist violence, has particularly impacted minority communities in the U.S., like Black, Hispanic, Jewish, Arab, Asian, and Muslim Americans, who have found themselves the targets of this racist violence. Their voices are not always included in the conversation and some have raised concerns that the Department's counterterrorism actions may have unintended



consequences in their communities. How do you plan to engage these communities when developing programs and plans to counter domestic violent extremism and terrorism?

There is no place for such violence in our country. For 24 years in the active-duty Army, I sought to support and defend our Constitution and essentially support the American way of life for all citizens. White supremacists who target minority communities have no place in the country that I served for those 24 years. If confirmed, I look forward to understanding if, how, and why these minority community voices are not always included in the conversation as well as understand if the Department's counterterrorism actions have had unintended consequences in these communities. Once I have that understanding, I will develop a plan to better engage these communities when developing programs and plans to counter the rise of white supremacist violence.

70. What gap do you see the new Center for Prevention Programs and Partnerships, or CP3, filling that the Office for Targeted Violence and Terrorism did not previously address?

I have not been briefed on this newly formed office and how it differs from any of its predecessors. If confirmed, I will certainly examine this office and offer up my analysis to the Committee. For any specific questions about the office, I would refer you to the DHS Office of Legislative Affairs.

71. If confirmed, do you commit to ensuring that the DHS Privacy Office and the Office of Civil Rights and Civil Liberties are appropriately consulted on the review of DHS products such as guidance, protocols, and implementation memoranda?

Yes.

72. Minority communities, particularly Arab and Muslim Americans, have longstanding concerns related to excessive screening by TSA and CBP during air travel. What are your plans to address these concerns?

All Americans should be free of scrutiny or profiling that is predicated solely on the individual's ethnicity or religion. If I am fortunate enough to serve as Deputy Secretary, I will unequivocally affirm to the Department's workforce that hate, intolerance and discriminatory practices have no home in the Department. If confirmed, I will review how these minority communities concerns related to excessive screening by TSA and CBP during air travel and as appropriate, will help develop plans to address these concerns.

73. Please describe your understanding of the challenges facing, and your priorities to improve, the Transportation Security Administration (TSA).

Air travel in the United States and abroad is a fundamental part of our country's economy and Americans' way of life. Americans deserve to be able to travel the skies freely and without threats of violence. If confirmed, I look forward to reviewing the challenges

facing Transportation Security Administration (TSA) and as appropriate, will provide support to help develop prioritized improvements for the TSA.

74. Within TSA operations, aviation security gets a lot of funding and attention, while surface security—including passenger rail and mass transit—receives about 3 percent of TSA’s budget. Yet the nation’s surface transportation system is inherently vulnerable to attack, given its very design. Do you plan to shift the level of attention and resources between aviation and surface transportation security?

Surface transportation is a critical component of the United States’ travel infrastructure. Our allies in Europe and elsewhere have had to cope with severe and crippling attacks on surface transportation, and we must be mindful of these attacks on our allies as we prioritize our limited resources. If confirmed, I look forward to evaluating the current balance between aviation and surface transportation security and as appropriate, will review whether a shift of attention and resources is warranted.

75. If confirmed, would you support TSA’s efforts to expand the PreCheck program?

It is my understanding that PreCheck is a key trusted traveler program that serves as both a security tool and a travel facilitation program. If confirmed, I look forward to reviewing the efforts to expand the PreCheck program and as appropriate, will consider whether to expand it.

76. The Government Accountability Office and the DHS Office of Inspector General frequently site the need for DHS to prioritize resources and efforts based on risk, such as FEMA’s grant funding allocations or TSA’s layers of security. The DHS Fiscal Years 2014-2018 Strategic Plan also calls for the use of a risk-based strategy when implementing security policies.

- a. If confirmed, how will you ensure that appropriate risks are considered and incorporated into department-wide strategies?

As I have done in my both my Army and private sector careers, the assessment of risks and prudent application of those risks must be considered when developing an organization’s strategies. If confirmed, I look forward to evaluating how risk-based strategies are being used and as appropriate, will ensure that they are further incorporated into department-wide strategies

- b. If confirmed, how will you encourage operational and support components to more effectively incorporate risk-based analysis when setting homeland security priorities?

Risk-based analysis is logical and the value is clear once adopted as a way to set strategy and prioritize actions. If confirmed, I look forward to reviewing how much operational and support components are effectively incorporating risk-based analysis and as appropriate, will encourage greater application when setting homeland security priorities.

77. If confirmed, what policies would you pursue to counter chemical, biological, radiological, and nuclear threats?

The homeland is as vulnerable today to these threats as they were when the Department was first formed. If confirmed, I look forward to reviewing how DHS is mitigating the threat of chemical, biological, radiological, and nuclear materials and as appropriate, will consider additional policies that would improve that mitigation.

78. In September 2018, the U.S. issued a new National Biodefense Strategy, and the FY2021 NDAA mandated the federal government create an updated implementation plan for the Strategy. What steps will you take to ensure the Strategy is properly implemented and incorporated into the strategies and policies of the Department?

As I said in response to question 77, the homeland is vulnerable to biological attacks and given the devastating impact from COVID-19, biodefense is an action the United States must take seriously. If confirmed, I look forward to reviewing the new National Biodefense Strategy, and the FY2021 NDAA that mandated the federal government create an updated implementation plan for the Strategy and as appropriate, will consider the steps to ensure the Strategy is properly implemented and incorporated into the strategies and policies of the Department.

79. Do you believe that the Comprehensive Biometric Entry/Exit Plan still has value for DHS, and how should CBP prioritize its continued implementation?

One of the core missions of U.S. Customs and Border Protection (CBP) is to enforce and administer U.S. immigration laws. A key aspect of effective enforcement is the ability to discern individuals who are lawfully present in the United States from those who have violated their terms of admission by staying beyond their authorized period of stay without formally changing or adjusting their status. If confirmed, I look forward to reviewing the Comprehensive Biometric Entry/Exit Plan and as appropriate, will consider whether it still has value for DHS and if so, how the CBP should prioritize its continued implementation.

80. Artificial intelligence has greatly improved the accuracy and speed of biometric technologies, especially facial recognition technologies. How you plan to ensure that the use of these AI-enabled technologies is effective, trustworthy, and free from unwanted bias?

Artificial intelligence can be quite useful in a number of applications both in the private and public sectors, but like any technological advancement, it has its limitations. I was pleased to learn that the Department is proactively employing AI for certain departmental functions. If confirmed, I look forward to evaluating the effectiveness, trustworthiness, and bias-free level of these AI-enabled technologies and as appropriate, will then review the plans to ensure they are used in a prudent manner in support of the DHS mission.



81. GAO and others, such as the Blue Ribbon Study Panel on Biodefense—led by Tom Ridge and Joe Lieberman—have pointed to the largely fragmented and uncoordinated federal effort and approach to protecting the country from biological threats. While DHS has responsibilities for the country's biodefense, it has only a small piece of the federal staff, resources, and efforts compared to HHS and USDA, among others. Further, questions have been raised about the effectiveness of DHS's bio programs such as Biowatch and the National Biosurveillance Integration Center.
- a. What is your position on the future role of DHS in biodefense, versus other federal agencies?
  - b. In your view, what steps are needed to ensure that the country is better prepared for naturally occurring or manmade biological threats?
  - c. What is your view on the needs for a next generation bio detection system to replace Biowatch?

As I said in my response to question 77, the country is vulnerable to a biological attack. As I've seen in my Army, all three Administration roles, and certainly in the private sector, coordinated efforts that optimize the resources across multiple jurisdictions will produce a better outcome for all involved. If confirmed, I look forward to reviewing the Blue Ribbon Study Panel on Biodefense and how it applies to the current way DHS handles its responsibilities for the country's biodefense. I also look forward to reviewing the way DHS is preparing for naturally occurring or manmade biological threats as well as the needs for a next generation bio detection system to replace Biowatch and as appropriate, will consider ways to improve the preparation and the replacement for Biowatch.

82. Dangers from unmanned aircraft systems, artificial intelligence, and other emerging threats represent a growing area of concern. If confirmed, how will you position DHS to address evolving threats so the agency is best capable to tackle malicious actors of the 21st century?

Our adversaries will take advantage of all technologies at their disposal to include the ones referenced here. DHS must be proactive in not just dealing with threats as they exist today, but of the emerging threats on the horizon. If confirmed, I look forward to evaluating the Department's current approaches to address evolving threats and as appropriate, will review how DHS should best position itself to tackle the malicious actors of the 21<sup>st</sup> century.

83. If confirmed, how will you foster strategic partnerships with foreign entities to ensure the safety of U.S. citizens domestically and abroad?

U.S. citizens deserve to feel safe when they are travelling domestically and when travelling abroad. As such, partnerships with foreign entities can play an important part in helping to improve that safety outside our borders. In my review of the Department's efforts to protect against foreign based threats, I have learned that the Department

achieves this mission by pushing out its defenses far beyond the country's physical borders. For instance, the U.S. Customs and Border Protection's Preclearance program pushes out U.S. customs checkpoints to foreign airports in order to identify and prevent any foreign travel threat long before it reaches U.S. soil. In order for the Department to maintain these capabilities, DHS must forge strong partnerships with its foreign partners. If confirmed, I look forward to reviewing all of the Department's current approaches to fostering strategic partnerships with foreign entities.

84. In your view, what is the Department's role in protecting federal buildings, law enforcement officers, and other law enforcement assets?

My understanding is that the primary role of the Federal Protective Service (FPS) is to protect and provide law enforcement and securities services to federal buildings owned or leased by the General Services Administration. Should any of these federal properties come under specific threats, I would expect that the Federal Protective Service would take a lead role in mitigating this threat.

85. What is your view on providing assistance to state and local law enforcement in times of civil unrest?

I believe that the Department must have productive relationships with state and local communities, including the state and local law enforcement present in those jurisdictions. In my view, the Department was established in part to facilitate cooperation between the federal government and its state and local partners, and I believe that this prosperous cooperation has allowed state and local governments to view the Department as a trusted partner that provides support to them when facing challenging environments.

86. What are the Coast Guard's capability and resource gaps that concern you most, and what steps would you take to address them?

The Coast Guard is a great military branch of service that serves several important missions to safeguard the homeland. As someone who also served in another military branch of service and if I am fortunate enough to be confirmed as the Deputy Secretary of Homeland Security, it will be an honor to serve alongside the men and women of the U.S. Coast Guard (USCG). If confirmed, I will use my abilities as the Department's Chief Operating Officer to ensure that the USCG is fully staffed, fully supported and fully equipped. While I do not have direct knowledge of the US Coast Guard's immediate needs, I would expect that they likely need investment in basic infrastructure and equipment. If confirmed, I look forward to reviewing the Coast Guard's entire set of capability and resource gaps and as appropriate, will then consider the prioritized best steps that DHS should take to address them.

87. Regarding maritime security, do you plan to implement the 9/11 Act requirement for 100 percent scanning of all cargo container shipments or will you continue to support CBP's current approach of identifying and examining high-risk shipments?

Maritime security is an essential component of protecting our homeland. Achieving an appropriate balance between screening cargo for potential threats and facilitating legitimate trade, shipping and commerce is a key role for Department. If confirmed, I look forward to evaluating how CBP scans cargo container shipments and the approaches that they take to include considering both the 9/11 Act requirement for 100 percent scanning of all cargo container shipments as well as the approach to identify and examine high-risk shipments.

88. DHS plays a central role in the multi-Department effort to share terrorism-related information both within the federal government as well as state, local, tribal, private sector, and even international partners. A report by the House Homeland Security Committee found that while DHS has made important progress, the Department's intelligence enterprise remains scattered and all too often uncoordinated across and sometimes within its various components. What plans do you have to improve coordination across DHS's various intelligence offices and programs?

- a. How do you envision DHS working with its partners in the federal intelligence community to ensure that terrorist-related information is both appropriately shared and protected from unwarranted disclosure?

Based on my time in the Army and at the NSC, I know that coordinated sharing of information and intelligence is critically important to helping safeguard the homeland. My understanding is that the DHS Office of Intelligence & Analysis is primarily responsible for the delivery of timely and actionable intelligence to our state, local, territorial and tribal partners. Moreover, I have been informed that the Under Secretary for Intelligence & Analysis (USIA) serves as the chief intelligence officer for the Department, as well as the primary liaison with the broader intelligence community. Therefore, if confirmed, I would rely heavily on the USIA to cultivate strong relationships with the intelligence community. If confirmed, I look forward to evaluating how DHS shares terrorism-related information both within the federal government as well as state, local, tribal, private sector, and international partners to include whether unwarranted disclosure is prevented and as appropriate, assess whether changes need to be made to improve what and how that intelligence is shared.

89. Since the creation of DHS, the S&T directorate has undergone various transformations and has often struggled in defining its role within the Department and its responsibilities in working with operational components. What is your view on the appropriate and most effective role of S&T and what steps are needed to ensure that they achieve it?

Based upon my time in the private sector, I know that research and development is important for any organization that needs to operate and succeed in an environment



where conditions are constantly evolving. If confirmed, I look forward to reviewing the S&T directorate, its various transformations, and the struggles described above and as appropriate, will determine how to best help resolve those stated challenges.

90. How should investments in R&D be prioritized within S&T and among operational components?

In general, I believe that any research and development investments should be prioritized on the basis of addressing high the highest needs as informed by risk-based analyses. Similar to what I stated in response to question 90, if confirmed, I look forward to reviewing the S&T directorate to include how investments in R&D are prioritized today and as appropriate, consider the best ways to prioritize within S&T and among operational components.

91. S&T also plays a role in the development of threat assessments that can lead to authorization of the procurement of countermeasures under the BioShield program. If confirmed, will you commit to taking a strategic look at how the threat assessment process works and whether there is appropriate oversight of the assessments?

Yes.

92. In your view, is DHS effectively leveraging other federal R&D resources and facilities, such as the DOE national laboratories, DOD offices, and other federally funded research and development centers (FFRDC)?

I understand that DHS Science & Technology does have relationships with other federal agencies, facilities, and organizations. In general, I believe that the U.S. taxpayers are best served when government agencies work collaboratively and develop efficiencies by pooling resources. As a retired Army officer, I witnessed the benefits of reform efforts in the Department of Defense (such as the Goldwater-Nichols Act) that sought to align resources under specific unified commands. If confirmed, I would work to seek efficiencies by developing partnerships with other federal agencies, where appropriate, that would improve outcomes and save taxpayer dollars. If confirmed, I look forward to evaluating whether DHS is effectively leveraging these other federal R&D resources and facilities and if needed, support ways to improve that coordination.

*U.S. Secret Service*

93. What, in your opinion, are the main problems and challenges at the Secret Service?

I worked with the dedicated men and women of the United States Secret Service during my time in the NSC. the Secret Service faces a high demand for their services and challenges with overworking its personnel. To address that, I am committed to evaluating the resource and personnel constraints on the Secret Service in an effort to improve the long-term operational capacity of the Service.

94. Some have argued that the Secret Service is over-burdened by its dual mission: protecting the President and others while also investigating financial crimes. Do you believe the Secret Service would benefit from having a single focus on its protective mission? If so, when and how would you propose making that change?

As I said in response to question 94, if confirmed, I look forward to reviewing all aspects of the Secret Service to include their various missions and if confirmed, I will consider their mission set to include the ones referenced above.

95. In the Department's Fiscal Year 2021 budget request, the Trump administration recommended transferring the U.S. Secret Service (USSS) out of DHS and back into the Treasury Department. There was also a bill that gave the legislative authority for the move. Do you think the USSS should remain at DHS?

I believe that the men and women of the Secret Service are dedicated professionals who perform critical services to the U.S. government, to their protectees and to the Department of Homeland Security's mission. If confirmed as DHS Deputy Secretary, I look forward to working with the Secret Service as part of the Department of Homeland Security

96. If confirmed, what steps would you take to improve staffing, training, and morale at USSS?

As I said in response to question 28, if confirmed, I would look forward to assessing the morale of all DHS employees, the Secret Service included, both in terms of relative status to other federal government departments and what the root cause of the morale issues are. If confirmed, I would welcome the opportunity to help improve morale in the Department. Having never served in the Department, it would be imprudent for me to now state what I believe are the best ways to improve morale. However, and like any new leader, I would certainly make one of my first actions to get to know the people, their jobs, their view of the mission, and their concerns. In my prior roles in the Army, three different Administrations, and in the private sector, I have encountered similar situations and have had been able to improve morale in each instance. While there are many reasons for survey respondents to demonstrate indications of low morale, role and mission clarity is key to understanding where, why, and how one is contributing to the overall mission. Everybody and especially I would think anybody who came to work at DHS wants to be relevant and contribute in their daily lives to contributing to DHS' noble mission to safeguard the homeland. Improving morale in any organization is not an overnight fix, but it can be done and if confirmed, I will do all that I can to improve the morale at DHS and within component organizations to include the USSS.

97. If confirmed, do you commit to ensuring the USSS performs a zero-based budget review to determine sufficient resources to accomplish its mission?



Like all federal government organizations, we have a responsibility to be good stewards of the country's resources. As someone who has managed several large budgets in both my Army and private sector career, I know the importance of sound budget planning. If confirmed, I am committed to evaluating the resource and personnel constraints on the Secret Service in an effort to improve the long-term operational capacity of the Service.

*Border Security and Immigration*

98. Please describe your understanding of DHS's capability to achieve the three goals identified in the 2014 QHSR for the mission to secure and manage our borders.

Certainly, these 2014 QHSR goals all still have merit: (1) Secure U.S. Air, Land, and Sea Borders and Approaches; (2) Safeguard and Expedite Lawful Trade and Travel; and (3) Disrupt and Dismantle Transnational Criminal Organizations and Other Illicit Actors. If confirmed, I look forward to reviewing DHS, Congress, and other experts' assessment of DHS' capabilities to achieve the three goals as well as these sub-goals which include, but are not limited to: preventing illegal import and entry; safeguarding key nodes, conveyances, and pathways; and identifying, investigating, disrupting, and dismantling transnational criminal organizations.

99. Please describe the operational and management challenges that the Department faces in executing its mission to secure our borders.

I understand that the Department faces critical challenges that have impacted every Administration in recent memory. – as well as newer challenges posed by the COVID-19 pandemic – in order to secure our air, land, and maritime borders. This includes, but is not limited to, combating human trafficking and drug smuggling, identifying and disrupting transnational criminal organizations, implementing public health guidance, and establishing an orderly, fair, and humane approach to immigration that upholds our laws as well as our values as a nation. If confirmed, I look forward to further evaluating the operational and management challenges that the Department faces in executing its mission to secure and manage our borders and as appropriate, develop ways to help the Department overcome those challenges.

100. If confirmed, what will be your immediate and longer-term priorities related to border security and immigration enforcement?

If confirmed and in my role as the chief operating officer of the Department, my primary priority will be ensuring that the Department's components with responsibility for border security and immigration are operating at peak efficiency and are producing the outcomes that the Administration and Congress expect of them – namely, to protect the American people from national security and public safety threats. Additionally, if confirmed, I will seek to ensure that each of these components have the resources, structures, and capacity to successfully achieve its mission

101. Is the current level of unauthorized entries into our country (more than 360,000 in the last two months) acceptable? Why or why not?

As I understand from my top level review of the Department's border security mission, DHS has a multilayered border security system that seeks to deter migrants from crossing ~~in~~ between ports of entry without authorization and instead encourages them to present at ports of entry where they can be lawfully processed. I believe that we are a nation of laws and a nation of values and that the Department should do everything it can to ensure that migrants present at authorized ports of entry and are treated humanely when they do so. Moreover, I believe that it is imperative that we address the root causes of any such migration challenges. The President has tasked the Vice President to tackle these root causes and, if confirmed, I will support her and the Secretary in this mission in any way I can.

102. Do you believe the nation's airports and seaports should allow unauthorized entries in the same manner that our land borders currently do? What would be the impacts to homeland security of such a response?

I believe we are a nation of laws and a nation of values and I support the Department's mission to secure our borders. As I understand it, unauthorized entries by definition occur outside of port of entry processing, and is largely a challenge in the land environment. By contrast, passengers arriving by air and sea are channeled to ports of entry. To the degree that individuals in those environments are able to arrive without appropriate travel documents or sneak aboard vessels undetected, they should face appropriate enforcement action.

103. How would you work to improve cooperation and coordination between DHS components responsible for administering immigration benefits and enforcing immigration laws?

When DHS was stood up in 2003, it represented the largest reorganization of government since the creation of the Department of Defense. Eighteen years on, it has matured significantly but I believe there are certainly areas where its mission coordination can continue to improve. If confirmed, I look forward to reviewing how DHS components responsible for administering immigration benefits and enforcing immigration laws cooperate and coordinate now and as appropriate, will review opportunities for improvement in the future.

104. Do you believe that our nation's ports of entry have adequate resources and manpower to prevent the illegal flow of drugs, contraband, and individuals posing security threats into this country?

- a. Specifically, have you given thought on how you will specifically address policy on fentanyl and other synthetic compounds that have directly contributed to the deaths of hundreds of thousands of Americans?

If confirmed, I look forward to evaluating whether our nation's ports of entry have adequate resources and staffing to prevent the illegal flow of drugs, contraband, and individuals posing security threats into this country and as appropriate, will consider steps that would help alleviate any resource and workforce shortfalls. As for fentanyl and other synthetic compounds, I agree that the flow of these compounds into America is making our fellow Americans less safe and less secure. If confirmed, I look forward to evaluating how DHS is dealing with the flow of these compounds and as appropriate, will consider the next best policy options to further mitigate that flow.

105. If confirmed, what steps will you take to ensure the Department has a holistic strategy for border security including both infrastructure and technological improvements?

If confirmed, I look forward to reviewing the Department's holistic strategy for border security including both infrastructure and technological improvements and as appropriate, will then consider the next steps to ensure that strategy is sound. What I can say from observation is that only a holistic strategy – one that includes a range of tools to meet different needs and threats – can be effective in the context of our dynamic border realities.

106. Would you be in favor of a path to citizenship for the more than 700,000 current Deferred Action for Childhood Arrivals (DACA) recipients? Why or why not? If you do support citizenship for DACA recipients, what will your role be in advocating for this change?

I support the President's call for a path to citizenship for DACA recipients. These Dreamers came to America when they were children and in many cases know no other home but America – they should be able to be American on paper too. If confirmed, my role as the Deputy Secretary of Homeland Security would be to ensure that any DHS actions would be effectively managed to support the authorities and actions ordered by President Biden, including acts passed by the Congress and signed into law.

107. DHS is responsible for safeguarding and expediting lawful trade and travel. Please describe your understanding of the challenges facing DHS in executing these responsibilities. How would you plan to address them?

If confirmed, I look forward to reviewing the challenges facing DHS in safeguarding and expediting lawful trade and travel and as appropriate, deal with those challenges going forward. DHS interfaces with evolving global supply chains and manages dynamic travel and migration flows. I would work with components to understand DHS's operational realities, and those of industry and the traveling public.

108. CBP plays a critical role in ensuring the safe flow of commercial traffic and continuation of trade operations at ports across the U.S. The implementation of CBP's standards and requirements for port operators, however, is left largely in the hands of OFOs which can



result in different requirements on ports in different parts of the country. Will you commit to conducting a review of CBPs policies and standards across various field offices to ensure the Agency is consistent in the application of its screening requirements?

Yes. If confirmed, I would seek to understand how standards and requirements are implemented and work to ensure that industry's desire for consistency across ports on commercial trade is balanced with local variation in such things as infrastructure and locally dynamic risk factors.

109. If confirmed, are you committed to ensuring the U.S. fulfills its obligations to outfit and staff the U.S. port of entry at the Gordie Howe International Bridge?

Yes. The Gordie Howe International Bridge is a critical link not only between Michigan and Ontario, but in supply chains and for travelers that extend well beyond that region alone.

110. What do you believe are the primary causes of illegal migration from Central America, and how do you believe the U.S. can partner with these countries to address the ongoing illegal migration?

If confirmed, I look forward to reviewing the primary causes of unlawful migration from Central America and as appropriate, will consider all options to deal with those causes to include partnering with these countries to address the ongoing unlawful migration. I believe that desperate conditions, particularly in the three Northern Triangle countries, drive people to migrate to the United States. These conditions include endemic crime, corruption, persecution, lack of economic opportunity, and the devastation wrought by recent hurricanes in the region. It is critical that the United States work to improve these conditions and thereby address the root causes that push migrants to our borders. It is also critical to expand legal pathways for migration to our country.

111. The Secretary of Homeland Security and others in the administration have stated that economic insecurity, violence, and natural disasters in Honduras, Guatemala, and El Salvador are the root causes of irregular migration. What quantitative measurement of economic insecurity and violence in the Northern Triangle do you believe must be achieved to stop irregular migration due to these causes?

If confirmed, I look forward to reviewing the primary causes of unlawful migration from Honduras, Guatemala, and El Salvador and as appropriate, will review what quantitative measures of economic insecurity and violence in the Northern Triangle are being used to help determine how much help is needed to stop this unlawful migration. Once reviewed, I look forward to discussing such quantitative measurements with Congress and others in the future.

112. How would you work to improve and standardize data collection for detainee tracking across the agency?

If confirmed, I look forward to reviewing how DHS does data collection for detainee tracking across the agency and as appropriate, will assess how to work to improve and standardize such collection.

113. What should the role of DHS be in combatting human trafficking and identifying trafficking victims by CPB and ICE? How can you streamline resources to investigate human trafficking and provide services to victims across DHS?

If confirmed, I look forward to reviewing the Department's current role in combatting human trafficking and identifying trafficking victims and as appropriate, will consider the Department's role and how to best streamline resources to investigate human trafficking and provide services to victims across DHS. In addition to the critical law enforcement roles the Department plays in this area, the Department's handling of victims factors high in my mind. I'm aware that there are some tools and campaigns the Department has in this effort and, if confirmed, I would more deeply evaluate DHS's tools and resources.

114. ICE's Homeland Security Investigations is responsible for enforcing a wide range of federal laws. What are your initial recommendations for prioritizing investigative resources?

If confirmed, I look forward to reviewing ICE's Homeland Security Investigations as they apply to the enforcement of a wide range of federal laws and as appropriate, will then review how to best prioritize such investigative resources.

115. When ICE or CBP apprehend unaccompanied migrant children, they are required to transfer those children to the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). GAO and the Senate Permanent Subcommittee on Investigations have reported on challenges keeping track of these children and ensuring prompt transfer between the agencies. What do you believe DHS's role and obligations are while caring for these children and transferring them to ORR? How would you improve the transfer process?

A child's safety and well-being are of the utmost importance to me. If confirmed, I commit to reviewing the Department's current role and obligations in caring for unaccompanied migrant children. I agree with the Secretary when he said that a border patrol station is no place for a child and I support this Administration's efforts to ensure that when the Department encounters these children they are treated humanely and transferred to ORR care within 72 hours as required by law.

116. Thousands of migrants have been recently released into the interior of the country, many without Notices to Appear (NTAs). They are instead told to contact their local ICE office upon reaching their destination. What is your view of the Department's duties under the law regarding the migrants who do not follow this instruction?

If confirmed, I pledge to review this issue with the appropriate operational components. I will also work closely with the Secretary to ensure the Department's operational components are effectively implementing the Administration's immigration enforcement priorities.

117. In his first address to Congress, President Biden pointed out that "the vast majority" of aliens are "overstaying visas." What is your opinion on how to hold visa-overstaying aliens accountable? If confirmed, will you pledge to develop a plan to get ICE's Fugitive Operations team to address the visa overstay population that President Biden has rightly told the nation is a problem?

If confirmed, I pledge to review this issue with the appropriate operational components and offices at the Department of Homeland Security in order to evaluate the extent to which visa holders overstay the terms of their visas. I will also pledge to work closely with the Secretary to ensure the Department's operational components are effectively implementing the Administration's immigration enforcement priorities. Upon evaluating this issue, I will report my recommendations for addressing the visa overstay population, as appropriate, to the Secretary and to Congress.

#### IV. Accountability

##### *Whistleblower Protections*

118. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.

- a. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

I have not had any previous experience with handling whistleblower complaints.

- b. If confirmed, what steps will you take to ensure that whistleblower complaints are handled appropriately at DHS?

I will comply with all statutory requirements to support the whistleblower complaint process and ensure that the process is handled appropriately at DHS to include, but not limited to the whistleblower process listed on the DHS website at: <https://www.oig.dhs.gov/whistleblower-protection>.

- c. If confirmed, what steps will you take to ensure whistleblowers at DHS do not face retaliation, their identities are protected, and complaints of retaliation are handled appropriately?

I will comply with all statutory requirements to support the whistleblower complaint process and ensure that the process is handled appropriately at DHS to

include, but not limited to the whistleblower process listed on the DHS website at: <https://www.oig.dhs.gov/whistleblower-protection>. In doing so, I will ensure that whistleblowers at DHS do not face retaliation, that whistleblower identifiers are protected, and that complaints of retaliation are handled appropriately.

*Cooperation with Inspectors General*

119. What is your view of the role of the DHS Office of Inspector General (OIG)? Please describe what you think the relationship between the Deputy Secretary and the OIG should be. If confirmed, what steps would you take to establish a working relationship with the Inspector General?

I believe the DHS Office of Inspector General (OIG) has a useful and statutory supported role to play within DHS. If confirmed as the Deputy Secretary, I will ensure that the OIG and I have an appropriate working relationship to help ensure that their OIG duties and responsibilities are supported.

120. If confirmed, do you commit to ensuring that all recommendations made by the DHS Inspector General are reviewed, responded to, if necessary, and, unless the agency justifies its disagreements with the recommendations, implemented to the fullest extent possible within a reasonable time period?

Yes.

121. If confirmed, do you commit without reservation to ensuring the DHS OIG receives timely access to agency records and to interview agency employees?

Yes.

122. If confirmed, what steps will you take to ensure your office and employees cooperate fully and promptly with OIG requests?

If confirmed, I look forward to reviewing how the DHS office and employees currently cooperate with OIG requests and as appropriate, ensure that all steps are taken to ensure full cooperation.

*Cooperation with GAO*

123. If confirmed, do you commit without reservation to ensuring GAO receives timely, comprehensive responses to requests to DHS, including for records, meetings, and information?

Yes.



124. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?

Yes.

125. If confirmed, what steps will you take to ensure your office and employees cooperate fully and promptly with GAO requests?

If confirmed, I look forward to reviewing how the DHS office and employees currently cooperate with GAO requests and as appropriate, ensure that all steps are taken to ensure full cooperation.

#### **V. Relations with Congress**

126. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Yes.

127. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

Yes.

128. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?

Yes.

129. If confirmed, how would you make certain that you respond in a timely manner to Member requests for information?

I will take all necessary actions within my power to ensure that I respond in a timely manner to Member requests for information.

130. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a Freedom of Information Act request?

Yes.

131. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?



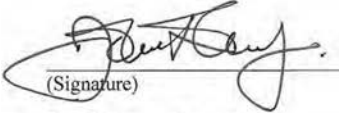
Yes.

**VI. Assistance**

132. Are these answers your own? Have you consulted with DHS or any other interested parties? If so, please indicate which entities.

These answers are my own. However, I did consult with DHS Office of Legislative Affairs and asked them to review all answers.

I, John Kai Tien, Jr., hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

  
(Signature)

This 21<sup>st</sup> day of May, 2021

**Ranking Member Rob Portman  
Post-Hearing Questions for the Record  
Submitted to John K. Tien**

**Nominations of John K. Tien to be Deputy Secretary, DHS;  
Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and  
Jonathan E. Meyer to be General Counsel, DHS  
Thursday, May 27, 2021**

1. In your view, what must the Department do to more effectively fulfill its mission on pressing threats like cybersecurity and combatting domestic violent extremism?

From my analysis, it is clear to me that the Department is heavily reliant on partnerships with a range of entities, including state and local governments, community-based organizations and the private sector. To that end, I believe that in order for the Department to effectively counter these threats, it must consistently work to strengthen partnerships with these entities. With respect to cybersecurity, fostering a more collaborative and mutually beneficial partnership between DHS and the private sector will help to strengthen our country's ability to repel emerging cyber threats. With respect to combatting domestic violent extremism, I believe that strengthening our partnerships with state and local law enforcement—many of whom who have to deal with domestic violent extremist threats in their own communities—will be critical for the Department's effort to stop domestic extremist violence. Finally, as I understand, partnerships are most effective when they are spearheaded by senior leaders. As such, I believe filling the DHS's senior leadership vacancies with qualified and experienced leaders will help to advance efforts to strengthen the Department's partnerships.

2. While the State Department and USAID will work to transform Central America and Mexico over the long-term, what specific steps must DHS take today to deter migrants from paying drug cartels and smugglers to help them unlawfully cross our border?

I believe that it is imperative that the U.S. strengthen its ability to interdict narcotics trafficked across our borders, to disrupt drug cartel and human trafficking and smuggling operations inside and outside of our borders, and to degrade the ability of drug cartels and smuggling operations to exploit migrant populations in Mexico and Central American countries. With that said, I believe that we must also focus on addressing the root causes of migration, to include improving the conditions in the Northern Triangle countries that push migrants to take the perilous journeys north to the United States.

3. Both the numbers of single adults and the number of "gotaways" are at record levels at the border. With these metrics in mind, do you believe current immigration and border policies are working?

I am not familiar with the current metrics by which the Department evaluates its policies. If confirmed, I will seek out all available data on migration internal to the Department,

evaluate the data for trends, and then will meet with the Department's key leadership to assess the effectiveness of current policies toward border security and immigration and how they align with the Department's strategies and goals. Finally, if as part of my analysis I determine that policy corrections or alterations are needed, I will communicate any recommendations to the Secretary and, as appropriate, to Congress.

4. If confirmed, what specifically will you do to reverse the trend of rising numbers of single adults crossing our border and address what appears to be a widespread perception in the Americas and the world that our border is open?

In serving in the role of Chief Operating Officer at the Department, I will, if confirmed, evaluate the capabilities and resources available to our operational components involved in managing challenges with single adults and other individuals crossing the border. As part of this effort, I will conduct outreach to the men and women of these components in order to gauge their needs. Upon completion of this engagement, I will make recommendations to the Secretary and, as appropriate, Congress about any resource investments needed to improve the abilities of these components to handle these challenges.

5. If confirmed, do you commit to ensuring the components and other headquarters entities meet their FISMA requirements? How do you intend to hold them accountable, if confirmed?

When it comes to cybersecurity and, in particular, the security of federal networks, I believe that DHS should be a leader in meeting its requirements under the Federal Information Security Modernization Act (FISMA). If confirmed, I will work with the Chief Information Officer of the Department and with the Director of the Cybersecurity and Infrastructure Security Agency (CISA) to develop plans for ensuring that components and other headquarters entities meet their FISMA requirements.

6. What is your experience with the Nonprofit Security Grant Program or similar programs designed to harden soft targets against violent attacks? How do you intend to ensure they are having their intended impact? Some States and urban areas are more successful with this program than others—if confirmed, would you agree to work with me to help increase its effectiveness and sustainability across a broader cross-section of States?

I believe that Americans should be able to visit sporting events, shopping centers, restaurants, houses of worship or any other "soft-target" without fear of attack from violent extremists or terrorists. Consequently, I support efforts like the Nonprofit Security Grant Program, which seek to strengthen the defenses of soft targets. While the Nonprofit Security Grant Program is understandably focused on soft targets in America, the goal is similar to the goal that all Coalition (to include the U.S. forces) forces had in Iraq during my time as a task force commander there: secure and stabilize our local communities and notably, help protect the soft targets in our sectors. The geography is different, but the strategy and tactics are very much the same: protect those who deserve the right to gather and celebrate their humanity. America's strength and values comes from our diversity of peoples and when we gather in places that celebrate that diversity--

especially houses of worship--we unfortunately become targets for those who want to change this very American way of life. If confirmed, I pledge to work with you and any member of Congress to try to increase the effectiveness and sustainability of this program for all those who need it.

**Senator James Lankford  
Post-Hearing Questions for the Record  
Submitted to John K. Tien**

*Faith-Based Partnerships*

- 1) A report from the Obama administration in 2010 reinforced the importance of faith-based partnerships. Among the recommendations put forward in the report was to draw *more* on the local expertise and relationships of faith-based organizations as a way of filling gaps in the provision of essential services. Faith-based organizations are excellent, effective, and efficient at meeting the needs of our most at-risk populations. The report also highlighted the need to ease overly-burdensome reporting and regulation requirements placed on social service agencies. Do you agree that it is important to continue pursuing ways to engage and expand faith-based partnerships as a way of effectively addressing some of the most critical social service needs in our country?

From my assessment, the Department of Homeland Security's strength and mission are largely dependent on its ability to foster and promote effective partnerships. It is my understanding that faith-based partnerships with the Department serve as a critical mechanism for engaging communities, improving the Department's effectiveness and facilitating information sharing about issues that most impact faith communities. If confirmed, I will further examine this partnership and others in order to strengthen the ability of the Department to carry out its mission.

- 2) The Supreme Court has, in multiple decisions, reiterated that religious organizations cannot be discriminated against in the distribution of a public benefit for which they otherwise qualify because of their religious beliefs or identity. Will you commit to ensuring that no policy of your Department will disqualify a religious organization from receiving aid or participating in grant programs simply because of the organization's religious beliefs or because the organization receives statutory protections for religious freedom like those in Title VII and Title IX?

Discrimination, hate and prejudice have no place in federal government, and if confirmed as Deputy Secretary, I pledge to reiterate this core value to the Department's workforce. Moreover, if confirmed, I will work with the Office for Civil Rights and Civil Liberties to ensure that Americans' rights are not undermined by any new policy at the Department.

- 3) An important part of prompting and expanding faith-based partnerships is providing clarity on the legal obligations that will be expected of faith-based organizations when they partner with the government. Title VII of the Civil Rights Act of 1964 protects the ability of religious organizations to hire employees that support its religious beliefs and mission. Do you agree that it is both logical and appropriate that religious organizations should be able to hire employees that support the religious mission and beliefs of the organization?

Do you agree that it is inappropriate for the Federal government to dictate to a house of worship or a religious organization what tenets of the faith should be observed?

Will you commit to ensuring that any nondiscrimination policy implemented by your agency will reinforce the hiring protections that Congress has passed in Title VII for religious organizations?

I am not familiar the dynamics referenced above and the Department of Homeland Security's involvement. As stated in my answers to Questions 1) and 2), I believe that the Department's mission is dependent on having strong and productive partnerships with a range of entities, including faith-based organizations. Moreover, I strongly believe that discrimination, hate and prejudice have no place in the federal government, and if confirmed as Deputy Secretary, I pledge to reiterate this core value to the Department's workforce. Finally, if confirmed, I look forward to examining the Department's current relationships with faith-based organizations in order to identify ways to strengthen these partnerships.

#### *Abortion*

- 4) U.S. Immigration and Customs Enforcement's (ICE) National Detention Standards specify that ICE will only pay for an abortion if the life of the mother would be endangered by carrying a fetus to term, or in the case of rape or incest. In all other circumstances, the detainee bears the cost of terminating the pregnancy. In all instances, ICE arranges transportation to the medical appointment at no cost to the detainee and, if requested, to religious or social counseling.

Will you commit to keeping this policy in place and enforcing it to ensure that taxpayer dollars are not funding abortions, including abortions for individuals in detention?

I am unfamiliar with the policy referenced above but if confirmed, I am committed to receiving a briefing on the issue from DHS staff.

- 5) Congress has continued to maintain the Hyde Amendment on a bipartisan basis each year in annual funding bills since 1976. If confirmed, will you continue to uphold and enforce the restrictions of the Hyde amendment – that no federal funding can pay for abortions

except in the case of rape, incest or to protect the life of the mother – as enacted by Congress?

If confirmed, I will faithfully execute all law as consistent with my obligations under my oath of office to support and defend the Constitution of the United States against all enemies, foreign and domestic.

May 17, 2021

The Honorable Chairman Gary Peters  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC, 20510

The Honorable Ranking Member Rob Portman  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC, 20510

cc: All HSGAC Committee Members, Leader Schumer, Leader McConnell

Dear Chairman Peters and Ranking Member Portman,

As a bipartisan group of 38 cybersecurity experts and leaders from around the country, we write to express our support for Mr. John Tien's nomination to serve as Deputy Secretary of the U.S. Department of Homeland Security (DHS). We add our voice to the growing chorus of national security, law enforcement, and public safety professionals urging the U.S. Senate to schedule the confirmation hearing swiftly and approve his appointment promptly.

Running DHS during the best of times is a herculean task, and a delay in confirming the Deputy Secretary only makes this task more difficult. The Biden Administration took office with the nearly insurmountable challenge of responding to the devastating impacts of the supply chain attack attributed to the SolarWinds software breach by Russian operatives. The first hundred days of this Administration has also witnessed both a massive hack linked to China against Microsoft Exchange Server software, and an attempted cyberattack against an Oldsmar, Florida, water treatment plant.

Countless other cyber and digital threats against critical infrastructure will also require the attention of the next Deputy Secretary. From collective experience, we have seen that cyber threats aimed at our nation's critical infrastructure have come in many forms: attempts to hack water or energy systems, stolen personal information or assets, foreign attempts to intervene in our democracy and spreading of misinformation on vital topics, just to cite a few. Additionally, new cyber vulnerabilities have emerged as workers, businesses and students adapted to telework or remote learning in response to the global pandemic caused by the novel coronavirus. During this unprecedented time, we have seen cybersecurity threats targeting hospitals, medical facilities, vaccine supply chains and schools. These attacks put American lives and livelihoods in jeopardy. The growing cyber threats to our collective economic security and the pernicious threat of ransomware will also require a coordinated Federal response.

Mr. Tien is exceptionally well-positioned to provide the expertise and leadership necessary for DHS to meet these and future cyber challenges. For the past decade, as a managing director at Citigroup, he helped lead the effort to protect more than 75 million accounts against cyber attack. He has also held several senior executive roles including head of business transformation across Citi's entire U.S. Consumer Bank, Chief Operating Officer and Chief Technology Officer for Citi Retail Services' largest credit card portfolio, and Chief Administrative Officer for Citi's Global Operations and Technology organization. In these roles, he has been responsible for safeguarding tens of millions of customer's accounts against fraud as well as helping create the necessary cyber security measures to protect his credit card portfolios against data breaches and other cyber threats.



Mr. Tien's 24-year career in the U.S. Army, retiring with the rank of colonel, included serving three combat tours in Iraq and as President Bush's National Security Council Director for Iraq, President Obama's National Security Council Senior Director for Afghanistan and Pakistan, and as a White House Fellow in the Office of the United States Trade Representative in the Clinton Administration. Mr. Tien has firsthand knowledge of the threats facing our country and the leadership needed to leverage interagency resources to confront terrorist and nation-state adversaries. In each of his prior roles, Mr. Tien has demonstrated his commitment to defending our nation and our critical infrastructure from terrorism, nation states, and emerging threats in a rapidly changing world. Well-prepared by his life of service to the United States of America, Mr. Tien will be ready on day one to help lead DHS and protect our homeland.

The Senate has a long history of acting quickly and in a bipartisan manner to confirm national security nominees. Our collective experience counsels that nefarious actors, including near-peer nation states, and particularly those engaged in recent cyber attacks targeting the United States, do not concern themselves with American political timelines or party affiliations. The threats facing the nation today merit keeping this precedent and acting promptly.

We urge this Committee to swiftly advance Mr. Tien's nomination and confirm him as our next Deputy Secretary of Homeland Security.

Sincerely,

Jane Holl Lute  
Former Deputy Secretary, U.S. Department of Homeland Security

Eric Bassel  
CEO, SANS Institute

Jeff Moss  
Founder, Black Hat and DEF CON

Frank Taylor  
Brigadier General, U.S. Air Force, Retired  
Former Under Secretary for Intelligence and Analysis, U.S. Department of Homeland Security

Mary Ellen Callahan  
Former Chief Privacy Officer, U.S. Department of Homeland Security

James Yacone  
Executive Vice President/Chief of Mission, SANS Institute  
Former Assistant Director, Federal Bureau of Investigation

Jonathan R. Cantor  
Former Acting Chief Privacy Officer, U.S. Department of Homeland Security

Chris Cumiskey  
Former Acting Under Secretary for Management, U.S. Department of Homeland Security

Daniel Gerstein  
Former Acting Under Secretary for Science & Technology, U.S. Department of Homeland Security

Bruce W. McConnell  
CEO and President, EastWest Institute  
Former Deputy Under Secretary for Cybersecurity, U.S. Department of Homeland Security

Mark Weatherford  
Lieutenant Commander, U.S. Navy, Retired  
Chief Strategy Officer, National Cybersecurity Center  
Former Deputy Under Secretary for Cybersecurity, U.S. Department of Homeland Security

Robert Knake  
Senior Fellow, The Council on Foreign Relations  
Former Director, Cyber Policy, National Security Council

Chris Painter  
Former Coordinator for Cyber Issues, U.S. State Department

Alan Cohn  
Former Assistant Secretary for Strategy, Planning, Analysis & Risk, U.S. Department of Homeland Security

Brian de Vallance  
Former Assistant Secretary for Legislative Affairs, U.S. Department of Homeland Security

Seth Stodder  
Partner, Holland & Knight LLP  
Former Assistant Secretary for Borders, Immigration & Trade, U.S. Department of Homeland Security  
Former Assistant Secretary for Threat Prevention and Security Policy, U.S. Department of Homeland Security

Lawrence Zelvin  
Former Director, National Cybersecurity and Communications Integration Center, U.S. Department of Homeland Security

Jamie Barnett  
Rear Admiral, U.S. Navy, Retired  
Former Chief of the Public Safety and Homeland Security Bureau, Federal Communications Commission

Dr. Pablo Breuer  
Non-Resident Senior Fellow, Atlantic Council

Thomas Warrick  
Former Deputy Assistant Secretary, U.S. Department of Homeland Security

Pablo Martinez  
Head of Enterprise Business Resilience and Financial Intelligence Unit, Fidelity Investments  
Former Special Agent in Charge, Criminal Division, U.S. Secret Service

David Delaney  
Former Acting Associate General Counsel for Cybersecurity and Infrastructure Security, U.S. Department of Homeland Security

Chris Finan  
Chief Operating Officer, ActZero  
Former Director of Cybersecurity Legislation & Policy, National Security Council

Vinod Aggarwal  
Professor, University of California, Berkeley

Mike McNerney  
Chair, Institute for Security & Technology  
Former Cyber Policy Advisor, U.S. Department of Defense

Philip Reiner  
CEO, Institute for Security and Technology  
Former Senior Director for South Asia, National Security Council

Chuck Brooks  
President, Brooks Consulting International  
Former Director of Legislative Affairs, U.S. Department of Homeland Security

David Chasteen  
CEO, Cipherloc Corporation  
Former Effective Officer, Covert Action Staff, Central Intelligence Agency

Forrest Senti  
Vice-President of Programs & Operations, National Cybersecurity Center

Steven A. Cash  
Counsel, Day Pitney, LLP  
Former Chief Counsel, Senator Diane Feinstein  
Former Intelligence Officer, Central Intelligence Agency

Allison J. Bender  
Former Senior Cybersecurity Attorney, Office of the General Counsel, U.S. Department of Homeland Security

Phil Stupak  
(Acting) Executive Director, Cyber Policy Initiative, University of Chicago  
Former Senior Advisor, U.S. Department of Homeland Security

Camille Stewart  
Former Senior Advisor, Cyber, Infrastructure & Resilience Policy, U.S. Department of Homeland Security

Frank Reyes  
Former Technology Policy Advisor, U.S. House of Representatives Committee on Homeland Security

Kemba Walden  
Cybersecurity Professional

Vladimir Skoric  
Former Special Assistant to the Deputy Under Secretary for Cybersecurity, U.S. Department of Homeland Security

Matthew Lynch Berninger  
Former Incident Lead, U.S. Computer Emergency Readiness Team, U.S. Department of Homeland Security

Drew Ledbetter  
Former Secretary's Briefing Book Director, U.S. Department of Homeland Security

May 24, 2021

The Honorable Chairman Gary Peters  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC, 20510

The Honorable Ranking Member Rob Portman  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC, 20510

cc: All HSGAC Committee Members, Leader Schumer, Leader McConnell

Dear Chairman Peters and Ranking Member Portman,

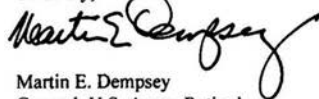
In addition to the letter signed by me and 17 other national security leaders, I want to individually express my personal support for Mr. John Tien's nomination to serve as Deputy Secretary of the U.S. Department of Homeland Security (DHS).

I have known John since 1986 when he became the first Asian American to ever be selected as the top military ranked cadet at West Point. As the First Captain, he led the entire Corps of Cadets in the same position that Generals Pershing, MacArthur, Wainwright, and Westmoreland held. Over the next two decades, John and I served in the Army's Armor Branch together. I was glad to see the Army select him for prestigious assignments to include his White House Fellowship in the Clinton Administration in 1998 and when I was on the Joint Staff working for General Shelton. In 2004, John's extraordinary Army career brought him to my 1<sup>st</sup> Armored Division in Baghdad, Iraq as the Deputy Brigade Commander of 1<sup>st</sup> Brigade. Later that year, I presided over John's change of command ceremony in Friedberg, Germany when he took command of 2-37 Armor Battalion. In 2006-2007, John led this battalion in combat operations in the strategic cities of Tal Afar and Ramadi, Iraq. The Marines recognized him and his unit with the Navy Unit Commendation – the unit equivalent to the Silver Star Medal. In 2008 and when I was the Deputy Commander of U.S. Central Command, I supported and was quite happy to see the Bush Administration ask him to join their National Security Council Iraq directorate and just as pleased to see the Obama Administration promote John to be the NSC Senior Director for Afghanistan and Pakistan.

Since he retired from the Army in 2011, John and I have remained close to include serving together on the board-level teams in support of the Bob and Lee Woodruff Foundation. As a co-leader of the Veterans On Wall Street organization and also as Citigroup's senior military veteran, John has continued to give back and is recognized as one of America's most influential private sector post-9/11 veterans leaders.

To be perfectly transparent, John and I are good friends. However, I can objectively tell you that John is exceptionally well-qualified to be the Deputy Secretary of Homeland Security and honestly, is the one person I would have selected for this critically important role to help ensure the homeland's safety.

Sincerely,



Martin E. Dempsey  
General, U.S. Army, Retired  
Rubenstein Fellow, Duke University  
Former Chairman of the Joint Chiefs of Staff, 2011-15

May 17, 2021

The Honorable Chairman Gary Peters  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC, 20510

The Honorable Ranking Member Rob Portman  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC, 20510

cc: All HSGAC Committee Members, Leader Schumer, Leader McConnell

Dear Chairman Peters and Ranking Member Portman,

As a bipartisan group of 18 national security leaders, we write to express our support for Mr. John Tien's nomination to serve as Deputy Secretary of the U.S. Department of Homeland Security (DHS). We echo our cybersecurity, law enforcement, and public safety colleagues urging the U.S. Senate to schedule the confirmation hearing swiftly and approve his appointment promptly.

We need strong, steady leadership in DHS's Deputy Secretary. Yet despite being the statutory chief operating officer of the Department, the role has gone unfilled with a confirmed Deputy since April 15, 2018. Unlike many other national security agencies, DHS's broad security mission is dispersed across nine operational components and over 250,000 dedicated employees. Ensuring resources and information of the Federal Government's third largest department are appropriately coordinated across its components, the interagency, and state, local and tribal partners requires vigilance from DHS leadership. Coordinating these assets is essential to stopping illicit contraband flows across our border while expediting legitimate trade and travel. DHS leadership must also confront mass migration events while preventing foreign and domestic terrorists from again attacking our homeland. Further DHS leadership responds to extreme weather and cyber-attacks on a seemingly daily basis. To rise and meet these challenges DHS must have strong leaders with substantial managerial experience.

Mr. Tien is exceptionally well-positioned to provide the leadership and management necessary for DHS to ensure America's security. Over the past decade, he has successfully led complex organizations within multiple senior executive roles at Citigroup—one of the world's largest financial services firms—including his current role as the managing director in charge of leading an end-to-end business transformation across Citi's entire U.S. Consumer Bank. His other leadership roles included the Chief Operating Officer and Chief Technology Officer for Citi Retail Services' largest credit card portfolio and the Chief Administrative Officer for Citi's Global Operations and Technology organization. In each of these roles, Mr. Tien has been instrumental in breaking down information silos and bringing together a cohesive communication structure among independent teams each with the mission of protecting the bank's critical infrastructure.

Mr. Tien's 24-year career in the U.S. Army, retiring with the rank of colonel, included serving three combat tours in Iraq and as President Bush's National Security Council Director for Iraq, President Obama's National Security Council Senior Director for Afghanistan and Pakistan, and as a White House Fellow in the Office of the United States Trade Representative in the Clinton Administration. Mr. Tien has firsthand knowledge of the threats facing our country and the leadership needed to confront terrorist and nation-state adversaries. In each of his prior roles, Mr. Tien has demonstrated his commitment to



defending our nation and our critical infrastructure from terrorism, nation states, and emerging threats in a rapidly changing world. Well-prepared by his life of service to the United States of America, Mr. Tien will be ready on day one to help lead DHS and protect our homeland.

The Senate has a long history of acting quickly and in a bipartisan manner to confirm national security nominees. Our collective experience counsels that nefarious actors, including near-peer nation states as well as transnational criminal organizations targeting United States citizens, do not concern themselves with American political timelines or party affiliations. The threats facing the nation today merit keeping this precedent and acting promptly.

We urge this Committee to swiftly advance Mr. Tien's nomination and confirm him as our next Deputy Secretary of Homeland Security.

Sincerely,

Robert A. MacDonald  
Chairman, President & CEO, Procter & Gamble Company, Retired  
Former Secretary of the Department of Veterans Affairs, 2014-2017

H.R. McMaster  
Lieutenant General, U.S. Army, Retired  
26th Assistant to the President for National Security Affairs, 2017-2018  
Senior Fellow, Hoover Institution

Robert H. Kimmitt  
Major General, U.S. Army Reserve, Retired  
Former Deputy Secretary of the Department of Treasury, 2005-2009

James Byrne  
Former Deputy Secretary of the Department of Veterans Affairs, 2018-2020

Ambassador Susan Esserman  
Former Deputy United States Trade Representative, 1999-2001

Martin E. Dempsey  
General, U.S. Army, Retired  
Rubenstein Fellow, Duke University  
Former Chairman of the Joint Chiefs of Staff, 2011-15

Stanley A. McChrystal  
General, U.S. Army, Retired  
Former Commander, International Security Assistance Force, 2009-2010

William H. McRaven  
Admiral, U.S. Navy, Retired  
Former Commander, Joint Special Operations Command, 2008-2011

Douglas E. Lute  
Lieutenant General, U.S. Army, Retired  
Former U.S. Ambassador to NATO, 2013-17

Thomas P. Bostick  
Lieutenant General, U.S. Army, Retired  
Former Commanding General, U.S. Army Corps of Engineers, 2012-2016

Meghan L. O'Sullivan  
Jeane Kilpatrick Professor of the Practice of International Affairs, Harvard Kennedy School  
Former Deputy National Security Advisor for Iraq and Afghanistan, 2005-2007

Michele A. Flournoy  
Former Undersecretary of Defense for Policy, 2009-2012

David McCormick  
CEO Bridgewater Associates  
Former Undersecretary of the Treasury for International Affairs, 2007-2009

David Gergen  
Former White House Adviser to Presidents Nixon, Ford, Carter, and Clinton  
U.S. Navy Veteran

Tom Cosentino  
Brigadier General, U.S. Army, Retired  
Former Commandant, National War College, 2013-2015

Daniel J. Kaufman  
Brigadier General, U.S. Army, Retired  
Former Dean, U.S. Military Academy, 2000-2005

Michael Meese  
Brigadier General, U.S. Army, Retired  
Former Professor, U.S. Military Academy, 2002-2013

Michael E. Smith  
Rear Admiral, U.S. Navy, Retired  
Former President of the American College of National Security Leaders, 2017-2021



21 May 2021

The Honorable Gary C. Peters  
Chairman  
Senate Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Robert Portman  
Ranking Member  
Senate Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Peters and Senator Portman:

On behalf of the Secure Community Network (SCN), the official safety and security organization of the North American Jewish community, please accept this letter of support for the nomination of Mr. John Tien to be the Deputy Secretary of the United States Department of Homeland Security (DHS).

Mr. Tien has developed a thorough understanding of the criticality of integrity and coordination, and a proven-track record of effective leadership through both his military and professional experience. Because of the critical role that DHS plays in securing the Jewish community – as well as other faith-based communities – from the very serious threats that we face, we strongly urge that the Senate swiftly confirm Mr. Tien so as to ensure that DHS is best positioned to address the pressing safety and security concerns facing our community, and our country.

Established in 2004 under the auspices of The Jewish Federations of North America and the Conference of Presidents of Major American Jewish Organizations, SCN works on behalf of the 50 largest Jewish non-profit organizations in North America, with 146 Federations and over 300 additional communities, as well as with other partners to ensure the safety, security and resiliency of the Jewish people. Through our network, partnerships and associations, SCN represents and works on behalf of over 90 percent of the Jewish community across North America – covering hundreds of communities, thousands of institutions and the vast majority of the over 7 million self-identifying Jewish community members in the United States.

As you are aware, as the official safety and security organization of the Jewish community, SCN serves as the official liaison between the American Jewish community and federal law enforcement and public safety partners, and coordinates closely with federal, state and local law enforcement agencies on safety and security matters related to the Jewish community. SCN has worked closely with DHS since the Department was created and across multiple administrations; we cannot overstate the value that we have seen – firsthand – of

having experienced, established leadership in place within the Department. We believe Mr. Tien will contribute to this.

Mr. Tien was the first Asian-American to serve as West Point's First Captain and Brigade Commander. He went on to spend 24 years as an active-duty combat arms officer in the U.S. Army and is veteran of three combat tours in Iraq. Tien has earned the Bronze Star Medal with one oak leaf cluster, the Combat Action Badge and the Valorous Unit Award.

Moreover, Mr. Tien's prior roles in the United States Army and on the National Security Council have provided him with unique insight into the complex and dynamic threat environment facing all sectors, to include the faith-based one.

In his current role with Citigroup, Mr. Tien is the primary lead for safeguarding tens of millions of customer's accounts against fraud. The faith-based community faces a unique confluence of cyber threats, crimes, and actors. Mr. Tien's background, experience, and expertise will well-serve the faith-based community and our nation.

Throughout the United States, we have seen an increase in hate crimes, assaults and violent incidents directed at the Jewish community over the last several years. We require - as a faith-based community and a country - leadership that is knowledgeable, tested, and committed.

We believe that with his background, Mr. Tien would bring valuable experience and leadership to the position of Deputy Secretary and place our nation's safety and security above all. We look forward to engaging with Mr. Tien, and continuing our collaboration with DHS, to protect the members of the Jewish community, as well as all communities.

On behalf of the security professionals who comprise our organization and the community that we have committed ourselves to both serve and protect, we respectfully and strongly encourage the swift confirmation of John Tien as the Deputy Secretary.

Very Respectfully,



Harold Gernsbacher  
Chairman of the Board



Michael Masters  
National Director and CEO

**Written Statement of Robert Silvers**

**Nominee for Under Secretary for Strategy, Policy, and Plans  
U.S. Department of Homeland Security**

**Before the  
U.S. Senate Committee on Homeland Security and Governmental Affairs**

**May 27, 2021**

Chairman Peters, Ranking Member Portman, and distinguished Members of the Committee,

I am honored to appear before you. I thank the President for nominating me, Secretary Mayorkas for his confidence in me, and Senator Carper for his introduction and for his longstanding support for the Department of Homeland Security (DHS). It would be a privilege to return to the Department and work once again with the 240,000 brave men and women of DHS.

I want to recognize my family: my wonderful wife, Alison, and our beautiful children, Ricky and Heidi. They have made possible my career in public service. That service to our country is not just my own, but theirs as well. I am also grateful to my parents and brother, who over the decades have offered endless support.

DHS safeguards our nation. Its varied components are the source of the Department's strength, because they allow DHS to harness its many capabilities to tackle challenges. To do this, the Department needs a centralized hub to ensure it has policies and strategies in place to accomplish the mission. The Office of Strategy, Policy, and Plans is that hub – the nerve center for policy development and for advising the Secretary and Deputy Secretary on the best options.

Recent incidents, such as SolarWinds and Colonial Pipeline, have only further highlighted the urgency to secure critical infrastructure and federal networks from cyberattacks. If confirmed, I will focus closely on fortifying DHS's efforts to tackle this critical work. The President's recent cybersecurity executive order and new authorities enacted by Congress in recent years set a powerful foundation on which to build.

DHS also must protect the American people from terrorism. This was one of the Department's founding missions in the aftermath of September 11<sup>th</sup>. The threats have since evolved. DHS must remain ever vigilant to attacks directed from abroad, but also must address the alarming rise in domestic violent extremism. If confirmed, I will work hard to ensure DHS is doing everything in its means to address the challenge, including by equipping our communities and law enforcement around the country with tools and information to keep our country safe.

The Department must secure our borders. It must be relentless in disrupting the human and drug trafficking organizations that inflict so much devastation. It must administer our immigration system securely and humanely. DHS must continue its support for the COVID-19 pandemic

response. And it must facilitate and secure the lawful flows of trade and travel that power our economy.

DHS also must look forward to emerging threats. This includes threats arising from adoption of advanced technologies, and threats to economic security and our ability to compete with China in the century ahead.

If confirmed, my colleagues and I in the Office of Strategy, Policy, and Plans will be tireless in this vital work, and I will work closely with Congress to achieve success. The Office makes the Department more unified and effective in fulfilling the promise of its mission statement: "With honor and integrity, we will safeguard the American people, our homeland, and our values."

DHS adopted this mission statement during my last period of service with the Department. Most recently, I served as Assistant Secretary for Cyber Policy, a position that resides within the Office I have now been nominated to lead. I led Department cybersecurity policy for incident response, critical infrastructure protection, attacks from nation-state and criminal actors, Internet of Things security, and cyber diplomatic initiatives to fortify our digital defenses together with allies and partners. In that position, I saw the incredible talent of the men and women of the Office of Strategy, Policy, and Plans, and if confirmed, I will be fortunate to work with them again.

I also previously served as the Department's Deputy Chief of Staff, where I was privileged to oversee policy and operations across the entire DHS mission set and workforce. That workforce performs essential and heroic work. It succeeds out of the camera's eye every day – a terrorist plot deterred, a cyberattack repulsed, a relief team dispatched to assist families after a hurricane. I would be privileged to join and support this workforce once again as the Under Secretary for Strategy, Policy, and Plans.

I thank the Committee for considering my nomination and look forward to your questions.



REDACTED

## HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

### 1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Under Secretary for Strategy, Policy, and Plans; Department of Homeland Security	April 27, 2021

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Robert	Peter	Silers	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: Paul Hastings LLP, 2050 M Street NW		
City: Washington	State: DC	Zip: 20016	City: Washington	State: DC	Zip: 20036

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if  Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1980	New York, NY

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
Alison	Ann Fischer	Silvers	

<i>Spouse's Other Names Used (current spouse only)</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Alison	Ann	Fischer		X	May 1977    Est x	April 2010    Est x
					Est □	Est □

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
(Both my children are under 18)			

## 2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
New York University School of Law	Law School	Est <input type="checkbox"/> August 2003	Est <input type="checkbox"/> Present <input type="checkbox"/> May 2006	J.D.	May 2006
University of Pennsylvania	University	Est <input checked="" type="checkbox"/> August 1998	Est <input type="checkbox"/> Present <input type="checkbox"/> May 2002	B.A.	May 2002
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>		
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>		

### 3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Non-Government Employment (Advisory Board Member)	CLEAR	Member, Security Advisory Board	New York, NY	Est <input type="checkbox"/> April 2019	Est <input type="checkbox"/> Present
Non-Government Employment	Paul Hastings LLP	Partner	Washington, DC	Est <input type="checkbox"/> April 2017	Est <input type="checkbox"/> Present
Non-Government Employment	New York University	Adjunct Professor	New York, NY	Est <input checked="" type="checkbox"/> March 2017	Est <input type="checkbox"/> Present
Non-Government Employment	Biden-Harris Presidential Transition	Volunteer	Washington, DC	Est <input type="checkbox"/> September 2020	Est <input type="checkbox"/> February 2021
Non-Government Employment	General Assembly (Educational Start-Up)	External Consultant	New York, NY	Est <input type="checkbox"/> March 2017	Est <input type="checkbox"/> March 2017
Unemployment	N/A	N/A	N/A	Est <input type="checkbox"/> January 2017	Est <input type="checkbox"/> March 2017
Other Federal Employment	Department of Homeland Security	Assistant Secretary for Cyber Policy	Washington, DC	Est <input type="checkbox"/> April 2016	Est <input type="checkbox"/> January 2017
Other Federal Employment	Department of Homeland Security	Deputy Chief of Staff	Washington, DC	Est <input type="checkbox"/> November 2014	Est <input type="checkbox"/> April 2016

Other Federal Employment	Department of Homeland Security	Senior Counselor to the Deputy Secretary	Washington, DC	Est □ December 2013	Est □ November 2014
Other Federal Employment	Department of Homeland Security, U.S. Citizenship and Immigration Services	Senior Counselor to the Director	Washington, DC	Est □ November 2011	Est □ December 2013
Non-Government Employment	O'Melveny & Myers LLP	Associate	Los Angeles, CA	Est □ November 2007	Est □ November 2011
Unemployment	N/A	N/A	N/A	Est □ August 2007	Est □ November 2007
Other Federal Employment	Judge Kim Wardlaw, Ninth Circuit Court of Appeals	Law Clerk	Pasadena, CA	Est □ August 2006	Est □ August 2007
Unemployment	N/A	N/A	N/A	Est □ August 2005	Est □ August 2006
Other Federal Employment	Department of State	Summer Legal Intern	Washington, DC	Est X July 2005	Est X August 2005
Non-Government Employment	Weil, Gotshal & Manges LLP	Summer Associate	New York, NY	Est X June 2005	Est X July 2005
Unemployment	N/A	N/A	N/A	Est □ August 2004	Est X June 2005
Non-Government Employment	Organization for the Prohibition of Chemical Weapons	Summer Intern	The Hague, Netherlands	Est X June 2004	Est X August 2004
Unemployment	N/A	N/A	N/A	Est X June 2003	Est X June 2004
Non-Government Employment	Cold Rock Ice Cream	Ice Cream Salesperson	Manly, Australia	Est X January 2003	Est X February 2003
Non-Government Employment	Royal Life Saving Society	Telemarketing Fundraiser	West Perth, Australia	Est X October 2002	Est X November 2002
Non-Government Employment	Temporary Alternatives	Temp Agency Short-term Work	New York, NY	Est X	Est X

				August 2002	September 2002
Non-Government Employment	Camp Mohawk	Camp Counselor	White Plains, NY	Est X June 2002	Est X August 2002
Unemployment	N/A	N/A	N/A	Est X August 2001	Est X June 2002
Non-Government Employment	Goldman Sachs	Summer Intern	San Francisco, CA	Est X June 2001	Est X August 2001
Unemployment	N/A	N/A	N/A	Est X December 2000	Est X June 2001
Non-Government Employment	iJetset	Business Development Intern	New York, NY	Est X February 2000	Est X December 2000
Unemployment	N/A	N/A	N/A	Est X August 1999	Est X February 2000
Non-Government Employment	Bloomberg News	TV Production Intern	New York, NY	Est X June 1999	Est X August 1999

From approximately October 2002 to approximately June 2003 while living in Australia, I performed various temporary, short-term, day labor jobs, e.g., working a day or two in construction; I do not recall particular employers or dates.

Every listed period of unemployment, with the exception of January-March 2017, occurred while I was a full-time student or just before I was to begin a program as a full-time student. The January-March 2017 period occurred immediately after my service in the Obama Administration and prior to the start of my current position at the law firm of Paul Hastings LLP.

**(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.**

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
----------------------------------	-------------------------	--	--

N/A		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/>	Present <input type="checkbox"/>

#### **4. Potential Conflict of Interest**

**(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I will sign and transmit to the Department's Designated Agency Ethics Official, which will be provided to this Committee. I am not aware of any other potential conflicts of interest.

**(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.**

In June 2020, I co-signed a letter to the Chair of the Senate Committee on Commerce, Science, and Transportation, in support of the Registered Traveler Act of 2020.

#### **5. Honors and Awards**

**List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.**

- Cybersecurity Trailblazer, National Law Journal (2017)
- Dean's Scholar, New York University School of Law (2003-2006)
- Valedictorian, International Relations Program, University of Pennsylvania (2002)
- Benjamin Franklin Honors Scholar, University of Pennsylvania (1998-2002)



## 6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Council on Foreign Relations	2015-2020	Term Member
Atlantic Council	2019-2020	Member, Councilors Program
Secure Community Network	2017-present	Member, Board of Directors (2020-present); Member, National Security Advisory Board (2017-2020)
All Star Code	2019-Present	Member, Governance Committee
American Constitution Society	2010 (appx.)-2011	Head of Los Angeles Lawyer Chapter
District of Columbia Bar	2017-Present	License to Practice Law
California State Bar	2008-Present	License to Practice Law
New York State Bar	2007-Present	License to Practice Law

## 7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
N/A			

**(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.**

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Biden for President	External Volunteer Policy Advisor and Co-Chair of Homeland Security Policy Advisory Group	Contributed on volunteer basis to campaign policy development efforts	2019-2020

**(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.**

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
--------------------------	---------------	-----------------------------

Biden for President / Biden Victory Fund	\$500.00	2020
Biden for President / Biden Victory Fund	\$500.00	2020
Biden for President / Biden Victory Fund	\$500.00	2020
Biden for President	\$800.00	2020
Elissa Slotkin for Congress	\$250.00	2019
Biden for President	\$1,000.00	2019
Biden for President	\$1,000.00	2019
Friends of Mark Warner	\$250.00	2019
Heidi for Senate	\$500.00	2018
Hillary for America	\$500.00	2016
Hillary for America	\$750.00	2016

### 8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
INSIGHT: Cybercrime Is Rising— How to Protect Your Financial Firm	Bloomberg Law	June 4, 2020
More Clarity, More Complexity: New CFIUS Rules Put Spotlight on Mandatory Filings	Paul Hastings LLP	May 28, 2020

The U.K. and U.S. Security Agencies Issue Joint COVID-19 Cyber Threat Update	Paul Hastings LLP	April 9, 2020
Details on Washington, D.C. COVID-19 Closure of Non-Essential Businesses Order	Paul Hastings LLP	March 27, 2020
PH COVID-19 Client Alert Series: The Cybersecurity Implications of an Entire Organization Working from Home	Paul Hastings LLP	March 19, 2020
PH COVID-19 Client Alert Series: Data Protection Issues	Paul Hastings LLP	March 4, 2020
The New CFIUS Regulations: How Will This Actually Work? FAQs We Wish Treasury Would Answer	Paul Hastings LLP	February 20, 2020
New Rules for CFIUS: How Investment Funds Can React and Take Advantage	Paul Hastings LLP	February 19, 2020
Harvard Professor Arrested for Allegedly Hiding Ties to China: What Universities Can Do to Protect National Security While Promoting an Open Academic Environment	Paul Hastings LLP	February 5, 2020
Steps You Can Take Now to Reduce the Risk Of Litigation Under the New California Consumer Privacy Act	Paul Hastings LLP	June 3, 2019
Containing Risk and Seizing Opportunity: The In-house Lawyer's Guide to Artificial Intelligence	Paul Hastings LLP	March 26, 2019
Rosenbach v. Six Flags Entertainment Corporation: The Illinois Supreme Court Clarifies BIPA's "Aggrieved" Pleading Requirement	Paul Hastings LLP	February 6, 2019
CFIUS's New Pilot Program Signals an Expansive Approach to Its Jurisdiction Under FIRRMA	Paul Hastings LLP	October 16, 2018
An Update, Not A Transformation, Of CFIUS Review Process	Law360	August 14, 2018
The "Transformative" CFIUS Bill: Not So Fast.	Paul Hastings LLP	August 13, 2018
California Consumer Privacy Act of 2018 Set to Dramatically Change Privacy Landscape Across the Country	Paul Hastings LLP	July 11, 2018
CLOUD Act Implements Crucial Statutory Changes Affecting Law Enforcement Access to Data	Paul Hastings LLP	March 30, 2018

The SEC Releases New Cybersecurity Disclosure Guidance	Paul Hastings LLP	March 14, 2018
Recap: Oral Arguments in United States v. Microsoft Corp.	Paul Hastings LLP	February 28, 2018
Key Takeaways from FTC's VTech Privacy Enforcement	Law360	January 18, 2018
Key Takeaways from the FTC's Latest Privacy Enforcement	Paul Hastings LLP	January 12, 2018
Data Breach Preparedness and Response in a World of White Hat Hackers	IAPP	November 1, 2017
In-House Counsel Guide to Ransomware Prevention, Preparedness, and Response	Paul Hastings LLP	September 18, 2017
SEC Announces Creation of New 'Cyber Unit'	Los Angeles Daily Journal	Est. September 2017
The SEC's Relentless Focus on Cybersecurity: After WannaCry, Head of Enforcement Says Cybersecurity is the Greatest Threat to the Industry	Paul Hastings LLP	July 17, 2017
A Relentless SEC Focus on Cybersecurity: After WannaCry, Enforcement Says Cybersecurity Is the Greatest Threat to the Industry	BloombergBNA	June 26, 2017
Effects of President Trump's Executive Order Requiring Review of Federal Cybersecurity Policies on the Electric Power Industry	Paul Hastings LLP	May 24, 2017
Protecting Your Networks, and Your Brand: How to Avoid and Respond to Ransomware Attacks	Paul Hastings LLP	May 19, 2017
China's New Cybersecurity Regime	Paul Hastings LLP	April 19, 2017
Will the Trump Administration Protect Hard-Won Progress with China on Cybersecurity?	Lawfare	March 21, 2017
Huffington Post – Off the Bus (Note: In this time period, I wrote a few blog pieces for the Huffington Post's "Off the Bus" series about the presidential campaign. I do not have current access to these pieces.)	Huffington Post "Off the Bus"	2007-2008
Battling On... to the Bitter End	Huffington Post "Off the Bus"	April 24, 2008

Rethinking FISMA and Federal Information Security Policy	NYU Law Review	November 2006
Enforcement of the Chemical Weapons Convention: Actual Investigations and Prosecutions of Offences	Chemical Disarmament Quarterly	December 2004

To the best of my abilities, I have taken steps to recall and report the articles, reports, and other written materials I have published. Certain written publications may not be available currently in digital form or in hard copy. If additional materials are identified, those materials will be reported to the Committee promptly.

**(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.**

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Internet of Things Security as Homeland Security: Announcing DHS's Strategic Principles for Securing the IoT	Coalition for Cyber Law & Policy "Cybersecurity under the Next President" Forum	November 15, 2016
DHS's Partnerships for Cybersecurity	City of Los Angeles National Cybersecurity Month Keystone Event	October 19, 2016
Remarks on Cybersecurity	U.S. Chamber of Commerce Cybersecurity Conference	July 12, 2016
Cyber Threats, Real World Consequences: The U.S. Department of Homeland Security's Vision for Cybersecurity	Temple University in Japan International Cybersecurity Conference	May 25, 2016

To the best of my abilities, I have taken steps to recall and report the formal speeches and testimony I have delivered. Certain speeches may not be available in digital or hard copy.

During my time at Department of Homeland Security and at U.S. Citizenship and Immigration Services, I delivered remarks before numerous industry associations, stakeholder conferences, events, and naturalization ceremonies. Similarly, I have participated in many panels, roundtables, business development-oriented presentations at conferences and business groups, guest lectures etc. both at DHS and while in private law practice.

In addition, there were occasions on which I delivered informal remarks, participated in panel/roundtable discussions, or otherwise spoke without written remarks prepared for delivery. If additional materials are identified, those materials will be provided to the Committee promptly.

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Risk vs. ROI – How to Effectively Manage Cyber Risk	IBC 2018 Cybersecurity Forum	September 13, 2018
The New President's Cyber Agenda	World Affairs Forum of Stamford, CT	March 1, 2017
Aviation and Cybersecurity: A New Priority for a Security-minded Industry	Aviation ISAC Fall Summit	December 16, 2016
Cybersecurity in the Airport Environment	American Association of Airport Executives 16 <sup>th</sup> Annual Aviation Security Summit	December 6, 2016
Cybersecurity for Broadcast Media: Threats and Solutions	The North American Broadcasters Association's Cybersecurity Symposium	December 2, 2016
Our Growing National Dependency on the Internet of Things	Atlantic Council	October 14, 2016
Strategic Principles for Securing the Internet of Things	Christian Science Monitor Security of Things 2016 Forum	September 22, 2016
Guiding Principles for Securing the Internet of Things	NIST Conference on Exploring the Dimensions of Trustworthiness	August 30, 2016
Developing Cybersecurity Policy at the DHS to Enhance Monitoring and Defensive Capabilities of U.S. Networks	Defense Strategy Institute's Cybersecurity for National Defense Symposium	August 10, 2016
DHS is Building the World's Clearinghouse for Cyber Threat Indicators: Do You Want In?	SINET Innovation Summit	July 14, 2016

To the best of my abilities, I have taken steps to recall and report the formal speeches I have delivered in the past ten years. As instructed, the list above does not include the speeches for which records have been provided to the Committee. In addition, there were occasions on which I delivered informal remarks, participated in panel discussions, made business development presentations on legal developments on behalf of my law firm to business groups, served as a guest lecturer to classes, or otherwise spoke without written remarks prepared for delivery, and I have not listed all such occasions.

## **9. Criminal History**

Since (and including) your 18<sup>th</sup> birthday, has any of the following happened?



- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) **No.**
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? **No.**
- Have you been charged, convicted, or sentenced of a crime in any court? **No.**
- Have you been or are you currently on probation or parole? **No.**
- Are you currently on trial or awaiting a trial on criminal charges? **No.**
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? **No.**

**If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).**

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
  - 2) Firearms or explosives: **Yes / No**
  - 3) Alcohol or drugs: **Yes / No**
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**
- 1) Name of the law enforcement agency that arrested/cited/summoned you:
  - 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):

2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

3) If no, provide explanation:

G) Were you sentenced as a result of this offense: **Yes / No**

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**

K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

L) If conviction resulted in probation or parole, provide the dates of probation or parole:

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**

N) Provide explanation:

### 10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

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(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

### 11. Breach of Professional Ethics

(A) Have you ever been disciplined 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? Exclude cases and proceedings already listed.

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
N/A			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

### 12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

**13. Lobbying**

**In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).**

No.

**14. Outside Positions**

☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)
N/A					

#### 15. Agreements or Arrangements

☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government;

and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

#### **16. Additional Financial Data**

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

**REDACTED**

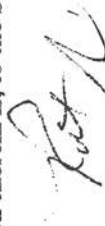


REDACTED

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SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



This 28<sup>th</sup> day of April, 2021

**REDACTED**UNITED STATES OFFICE OF  
GOVERNMENT ETHICS

April 30, 2021

The Honorable Gary C. Peters  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Robert Silvers, who has been nominated by President Biden for the position of Under Secretary for Strategy, Policy, and Plans, Department of Homeland Security.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David J. Apol  
General Counsel

Enclosures

**REDACTED**

May 2, 2021

Mr. Joseph B. Maher  
Designated Agency Ethics Official  
U.S. Department of Homeland Security  
2707 Martin Luther King Jr. Ave., SE  
Washington, DC 20528

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Under Secretary for Strategy, Policy, and Plans, U.S. Department of Homeland Security. It is my responsibility to understand and comply with commitments outlined in this agreement.

#### SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program

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regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government.

I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

#### SECTION 2 – PAUL HASTINGS, LLP

Upon confirmation, I will resign from my position with Paul Hastings, LLP. I currently have a capital account with the firm, and I will receive a refund of that account before I assume the duties of the position of the Under Secretary. Effective February 1, 2021, I began receiving a fixed rate of compensation based on services I render during the firm's fiscal year 2022. Any compensation owed to me, including any partnership share, for my FY22 services will be calculated at the time of my resignation and will be paid before I assume the position of Under Secretary. Pursuant to the firm's policies, as a non-equity partner, I must retain a fractional partnership share. Upon my resignation, my fractional partnership shares will be forfeited. In addition, following my separation, I will receive a lump sum payout of my Cash Balance Pension Plan, which will be calculated based on an objective formula as of March 31, 2022. Following this payout, I will not be eligible for any future benefits from the firm under this Cash Balance Pension Plan. Pursuant to the firm's policies, Paul Hastings, LLP will pay this amount to me in May of the year following my separation from the firm. Until I receive this payment, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the ability or willingness of Paul Hastings, LLP to make these payments to me, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1). Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know Paul Hastings, LLP is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

#### SECTION 3 – OTHER RESIGNATIONS

Upon confirmation, I will resign from my positions with the following entities:

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- Secure Community Network
- New York University
- DS 2019 Trust
- S Family 2020 Insurance Trust

Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I previously resigned from my position with the Biden-Harris Transition Team (PT Fund, Inc.). Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after my resignation from this entity, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

#### SECTION 4 – DIVESTITURES

I will divest my interests in the following entities as soon as practicable but not later than 90 days after my confirmation:

- Amazon.com, Inc.
- BPA Israel Ventures Fund<sup>1</sup>
- The Charles Schwab Corporation
- First Trust NASDAQ Clean Edge Smart Grid Infrastructure Index Fund
- Invesco Exchange Global Water ETF
- Invesco India ETF
- Invesco Water Resources ETF
- MLCP GLL Funding LLC
- PICO Holdings, Inc.
- Pine Island Sponsor LLC
- Procter & Gamble Co.
- Stanley Black & Decker, Inc.
- Wexford Partners V
- Wexford Partners VI
- Wexford Partners VII
- Wexford Partners VIII
- Wexford Partners IX
- Wexford Partners X
- Yum China Holdings

DS 2019 Trust also will divest my interests in the following entities as soon as practicable but not later than 90 days after my confirmation:

<sup>1</sup> Not on OGE 278, below reporting thresholds.

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- Energy Technology Savings, Inc.
- Healthcare Innovation Fund III<sup>2</sup>
- HPM Centerline II LLC
- Tenor International and Commercial Arbitration Fund LP

In addition, PBS 2019 Trust will divest my interests in the following entities as soon as practicable but not later than 90 days after my confirmation:

- Carlyle Asia IV Private Investors Fund
- CCMP III Capital Investors Fund
- Cerberus Institutional Partners VI LP
- Crestview III Private Inv. Fund
- DFJ Growth 2013 Private Inv. Fund
- Wexford Catalyst Fund
- Wexford Credit Opp. Fund
- Wexford Spectrum Fund

Silvers GC Trust also will divest my interests in the following entities as soon as practicable but not later than 90 days after my confirmation:

- Tenor International & Commercial Fund II LLC
- WM Capital LLC

I also will divest my interest in Silfamhold LLC as soon as practicable but not later than 90 days after my confirmation. I will retain a financial interest in certain holdings from Silfamhold LLC, which will be transferred to a new entity containing only non-conflicting assets, including the following:

- Mitchfield Equity LLC
- The Ader-Silvers Families LLC
- 98 BH Matthews LLC
- USRA Equity I LLC
- Prospect Pointe Acquisition LLC
- Provident Management, LLC
- Highview Acquisition LLC
- Roark-Carvel Fund

For as long as I continue to have a financial interest in these entities, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of these entities, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

<sup>2</sup> Not on OGE 278, below reporting thresholds.

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With regard to each of the entities described above that I am divesting, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I have verified that I will be able to carry out the divestitures within the timeframe described above.

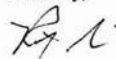
I understand that I may be eligible to request a Certificate of Divestiture for qualifying assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will ensure that all divestitures discussed in this agreement occur within the agreed upon timeframes and that all proceeds are invested in non-conflicting assets. I understand that I must timely submit my request for a Certificate of Divestiture to allow for adequate time for OGE to process the Certificate of Divestiture, and in order to divest assets within the agreed upon timeframe.

I (including my spouse and dependent children if applicable) will not repurchase any asset I was required to divest without my consultation with my agency ethics official and the U.S. Office of Government Ethics.

#### SECTION 5 – PUBLIC POSTING

I have been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Robert Silvers



**U.S. Senate Committee on Homeland Security and Governmental Affairs  
Pre-hearing Questionnaire for the nomination of Robert Silvers  
to be Under Secretary for Strategy, Policy, and Plans  
Department of Homeland Security**

**I. Nomination Process and Conflicts of Interest**

1. Did the President or the Secretary of the Department of Homeland Security (DHS) give you specific reasons why you were nominated to be the next Under Secretary for Strategy, Policy and Plans, and if so, what were they?

No.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Under Secretary? If so, what are they, and to whom were the commitments made?

No.

4. Are you aware of any business relationship, dealing, or financial transaction that can result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the DHS's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have signed and which was transmitted to the Department's Designated Agency Ethics Official, and which was provided to this Committee. I am not aware of any other potential conflicts of interest.

If there is a need for me to recuse myself from any matter, I will follow the guidance of the DHS Designated Agency Ethics Official and defer the matter to another appropriate DHS official, such as the Deputy Under Secretary for Strategy, Policy, and Plans.

5. Please provide the name of any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.

I have not formally retained or contracted with any such individual or entity regarding this nomination.

## II. Background of the Nominee

### 5. Why do you want to serve as Under Secretary for Strategy, Policy, and Plans?

I am committed to public service. I believe that DHS plays a vital role in protecting the American people. From my prior roles in the federal government, I am fortunate to have experience across the issues which DHS manages, and it would be a privilege to be responsible for developing and coordinating policy in those important areas.

DHS is a young Department, having been established fewer than 20 years ago. The Department is blessed with a large, talented and dedicated workforce, but it still needs to mature in how it functions; to have repeatable, institutionalized, and accountable processes for evaluating options and reaching decisions in areas ranging from cybersecurity to defending our nation's critical infrastructure to combating terrorism to securing our nation's borders.

I believe the Under Secretary for Strategy, Policy, and Plans is well-positioned to help bring about that maturation, to represent Departmental views at the White House and amongst the interagency, and to provide the best advice to the Secretary representing consolidated views from across the Department. It would be an honor to be confirmed, and a responsibility I would take on solemnly and to the best of my ability.

### 7. What specific background, experience, and attributes affirmatively qualify you to be Under Secretary?

I have devoted my career to advancing homeland security through my work in the public and private sectors. I know DHS well and I have a proven ability to lead and to build consensus by incorporating the views of interested stakeholders to achieve results.

I have held senior roles throughout DHS, including in operational agencies, the headquarters front office, and within the office that I have now been nominated to lead. As Assistant Secretary for Cyber Policy, I worked closely with DHS's operational agencies, the White House, the interagency, and the private sector to lead key policy initiatives for the Department. This included the Department's cyber incident response planning and its guidance to industry for securing Internet of Things devices. I also was point for key diplomatic initiatives to enhance collaboration between the U.S. government and allied nations on cybersecurity issues.

As the Department's Deputy Chief of Staff, I was responsible for the day-to-day oversight of policy and operations across every part of DHS, ensuring the Secretary and Deputy Secretary had the information they needed and that their decisions were carried out faithfully by operational components. As an advisor to the Director of U.S. Citizenship and Immigration Services (USCIS) before that, I saw firsthand how DHS is first and foremost an operational organization where policy must be communicated clearly and consistently to frontline operators so that they can do their jobs.

In the private sector, I work with companies to build their security programs and to respond to severe security incidents. I frequently assist my clients in supporting U.S. government efforts to investigate and disrupt malicious cyber actors, including by sharing information and intelligence. I regularly advise C-suite executives and boards of directors on their most critical security challenges.

Through my experience in the public and private sectors, I have accumulated a deep understanding of security issues, how they can be addressed effectively, and how U.S. government policy can favorably shape the landscape. If confirmed, I would be honored to bring this experience to bear for the American people.

8. Please describe:

a. Your leadership and management style:

I am inclusive and collaborative in my work and with the teams I have led. Where different silos of activity must exist, I encourage them to open up, share information, and exchange views, and ensure they have the tools, resources, and guidance needed to do so. I establish working environments in which all voices are welcome and heard, which creates buy-in to carry out the ultimate decisions that leadership makes.

I work hard and study the issues and try to set an example for my teams. I remind my teams that mission comes first. I want my teams to think broadly and not to be driven by parochial considerations or the defense of turf or old ways of doing business.

I want my teams to feel trusted and empowered. Everyone's job is important. Especially in an office dedicated to policy development, good ideas should bubble up from every direction. Leadership is ultimately accountable for the team's results, but everyone is entitled to dignity and respect and in turn has an obligation to be a strong team player.

b. Your experience managing personnel:

I have led teams in my public and private sector roles. In my law practice, I quarterback incident response for companies facing significant cybersecurity attacks. I am frequently coordinating and directing the activities of large, multidisciplinary teams, including IT experts, forensic investigators, attorneys, and the business units supporting the response. Within my firm, I am Vice-Chair of our Cybersecurity and Privacy practice, which includes attorneys and non-attorney technical experts spanning our offices in the United States, Europe, and Asia.

In public service, I also have managed significant personnel teams. As the DHS Deputy Chief of Staff, I directly managed the front office staff and operations that supported the Secretary and Deputy Secretary, and I was responsible for coordination and implementation of priority issues across the 240,000-person DHS workforce.

c. What is the largest number of people that have worked under your supervision?

As DHS Deputy Chief of Staff, I was part of the core team overseeing all policy and operations of the 240,000 employees of DHS, and I also directly managed approximately 40 employees who worked in the Office of the Secretary and Deputy Secretary. As Assistant Secretary for Cyber Policy, I oversaw a team of approximately 15 employees, including policy experts and law enforcement officers on detail from federal law enforcement agencies within DHS. In my law practice, I have overseen investigations and incident responses that each involved dozens of attorneys and non-attorney experts.

9. Please give examples of times in your career when you disagreed with your superiors and advocated your position. Were you ever successful?

My chain of command will always have my unvarnished advice. An example from my private law practice comes to mind. I had a difference of views with a client when the company had suffered a cyber attack and personal data in its possession was compromised. I advised my client that the law required that it report the incident to regulators and impacted individuals. My client was not happy with this advice and the issue was escalated to a senior executive. The conversation was difficult, but I stood my ground on what the law required. I also explained ways the company could mitigate the negative fallout that would come with disclosing the breach, such as by sharing fulsome information about what had happened and how the company had acted quickly to protect the individuals who were impacted once it discovered the intrusion. My client followed my advice, but I wondered if that was the last time I would be called upon to do work for them. The client did indeed call me later, when a separate issue arose. I realized and appreciated that by standing firm with the correct advice, I had earned my client's respect.

10. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

Always. Openness to debate and dissenting views make for better outcomes. Leaders do not have a monopoly on good ideas and, if confirmed, I will foster an open and collaborative atmosphere in the Office of Strategy, Policy, and Plans.

In my private law practice, we frequently must contend with interpreting modern-day technology questions through the lens of laws that can be decades or even centuries old. Often, there is not a clear answer. When working through the issues with my associates, a momentum in a certain direction will often start to emerge. I always insist on stepping back, pausing, and asking my team if anyone has concerns with the direction we are going, or alternative solutions to the problem. My goal is to create space for dissenting and creative views. My goal is also to acknowledge that the issues are hard and that if someone sees a better way forward, I want to hear it, even if it is contrary to how I have been thinking about the problem.

11. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country.

When I served at USCIS early in my tenure at DHS, the Guatemalan government abruptly halted adoptions of Guatemalan orphans by prospective adoptive families in the United States. The decision resulted in hundreds of orphans languishing in Guatemalan orphanages, with no family to receive them in Guatemala and no permission to travel to the United States to join with the loving families that were eager to take them in.

These children had no voice and there was no obvious political upside to pushing on the issue, except that it was the right thing to do. Pressing the Guatemalan government would cause irritation in a relationship where we relied on the country on a number of our priorities. Certain U.S. government officials did not want to damage the relationship by pressing too hard.

After visiting an orphanage outside Guatemala City, where the conditions were heartbreaking, I knew we had no choice but to act. I gave that advice to the then-USCIS Director, who had also reached the same conclusion. Notwithstanding concerns from other quarters, we made multiple visits to Guatemala City to press the government. We sent an unequivocal signal that the issue was a priority and that its resolution would be important to make progress in other parts of the U.S.-Guatemala relationship. We communicated that message directly in a meeting with the President of Guatemala.

Eventually, the Guatemalan government relented and began processing the adoptions. I oversaw on the Director's behalf an effort to track the progress of the hundreds of pending cases until they were resolved, one by one, and the children were united with their prospective adoptive families in the United States.

12. What would you consider your greatest success as a leader?

I am proud of being a member of the DHS leadership team that drove the Obama-Biden Administration's efforts to respond to the Ebola crisis in 2015.

When Ebola broke out that year in three West African countries, the threat to the United States was significant. The Administration developed a strategy of tackling the spread in those three countries to mitigate the outbreak at the source, while also taking steps to monitor for and prevent any infected individuals from bringing the virus into the United States. It was this latter part of the strategy where DHS played a key role. I worked closely with the airlines to develop containment protocols, including by funneling all international flights with travelers from the three West African countries into five U.S. international airports, where the Department deployed special medical screening teams at U.S. Customs and Border Protection (CBP) screening areas. DHS brought in U.S. Coast Guard (USCG) medical resources to conduct screening and temperature checks, together with the Centers for Disease Control and Prevention (CDC). Ultimately, through the Administration's comprehensive strategy, we were able to turn the tide of the epidemic in the West African countries and avoid significant introduction of the virus into the United States.

13. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

As a security leader, it can often feel as though I am playing goal line defense against a range of menacing threats. Each terrorist strike, cyber attack, or law enforcement officer killed in the line of duty is deeply painful. Bearing difficult experiences is part of the job for those who have chosen a career in national security and public safety. I view my job as drawing lessons from these terrible events – studying them and building up safeguards with my teams so that they do not happen again.

14. During your previous time at DHS, what specific actions did you take to improve morale? Please cite examples of success.

When I served as Deputy Chief of Staff at DHS, I supported the work of the DHS Employee Engagement Working Group. I was honored to support the Secretary and Deputy Secretary in visiting frontline personnel around the country, holding town halls, and prioritizing tangible improvements in how the Department supported the workforce. It was tremendously rewarding to see our efforts pay off when, in 2016, DHS reversed a long slide in employee morale rankings by posting improved standing in the Federal Employee Viewpoint Survey for the first time in many years.

15. During your career, has your conduct as a government employee ever been subject to an investigation or audit by an agency Inspector General, Office of Special Counsel, Department of Justice, agency Equal Employment Opportunity office or investigator, or any other federal investigative entity? If so, please describe the nature of the allegations/conduct and the outcome of the investigation(s) or audit(s).

No, to my knowledge as a federal employee I have never been the target of an investigation or an audit.

### **III. Role of the Under Secretary - SPP**

16. Please describe your view of the Department's core mission and the Under Secretary's role in achieving that mission.

DHS's mission is multifaceted. At one level, the different pieces of the mission are disparate, ranging from transportation security to cybersecurity to securing our borders and our critical infrastructure. At another level, there are important commonalities in the missions across the Department. Speaking very generally, you could say DHS's core mission is to facilitate the lawful movement of goods, people and data that are the lifeblood of our way of life and economy, while intercepting and mitigating threats that can lurk within those flows.

Achieving the mission requires a dispersed and field-based DHS workforce to implement policy decisions that are risk-based, consistent with Congress's mandates, and balanced to account for competing priorities. Congress created the Under Secretary for Strategy, Policy, and Plans position to be the Department's lead for the development of such policies.

This office should be a hub within the Department to coordinate with the operational agencies that must implement policy; the Secretary, who is accountable for making significant policy decisions; and key external stakeholders in Congress, other parts of the Executive Branch, our foreign partners, and the private sector.

17. If confirmed, what would be the highest priority items you would focus on? What do you hope to accomplish during your tenure?

If confirmed, first, I will make it a priority to invest in the talented and dedicated people of the Office of Strategy, Policy, and Plans.

Second, I want to create a more mature policy development process within DHS. DHS is a young organization and a priority for me will be creating a repeatable, analysis-based policy process so that the Secretary, Deputy Secretary, and our partners benefit from DHS's best strategic thinking and planning.

Third, I want to bring together the best ideas from across the large DHS organization to advance action-oriented policy solutions. Different DHS components often share interests and mission space. For example, counterterrorism is a priority for CBP and its critical mission to interdict threats before they reach our borders, the Transportation Security Administration (TSA) and its mission to safeguard our aviation system, and CISA and its mission to protect critical infrastructure from the full range of physical and cyber threats. Those equities should come together to inform comprehensive policy development, and the Office of Strategy, Policy, and Plans is where that should happen at DHS.

18. If confirmed, what steps will you take to ensure component-level involvement in the development of department-wide strategies, policies, or plans?

Component-level involvement is essential at all stages. The American people will not be well-served by policies created without regard to operational realities and implementation challenges. If confirmed, I will ensure that my team in the Office of Strategy, Policy, and Plans coordinates extensively and transparently with operational components. This should happen at the front end, as initial policy options are developed. And it should happen at the back end, as options are narrowed, refined, and ultimately finalized by Department leadership. If I am confirmed, every DHS component head will know they have an open invitation to meet with me to discuss their issues of concern and how the Department can best address them.

19. In September 2018, the Government Accountability Office (GAO) found that the Office of Strategy, Policy, and Plans (SPP) had encountered challenges leading and coordinating efforts to develop, update, or harmonize policies that affect multiple DHS components because the Department does not have clearly-defined roles and responsibilities with accompanying processes and procedures to help SPP lead and coordinate policy in a predictable, repeatable, and accountable manner. What steps, if any, will you take to ensure DHS can develop and harmonize policies across components?



One of the Office of Strategy, Policy, and Plans' essential functions is to develop policy for issues that cut across DHS components. For example, in cybersecurity, DHS agencies have distinct roles and authorities that together form the Department's approach to securing our country's digital infrastructure. CISA is the civilian lead for bolstering cybersecurity across our critical infrastructure and the private sector at large, while the U.S. Secret Service (USSS) and U.S. Immigration and Customs Enforcement (ICE) are law enforcement agencies that investigate and disrupt cyber crime. The Department's cybersecurity policies ought to reflect the interests and capabilities of both these complementary mission sets. If I am confirmed, I will work with my team and those of DHS's operational agencies to identify policy issues of common concern so that they are addressed consistently and to the benefit of all impacted components and the American people.

#### IV. Policy Questions

##### *DHS Mission and Priorities*

20. Please describe your understanding of the Administration's strategic and policy priorities across the homeland security enterprise.

As a private citizen, I have observed the new Administration articulate a number of strategic and policy priorities across homeland security, to include:

- Strengthening the security and resilience of federal networks and the nation's critical infrastructure from both physical and cyber threats;
- Implementing safe, orderly and humane immigration policies and maintaining security along our borders;
- Supporting the federal government's response to the COVID-19 pandemic;
- Protecting the American people from terrorism, including both domestic terrorism and threats emanating from overseas; and,
- Improving DHS employee morale, including by offering vaccination, personal protective equipment, and other safeguards against COVID-19 to the frontline workforce.

21. If confirmed, how would you communicate and resolve any potential areas of disagreement with the Administration's stated policy goals and priorities?

If I am confirmed, I will foster an open and collaborative environment in which stakeholders can express disagreement with existing policy and advocate for changes to that policy. That will include external stakeholders, such as Congress, other Executive Branch partners, and the private sector. It also will include internal stakeholders from within DHS. If confirmed, I will gather these stakeholders around the table, exchange views candidly, and develop policy options as appropriate.

22. If confirmed, how will you approach the balance between the need for strong homeland security and protecting individuals' privacy, civil rights, and civil liberties when developing the Department's strategies, policies, and plans?

Privacy, civil rights, and civil liberties are moral and ethical touchstones for all federal government work. They are engrained in our Constitution and laws and must guide us from the outset of our policy development, as well as our operational implementation. The Department can and must protect the American people consistent with principles of privacy, civil rights, and civil liberties. When Congress created DHS, it wisely decided to embed within it the first statutorily-created offices of privacy and civil rights and civil liberties in any federal department. If confirmed, I will work to ensure those offices are engrained into the development of the Department's policy, strategy and plans.

23. What do you see as the greatest threats to the homeland, and how will you work to mitigate these threats if confirmed?

Among the greatest threats to our homeland are cyber attacks, terrorism, pandemics, and natural disasters. I also am concerned about threats to our economic security, particularly threats relating to China in the form of foreign investment in sensitive national assets or vulnerabilities in our supply chains.

These are just a few of the threat streams that the Department is charged with mitigating. If confirmed, I will immediately meet with my team to understand the Department and interagency's current strategies for addressing these challenges. I look forward if confirmed to consulting with Congress on these critical issues as well.

24. In your view, how has DHS's core mission evolved since its inception, if at all? What do you think DHS's core mission should be for the next decade?

The threats we face have evolved over the last 18 years. Cybersecurity has morphed from a niche technical concern into an urgent national security and economic priority. DHS must remain vigilant to organized terrorist groups directing attacks from abroad, even as the rise of domestic terrorist actors, frequently inspired by what they see on social media, has grown into one of the most significant threats to the homeland. The Federal Emergency Management Agency (FEMA) has always had to reckon with natural disasters, but now must also look to the specter of insidious and permanent changes wrought by climate change.

Over the next decade DHS should continue to support the core work Congress has assigned to it – administering our immigration system, responding to natural disasters, protecting the President and our other national leaders, securing cyberspace, critical infrastructure and our borders, facilitating lawful trade and travel, securing our maritime environment, protecting the American people from terrorism and violent extremism, and cracking down on human and narcotics trafficking organizations. But I believe the Department must be agile, incredibly nimble, in understanding that the threat environment is ever-changing. The Department's strategies must evolve and adapt as well.

25. What steps would you take to ensure coordinated implementation of the Department's mission across headquarters and the components?

Ensuring coordinated implementation of the Department's mission is one of the Office of Strategy, Policy, and Plans' key functions. If confirmed, I am committed to institutionalizing repeatable processes so that this is accomplished as a matter of course when there are challenging issues that require the Department's attention. I believe this will require establishing regular communication between the operational components and headquarters. This should be bidirectional and routine. For a particular mission, there should be established points of contact within headquarters and operational components who are accountable for sharing information and for pulling in respective leadership teams as needed when an issue requires escalated attention. If confirmed, I will seek to assess the current structure at DHS and will work quickly to address any needed reforms.

#### *Management*

26. What do you believe are the most important actions DHS should take to strengthen overall management of the Department?

I believe one of the highest priorities for the Department is building the morale of the workforce. I also believe DHS can make great strides in boosting operational efficiency by continuing to work with the Office of Personnel Management, Office of Management and Budget, and Congress to improve and streamline the competitive hiring process and procurement. If confirmed, I will do whatever I can to consult with and support the Department's Under Secretary for Management in achieving these objectives.

27. Do you believe structural changes or other reforms are necessary for DHS to continue to effectively protect the homeland from overseas and domestic threats? If confirmed, how would you evaluate potential reforms?

DHS is still a new Department and there are undoubtedly changes that could improve the Department's operations and how it serves the American people. If confirmed, I will work with my team to better understand the Department's current structure. I also will consult with the Secretary and Deputy Secretary to understand the changes they believe would be helpful. I will work with my team to develop proposals for enacting such changes. And, I will discuss those options with the White House, the Secretary and Deputy Secretary, Congress, and other interested stakeholders.

28. What are the biggest challenges facing the DHS workforce? If confirmed, what immediate steps would you take to strengthen and support the DHS workforce?

Workforce morale has been a consistent challenge for the Department. I believe it is the single most important management issue the Department faces.

The COVID-19 pandemic has brought about significant workforce challenges. The Department's frontline personnel must often interact with members of the public. They

deserve our gratitude, of course, but also our action to provide them the protection they need. This includes access to vaccines and personal protective equipment.

Leadership owes it to the workforce to anticipate and address these kinds of issues. If confirmed, I will do whatever I can to consult with and support the Department's Under Secretary for Management and the operational components, to help anticipate and address these and other workforce challenges.

29. What steps do you believe that DHS can take to ensure federal funds expended by the agency are free from duplication and waste?

All those in the Department, most especially the leadership, owe it to the public to conserve resources and to combat waste and duplication. The Department can advance this goal by increasing its transparency and cooperation with the Office of the Inspector General, as well as with the Government Accountability Office. The Department also can advance this goal by encouraging the workforce to identify and report waste and opportunities for cost savings. Finally, the Department can develop and utilize cross-departmental management processes that identify opportunities to reduce waste and increase efficiencies and common approaches.

30. If confirmed, will you commit to reviewing any DHS programs you believe could be eliminated because they are ineffective, duplicative, wasteful, unnecessary, or have outlived their purpose and report that information to Congress?

If confirmed, I commit to working with relevant Department officials, including the Secretary and Deputy Secretary, to evaluate programs and their effectiveness, and report all appropriate information to Congress.

31. Throughout its history, DHS has struggled with efforts to modernize and integrate the numerous financial systems on which the components operate. What do you see as the most viable path forward for DHS to develop real-time, accurate, and comprehensive data on its finances and to use this data to inform budget decisions and resource allocation?

This is an important issue that I understand has historically come under the remit of the Under Secretary for Management and Chief Financial Officer. If confirmed, I will support any initiatives undertaken by these officers however I can.

32. GAO and DHS Office of Inspector General (OIG) have identified significant challenges in DHS's approach to information technology management at DHS components, such as the United States (U.S.) Citizenship and Immigration Services. How would you approach addressing these challenges?

This is an important issue that I understand has historically come under the remit of the Under Secretary for Management and associated lines of business within the Management Directorate. If confirmed, I will support any initiatives undertaken by the Under Secretary for Management, however I can.

33. In your previous roles at DHS, what areas did you identify as management challenges? What actions did you take in response and what were the results?

Workforce morale was always a significant management challenge at the Department. As Deputy Chief of Staff, I helped develop and implement a number of initiatives to address this issue, including initiatives touching on core management functions like human capital and budgeting. These included increasing opportunities for frontline personnel to interact with and hear from their leadership; enhanced pay initiatives for various agency workforces, including by working with Congress to directly support our personnel; and engagements with employee unions to better understand and address workforce concerns.

*Strategy, Plans, Analysis, and Risk*

34. Explain the role and the mission of the SPP office (besides advising the Secretary and the Deputy Secretary) and what should it be? What steps will you take to get it from its current state to the optimal future state?

The Office of Strategy, Policy, and Plans should be the strategic and policy nerve center for the Department. It should be the place where the Department can assess and identify its overarching priorities and develop options for addressing those objectives, harnessing the full range of DHS operational capability and authorities. The Office should coordinate policy positions across DHS components, and unify and harmonize them when needed, as well as represent these policy positions within the interagency. The Office should also play a role in the budget process, helping the Secretary and the Deputy Secretary ensure that budget requests and decisions are aligned to policy priorities.

If confirmed, I will consult the Secretary and Deputy Secretary to identify priority areas where the Office of Strategy, Policy, and Plans can support unity of effort in the Department. Based on my previous time at DHS, I believe the men and women of the Office have already demonstrated to their colleagues across the Department their extraordinary commitment and capability. If confirmed, I will harness that talent to coordinate and unify the Department's policy positions and planning.

35. SPP plays a key role in improving Departmental cohesiveness and operational effectiveness by ensuring that there is alignment between strategic objectives, budgeting, acquisition decisions, operational planning and mission execution. If confirmed, how will you ensure that DHS continues to build and mature into a Department that is greater than the sum of its parts?

If confirmed, I will ensure that DHS continues to mature by identifying opportunities to harmonize policy development and planning and to leverage capabilities from both headquarters offices and DHS components.

For example, I was struck during the Ebola crisis of 2015 by how many DHS components could contribute to the effort to prevent the spread of the epidemic to the United States. The USCG offered up doctors and medical support personnel. CBP trained its frontline

officers to identify indicators of infection, and it utilized its travel security and data analytics capability to track potential vectors of transmission into the United States. The then-Office of Health Affairs offered medical expertise while the Office of Intelligence and Analysis produced intelligence assessments to inform leadership decisions. Coordinating and harnessing all of this capability from different organizations requires a mature policy and planning process. The Department should replicate this model across its missions, from cybersecurity to border management to counterterrorism. If confirmed I intend to make the Office of Strategy Policy, and Plans the critical hub for accomplishing that effort.

36. Over the past decade, SPP's and its predecessor's role and authority appears to have changed, with policy functions moving to the Secretary's office, Management and/or other components based on personality and relationships.
  - a. What do you see as the unique mission or capability that SPP provides or should provide the Department?
  - b. What reforms will you undertake to build SPP's institutional strength across the Department and what mechanisms do you propose to utilize to accomplish that?

To answer both questions above, if confirmed, I will coordinate with the Secretary's office to set priorities for the Office of Strategy, Policy, and Plans. I will then establish plans for acting on each of those priorities. The right structures will vary depending on the issue, but tools I would plan to employ if confirmed include: regular meetings between the Office's leadership and leadership of the other headquarters offices and DHS components; establishment of cross-functional working groups assigned to each issue, with milestones and regular reporting to me and other Office leadership; and regular private sector engagement to ensure the Office's work is appropriately informed by the considerations and ideas of industry, non-profits, academia, and other stakeholders. As the headquarters component with policy experts covering each mission within DHS, I believe the Office of Strategy, Policy, and Plan has the unique capability to perform this function for the Department.

37. If confirmed, how will you engage with component-level officials to ensure that Department-wide policies, programs, and plans are implemented in a manner that strengthens our nation's homeland security?

Through communication, transparency, and a focus on mission. Component-level officials are managing the front lines. They are looking for action, clarity on the way forward, and tangible support for the work. If confirmed, that is what I will work together with my team to provide.

38. The *Homeland Security Act of 2002* (P.L. 107-296) requires DHS to conduct a quadrennial review of the homeland security strategy of the federal government. This review is referred to as the Quadrennial Homeland Security Review (QHSR). The Department has released two previous QHSR reports in 2010 and in 2014. However, these reports have typically

given an overview of the current security landscape instead of outlining specific strategies and priorities necessary for DHS to protect against long-term threats.

a. Do you think that the QHSR is a useful tool for DHS and its components?

Yes.

b. As of now, DHS has not completed this review mandated by law. If confirmed, will you commit to working to release the 2018 QHSR as soon as possible?

I commit to complying with the statutory requirements as to the QHSR.

39. In your opinion, is there an existing model in an executive branch Department that readily applies to DHS/SPP? If so, how would reforming SPP after this model help SPP accomplish its mission more effectively?

I believe that the Office of Policy within the Office of the Secretary of Defense ("OSD Policy") is one positive model for the DHS Office of Strategy, Policy, and Plans. OSD Policy is seen as adding value for the Department and the Secretary, and has deep institutionalized relationships across the Defense Department. If confirmed, I would take the opportunity to examine whether reforms to the Office of Strategy, Policy, and Plans are warranted, but certainly OSD Policy has achieved success in its mission of developing strategies and policies that account for the views and capabilities across a large and complex organization.

40. Have the operational components across the Department been an impediment to building strong headquarters components? Explain why or why not.

No, to the contrary: the operational components are the heart and soul of the Department. I believe the role of headquarters offices is to guide, support and enhance the work of our frontline operators in every possible way.

#### *Emergency Management and COVID-19*

41. How do you evaluate the current state of national preparedness for emergencies and disasters, including the capabilities of individuals and communities?

National preparedness is a critical mission objective. Hurricanes, flooding, wildfires, and other disasters will inevitably strike; the question is how resilient and prepared we are so that the impact is mitigated. If confirmed, I will work together with FEMA, CISA, and other elements of the Department to evaluate our state of national preparedness and identify actions to enhance it.

42. What is your understanding of DHS's role in the federal government's response to the COVID-19 pandemic?



I understand DHS has played a variety of critical roles in the federal government's COVID-19 response, to include:

- Protecting the COVID-19 vaccine supply chain from cyber and physical threats;
- Standing up mass vaccination sites across the country;
- Assisting federal response efforts through logistics and procurement support;
- Ensuring that risks of transmission and introduction of new COVID variants is minimized even as the Department allows the international travel it can safely permit;
- Investigating COVID-related fraud schemes and working with federal partners to bring the perpetrators to justice; and,
- Vaccinating and providing personal protective equipment to DHS's own frontline workforce.

If confirmed, it will be a priority of mine to identify further ways that DHS can support the pandemic response. It will also be a priority of mine to identify ways that DHS can facilitate the resumption of international travel, including lawful non-essential travel across our northern and southern borders, as quickly and efficiently as the science will allow.

43. The pandemic exposed the vulnerabilities of many U.S. supply chains of high-tech products as well as items critical for the pandemic response. What role do you believe DHS can play to reduce supply chain vulnerabilities in the U.S. economy?

I am extremely concerned about supply chain risks relating to components for our critical technology sectors, including semiconductors and rare earth metals. Our country also has discovered supply chain vulnerabilities directly relevant to the public health response, from N-95 mask production to supply of critical vaccine components. I believe supply chain fragility is one of the most significant long-term national security risks to the United States and I believe in particular that it poses a danger with respect to our ability to compete with China.

This is an area that requires immediate and extraordinary attention, from DHS and from the federal government and industry more generally. If confirmed, it will be an early priority of mine to assess how DHS can contribute to reducing our vulnerability to foreign-sourced critical components and materials. One of the actions the Office of Strategy, Policy, and Plans could take includes leading a Department-wide assessment of risks to critical infrastructure that would result from a supply crunch for certain critical materials (together with FEMA and CISA, among others). It should also be a priority to focus on DHS's participation as a member of the Committee on Foreign Investment in the United States (CFIUS), including to ensure supply chain vulnerabilities that could adversely impact critical infrastructure or public safety are sufficiently accounted for in reviews of foreign investments.

I would look forward, if confirmed, to working with Congress and industry stakeholders to ensure U.S. supply chains are protected and resilient.

44. In the event of a future, large-scale pandemic, should FEMA be the lead federal agency in the event of a Stafford Act declaration?

Based on my existing knowledge as a private citizen, I do not have an opinion on this question, although I recognize its importance. If confirmed, I would be pleased to engage with FEMA, DHS counsel, and other DHS and interagency partners to learn their views and the considerations at play.

45. Do you believe the Stafford Act definition of a "major disaster" should include an influenza pandemic?

Based on my existing knowledge as a private citizen, I do not have an opinion on this question, although I recognize its importance. If confirmed, I would be pleased to engage with FEMA and DHS counsel to learn their views and the relevant considerations.

46. If confirmed, will you support senior-level DHS/FEMA participation in future HHS-led pandemic exercises?

I am a strong believer in tabletop exercises and other drills to ensure readiness. I am not familiar with the current set of pandemic-related exercises conducted by the federal government. I do believe lessons learned from the COVID-19 pandemic ought to be identified and incorporated into pandemic exercises. I also believe that including all stakeholders that would have a role in a live response is almost always the best practice for a simulated exercise.

47. If confirmed, what actions will you take to continue and strengthen DHS's efforts to respond to the ongoing pandemic?

Beating back the COVID-19 pandemic is an overriding national priority, and I have been heartened to see DHS's central role in that effort. If confirmed, I will make it an early priority to better understand how DHS is handling its aspects of the pandemic response and where there is room to do even more. In my experience, one of the most impactful ways DHS can support missions is by serving as a force multiplier for state, local, tribal and territorial governments, which are often resource-constrained. I would certainly look for every opportunity to provide further support to state, local, tribal and territorial governments as they contend with the pandemic.

48. If confirmed, what actions will you take to ensure that the Department is better positioned to identify, address, and respond to future pandemics?

Even as we fight this pandemic, we must acknowledge that the next one might be close at hand. We must be better prepared to fight the next pandemic and draw lessons from the current one to aid in that future fight. If confirmed, I will work with component and other headquarters leadership to ensure the Department has a policy process to identify lessons learned and develop plans to increase our preparedness for future pandemics.

49. In light of COVID-19, the U.S. land borders with Mexico and Canada have been closed to non-essential travel since March 21, 2020. If confirmed, how would you collaborate with the Governments of Mexico and Canada to assist in combating the trans-national spread of COVID-19? Additionally, if confirmed, how would you evaluate re-opening the borders to all lawful trade and travel?

If I am confirmed, I will make it an early priority to ensure the Department is doing everything it can to provide relief to border communities whose way of life has been disrupted by the restrictions on non-essential travel. We must, of course, do what is necessary to protect our country from introduction of COVID-19, including new variants. We also have an obligation to continually reassess travel restrictions, in consultation with the CDC, and to relax them expeditiously as soon as the science and data allow for it. If confirmed, I will engage early with Mexican and Canadian government counterparts to discuss ways to work together to combat the spread of COVID-19 and to discuss planning for a re-opening of non-essential travel as soon as public health conditions allow for it. Even if the conditions do not allow for it at the time I am confirmed, I believe the Department has a responsibility to have plans in place, so that they can be activated right away when conditions do permit.

50. Do you believe the preparedness grants administered by DHS and FEMA are meeting their intended statutory and policy goals?

As a private citizen, I have not had an opportunity to review these issues for some time, but I look forward learning more if confirmed.

51. Do you believe that DHS and FEMA do an adequate job of collecting data on grant effectiveness and using risk-based formulas to determine appropriate funding levels and awards for preparedness grants?

As a private citizen, I have not had an opportunity to review these issues for some time, but I look forward to learning more if confirmed.

*Preventing Terrorism and Enhancing Security*

52. What role do you believe DHS should play in developing policies and plans to prevent domestic violent extremism, international terrorism, and domestic terrorism?

Combating terrorism is a keystone mission for DHS, which was established out of the ashes of 9/11.

DHS plays a vital role in supporting state, local, tribal and territorial law enforcement agencies in their counterterrorism efforts. DHS's work with law enforcement takes the form of intelligence and information sharing through the National Network of Fusion Centers and other channels. It also includes DHS's grant programs, which provide direct funding to support allowable training, acquisitions of equipment, and personnel costs.

DHS also supports communities to equip them with the tools, training, and resources to combat domestic terror. It is often those closest to an individual – family, friends, clergy, and classmates – who are in the best position to identify behaviors and other risk factors that can signal a turn toward violence and thus help prevent violence that might otherwise occur.

DHS is also on the frontlines of the fight against foreign terrorism. There are still dangerous groups overseas that wish to harm our country. DHS has a primary role in the realms of aviation security, border and immigration security, protection of critical infrastructure, and protection of U.S. government facilities against these threats.

53. If confirmed, what strategies and policies would you pursue to prevent and counter international and domestic terrorism?

If confirmed, it will be amongst my highest priorities to identify additional ways DHS can best lead in the fight against terrorism, both international and domestic. One of the most effective ways DHS protects the American people from terrorism is through its support to state, local, tribal, and territorial law enforcement agencies. I would, if confirmed, prioritize identifying way to bolster this support. This includes identifying additional opportunities for intelligence and information sharing. It also includes strategic use of grant programs to directly equip such law enforcement agencies to detect and disrupt threats.

If confirmed, I would also plan to assess how the Department can better support local communities in managing the threat of domestic violent extremism and terrorism. The increase in individuals being inspired to commit acts of violence by online narratives is alarming. The Administration recently announced a newly-created Center for Prevention Programs and Partnerships to pursue this work and, if confirmed, I will prioritize an early assessment of what policies, plans, and strategies should be developed to support its success.

Finally, it is critical to be as sharp and vigilant as ever to the threat of international terrorism. If confirmed, I will prioritize early engagement with DHS components with operational counterterrorism responsibility and with interagency and private sector partners to assess what strategies and policies can support our effort to disrupt and deter international terrorist attacks directed at the people of the United States.

54. What steps, if any, do you believe are required to develop and integrate a whole-of-government approach to prevent violent extremism in the U.S.?

A number of federal agencies have a role to play in the fight against terrorism and violent extremism. It is vital that these agencies share intelligence and insights with each other, connecting the dots between domestic and international threat streams, in a manner consistent with our privacy and civil liberties. It is also essential that agencies leverage all available federal programs and capabilities to aid in this fight. This ranges from grant programs administered by DHS and the Department of Justice, to mental health programs

that could support those on a path to potential violence, to the domestic investigative efforts of law enforcement.

If confirmed, I will assess the current state of interagency coordination on these issues and work with Congress to address them.

55. What is your assessment of the value of community engagement prevention activities to counter international terrorism, domestic violent extremism, and domestic terrorism? If confirmed, what will be your commitment to promoting such strategies?

Community engagement is absolutely critical in the fight against terrorism. We are seeing an alarming rise of individuals planning violence alone, or in very small groups, and without direction from centralized terror organizations. Traditional military and overseas intelligence tools are not sufficient to detect and disrupt these threats. It is those in our communities who are often in the best position to intercede before such individuals turn to violence.

I am committed, if confirmed, to supporting and enhancing our community engagement programs. The Department recently announced a new Center for Prevention Programs and Partnerships to improve efforts to combat terrorism and targeted violence. I also know the Administration as a whole is committed to community-based programs and I associate myself with that commitment. I am mindful that over the years, some of our communities have lost trust in the federal government and its work to combat domestic terrorism. I am committed to earning and rebuilding trust, if confirmed.

56. In September 2019, DHS published a Strategic Framework for Countering Terrorism and Targeted Violence. What are your views of this framework?

I believe the 2019 Strategic Framework correctly identifies certain elements of the terrorist threat we face. For example, it notes the ways violent extremist groups are harnessing technology to advance their pernicious goals. I believe the new Administration should assess the framework in light of the intelligence, as well as considerations regarding civil liberties and privacy, and determine if changes are warranted.

57. The rise of domestic violent extremism, including white supremacist violence, has particularly impacted minority communities in the U.S., like Black, Hispanic, Jewish, Arab, Asian, and Muslim Americans, who have found themselves the targets of this racist violence. Their voices are not always included in the conversation and some have raised concerns that the Department's counterterrorism actions may have unintended consequences in their communities. How do you plan to engage these communities when developing programs and plans to counter domestic violent extremism and terrorism?

If I am confirmed, I will engage extensively with these communities. I understand the concerns well. I am a member of the board of the Secure Community Network, the American Jewish community's non-profit security organization. When I was at DHS previously, I heard repeatedly from the faith-based community their concerns of being

targeted by white supremacist violence. I heard from Muslim, Arab, Black, and Hispanic communities and their stories of rampant discrimination and targeting. I have watched with alarm at the recent spike in violence directed at our Asian-American brothers and sisters.

DHS must engage with these communities through listening sessions, stakeholder calls, candid exchanges of views, and visits to communities across the country.

58. What gap do you see the new Center for Prevention Programs and Partnerships (CP3) filling that the Office for Targeted Violence and Terrorism Prevention did not previously address?

I am aware of the Administration's announcement on May 11 of the CP3. If confirmed, I will make it an immediate priority to understand CP3's plans and underlying strategy and policy. From my vantage point as a private citizen, it appears that CP3 builds and improves upon prior DHS efforts to foster productive community engagements that can reach at-risk individuals before they turn to violence as a way to express their ideological beliefs or respond to a personal grievance. It appears from what I have read in public sources that the Department has learned that it must work to regain trust in certain communities in order to effectively accomplish the mission. It also appears that CP3 aims to use behavioral science to drive its work in a more foundational way than prior DHS efforts.

59. GAO and the DHS OIG frequently cite the need for DHS to prioritize resources and efforts based on risk, such as FEMA's grant funding allocations or TSA's layers of security. The DHS Fiscal Years (FY) 2020-2024 Strategic Plan also calls for the use of a risk-based strategy when implementing security policies.

- a. If confirmed, how will you ensure appropriate risks are considered and incorporated into department-wide strategies?

I agree that homeland security policy should be risk-based, affording flexibility in approaches wherever possible. The Department's policies and processes should be tailored to the threats and their likelihoods of occurrence. If I am confirmed, I will ensure that Department-wide strategy adheres to these principles, based to the greatest extent possible on data and tangible threat assessments. If confirmed, I will also, for example, work with my team to ensure that relevant experts from across the Department, and externally as warranted and appropriate, have had the opportunity to inform the strategies that the Office produces.

- b. If confirmed, how will you encourage operational and support components to more effectively incorporate risk-based analysis when setting homeland security priorities?

The Office of Strategy, Policy, and Plans can provide value to operational and support components by sharing best practices relating to risk assessment, threat modeling, and risk-based decision-making. If confirmed, I will engage with

component and headquarters office leadership to discuss these approaches and offer my Office's support and guidance.

60. If confirmed, what policies would you pursue to counter chemical, biological, radiological, and nuclear threats?

The risks posed by chemical, biological, radiological, and nuclear threats are significant. If confirmed, I will engage with experts in the Department, including from the Countering Weapons of Mass Destruction Office, to assess what policy enhancements are needed to protect the American public from these threats.

61. In September 2018, the U.S. issued a new National Biodefense Strategy, and the FY 2021 NDAA mandated that the federal government create an updated implementation plan for the Strategy. What steps will you take to ensure the Strategy is properly implemented and incorporated into the policies of the Department?

As a private citizen, I have not had an opportunity to review these issues in some time. If I am confirmed, I will meet with the Department's biodefense experts to learn more about how DHS can implement the national strategy, and will also work with this Committee in support of this important objective.

62. Dangers from unmanned aircraft systems, artificial intelligence (AI), and other emerging threats represent a growing area of concern. If confirmed, how will you position DHS to address evolving threats so the agency is best capable to tackle malicious actors of the 21st century?

I believe an important function of the Office of Strategy, Policy, and Plans is to see around the corners toward emerging threats so that the Department can plan for them. Anticipating and planning for threats from advanced technologies is critical. Along these lines, when I was Assistant Secretary for Cyber Policy, I led the development of the Department's guidance to industry on Internet of Things security. If confirmed, I will seek to position the Office as a focal point in the U.S. government for addressing emerging threats.

63. What role should SPP play in evaluating the application of new and emerging technologies to programs across the Department?

As a general matter, I believe specific procurement decisions are best left to the operational agencies in consultation with the Department's Chief Procurement Officer and Chief Information Officer as well as the Science and Technology Directorate (S&T). That said, the Office of Strategy, Policy, and Plans may identify technologies that hold great promise for DHS's work, and if confirmed I will not hesitate to share those findings within the Department.

64. Do you believe that the Comprehensive Biometric Entry/Exit Plan still has value for DHS, and how should CBP prioritize its continued implementation?



My understanding is that Congress has passed legislation mandating implementation of a biometric entry and exit system. If confirmed, I will assess together with CBP the current state of planning with respect to implementation of this mandate. It will be important to ensure that the implementation plan accounts for the latest technological developments, and that it incorporates appropriate privacy, civil rights, and civil liberties safeguards.

65. AI has greatly improved the accuracy and speed of biometric technologies, especially facial recognition technologies. How you plan to ensure that the use of these AI-enabled technologies is effective, trustworthy, and free from unwanted bias?

Artificial intelligence (AI) holds amazing promise for businesses, consumers, and the federal government but we must be mindful of the attendant risks. One critical risk is that AI technology may exacerbate pernicious biases already found in our society. Indeed, there is real-world evidence of such algorithmic bias in certain facial recognition technologies. We must be vigilant in ensuring that use of AI does not result in biased or discriminatory outcomes, including on the basis of race, gender, religion, and other protected categories. There are emerging best practices for identifying and mitigating risks of AI bias. These include ensuring datasets used to train AI are representative of our broader community and auditing algorithmic outcomes for bias.

66. Given the evolution of the Screening Coordination Office in SPP, what role do you think SPP should play in coordinating policies, programs, operations and implementation of biometrics across the Department?

Biometric technology has huge potential to enhance our security and to facilitate efficient travel. The technology also raises significant risks to privacy that must be appropriately considered and addressed. If I am confirmed, I will consult with my team, as well as leadership from CBP, ICE, TSA, the DHS Privacy Office, the DHS Office for Civil Rights and Civil Liberties, and the Office of Biometric Identity Management, to assess the Department's biometric strategy and the role Office of Strategy, Policy, and Plans should play in developing and advancing it.

67. How will you balance homeland security technological advancements with individuals' privacy, civil rights, and civil liberties?

I believe considerations of privacy, civil rights, and civil liberties must be accounted for at the design stage as policies and technology deployments are considered. We can have security and honor these values, but it requires effort and investment. If confirmed, I will support making that effort and investment and will collaborate with the DHS Privacy Office and the Office for Civil Rights and Civil Liberties in doing so.

68. If confirmed, do you commit to ensuring the DIIS Privacy Office and the Office of Civil Rights and Civil Liberties are appropriately consulted on the review of DHS products such as guidance, protocols, and implementation memoranda?

Yes.

69. Minority communities, particularly Arab and Muslim Americans, have longstanding concerns related to excessive screening by TSA and CBP during air travel. What are your plans to address these concerns?

There is no place for unlawful discrimination on the basis of race or religion in our security programs. If confirmed, I will engage with TSA and CBP, as well as community stakeholders, to review our travel screening programs and assess if changes are needed. I also will engage with this Committee.

*Critical Infrastructure Security, Cybersecurity, and Election Security*

70. DHS is charged with coordinating efforts to protect Federal networks and our nation's critical infrastructure from cyber-attacks and related incidents. If confirmed, how will you work across DHS components to strengthen the Department's efforts to implement effective policies to protect and secure Federal networks and our nation's critical infrastructure against the cyber threats?

Cyber threats are among the most acute threats to our national security. I am experienced in managing these threats, both in prior federal service and in the private sector. As Assistant Secretary for Cyber Policy, I oversaw the Department's cyber policy development during the Obama-Biden Administration. In that role, I worked extensively with CISA's predecessor agency, the USSS, ICE HSI, and DHS S&T to develop whole-of-department policy and strategy. I also coordinated the Department's policies with Executive Branch partners, Congress, foreign nations, and industry stakeholders, including with respect to the development of the federal government's incident response plans and the Department's guidance for addressing the security of the Internet of Things. If confirmed, I will adopt this same cohesive and collaborative approach.

71. The 2018 DHS Cybersecurity Strategy includes seven goals for the agency. If confirmed, what do you believe is SPP's role in ensuring that DHS and its components achieve the goals outlined in the Strategy? What role, if any, do you anticipate SPP playing in developing the implementation plan?

I believe the Office of Strategy, Policy, and Plans should track progress and implementation against the Strategy. If confirmed, I will confer with DHS colleagues to understand where the Department stands in relation to those goals and will work closely with the Committee to discuss how we can collectively advance our cybersecurity work.

72. Today, more than 20 agencies across the federal government have roles and responsibilities associated with U.S. cyber capabilities. What role do you believe the Department should play in this ecosystem? Please describe your understanding of the Department's responsibilities for cybersecurity, both federal and non-federal.

CISA is the quarterback for our government's work in building up cybersecurity in the private sector, and in critical infrastructure in particular. CISA is the hub for information sharing, promotion of best cyber practices, development of cyber guidance and alerts, and

(along with the FBI and its investigative authorities) incident response. CISA also has a central role protecting federal civilian networks, and I applaud Congress for the provisions in the last National Defense Authorization Act that codified and strengthened some of those authorities.

The USSS and ICE HSI pursue investigations to disrupt cyber crime and bring perpetrators to justice.

FEMA may have a role in the response to a major cyber-related event if it brings physical consequences at a scale that requires FEMA's disaster response capabilities.

TSA has responsibilities for cybersecurity in our transportation system, including aviation and pipeline infrastructure.

The USCG has responsibility for ensuring the cybersecurity of the maritime transportation domain, and I am encouraged by the Coast Guard's efforts to grow its capabilities in this space.

The Office of Strategy, Policy, and Plans is responsible for developing Department-wide policies on cybersecurity, and to represent the Department in interagency meetings on these issues. The Office also is the Department's lead for diplomatic engagements on homeland security issues, including cyber issues.

73. Over multiple administrations, federal agencies have failed to comply with cybersecurity requirements under the Federal Information Security Modernization Act ("FISMA"). If confirmed, what will you do in the Department do to address these long-standing vulnerabilities?

Federal agencies must do better in protecting their information technology environments. CISA has been given a lead role in driving federal cybersecurity under the newly issued Executive Order on Improving the Nation's Cybersecurity. Even before the issuance of this executive order, CISA announced plans to do more to support federal agencies, including by obtaining better visibility into their networks and by deploying new threat hunt authorities, thanks in significant part to new authorities provided to CISA in the last National Defense Authorization Act. In addition, I understand CISA intends to pilot new secure cloud-based enterprise offerings that federal agencies can utilize to better secure their communications. The SolarWinds attack made clear that there is much work to do in improving federal civilian cybersecurity. Congress will be a key partner in that effort and already has done much to provide support. If confirmed, I look forward to working with the Committee to address these challenges.

74. Last year, DHS's own cybersecurity program was rated ineffective under FISMA. As the agency charged with administering FISMA requirements government-wide, DHS should be a model for other executive agencies. How will you address these weaknesses in the Department's program?

I believe DHS must set an example for the federal agency community when it comes to the security of its own networks. If confirmed, I will work closely with the Under Secretary for Management to do whatever I can to support his or her role overseeing the security of DHS's networks. There is no question that DHS, like all civilian agencies, can benefit from recent CISA initiatives to include expanded threat hunting capacity, increased visibility into federal agency networks, and adoption of secure cloud-based technologies.

75. Following the SolarWinds attack, what additional protections can be more widely implemented to better respond to attacks of this nature and magnitude?

Based on my previous work at DHS and my private sector work, I believe there are a number of areas where we can make real progress. Better standards for software security can help prevent the kind of software supply chain attack we saw with SolarWinds and other providers. The federal government can and should use its purchasing power to drive change in that regard. Organizations also should move to a "zero trust" mindset in which they assume at all times that their environment is compromised and develop detection and monitoring capability to prevent spread. The cybersecurity company FireEye identified the SolarWinds breach by following up on an anomaly that other organizations may not have detected or tracked down as vigilantly; everybody needs to up their game to that level.

Private sector organizations should share more information with the U.S. government more quickly. At the same time, the federal government should improve at coordinating its own efforts, speaking with one voice, and sharing information between agencies so that the government is coordinated when it engages with industry partners.

The President recently signed a strong executive order that would set many of these priorities into action. There is much work to do and it is urgent. If confirmed, I will work closely with the Committee to advance our nation's cybersecurity. It is a passion and priority of mine.

76. What do you view as DHS's role in negotiating and maintaining partnerships with other countries on cybersecurity? What opportunities do you see for increased cooperation to combat international cybersecurity threats?

DHS has a significant role in negotiating international partnerships on cybersecurity and doing so is an important way to advance the mission given that these threats know no boundaries. For example, there are opportunities for CERT-to-CERT agreements with aligned countries to share information and know-how between civilian cyber authorities. There is also ample room for increased law enforcement coordination on cyber crime, including between USSS and ICE HSI and their foreign law enforcement counterparts.

We must also use diplomatic pressure to hold hostile nations accountable. We must hold China and Russia accountable for their criminal and reckless behavior in cyberspace. Accountability takes place in a broader foreign relations context, but DHS has a key role to play in terms of identifying the offending conduct, coordinating with allies to protect our

industries from the threats, and proposing ways forward that account for the interests of our network defender community in the United States.

*Misinformation and Disinformation*

77. Please describe your views on the appropriate role of DHS in addressing the threats of misinformation and disinformation.

I believe misinformation and disinformation present novel and difficult challenges for our country. We have always had to contend with rumor and false information, but the rise of social media and the velocity at which such information now travels are new and extremely concerning.

I believe DHS has a role in addressing misinformation and disinformation in the context of its core missions. All such efforts must be done consistent with the First Amendment, and in ways that protect civil rights and civil liberties. The DHS Privacy Office and the Office for Civil Rights and Civil Liberties also have essential roles to play in ensuring that any actions are appropriate, tailored, and respectful of the freedoms we cherish.

78. While misinformation and disinformation efforts have recently focused on election interference, it is clear that misinformation is ubiquitous, and adversaries utilize information operations on a regular basis on a variety of issues. What actions would you take to ensure that the Department is postured to address misinformation and disinformation both around specific events (such as elections or the COVID-19 pandemic) and as a general threat?

There are a number of strategies and tactics that may succeed in countering misinformation and disinformation. To start, DHS can and should ensure that it responds to falsities with truth in the context of its core mission areas. The Rumor Control website that CISA developed during the 2020 election cycle was a good example of this.

79. The Deepfake Report Act became law as part of the FY 2021 NDAA. This legislation requires the Science and Technology Directorate at DHS to conduct a study of deepfake content, including the underlying technology, how deepfakes are used by foreign and domestic actors to cause harm, threaten the integrity of elections, degrade national security, and violate civil rights, available countermeasures, and the state of deepfake detection technology. Will you commit to prioritizing this report?

- a. Beyond the report, what role do you see DHS playing with respect to deepfakes and AI-generated synthetic media generally?

To answer both of the above questions, if confirmed, I commit to working with DHS S&T as appropriate as they conduct their work on the mandated report. I view the rise of deepfake audio and video as a substantial threat. I support using S&T's resources and expertise to pursue research and development in this area. I believe DHS has a role to

play in understanding how deepfakes are influencing the information environment as it pertains to our ability to protect the homeland. And, I believe all operational components at DHS must be vigilant to the dissemination of deepfakes that negatively impact their ability to perform their missions.

If I am confirmed, I look forward to working with my counterparts in the Department to better understand this issue and assess how the Department has been and could be addressing it.

*Border, Immigration, and Trade Policy*

80. If confirmed, what will be your immediate and longer-term priorities related to border security and immigration?

Our immigration system is broken. The challenges we face at our border and in the administration of our lawful immigration system are significant and evolving. If I am confirmed, I will work quickly with the Secretary, other DHS headquarters and component leadership, the White House, and the interagency to assess these challenges and how the Department can best address them. Based on my current understanding, however, it is clear that certain issues must be priorities.

I believe strongly that our borders must be secure. If confirmed, I will prioritize efforts to pursue smart deployment of technology, staffing strategies, coordination with our Government of Mexico and Government of Canada counterparts, and law enforcement efforts targeting smuggling and transnational criminal organizations. These lines of effort, and others, are essential to strong border management. They also are essential to protecting the American people from the dangers of drug trafficking and to protecting victims from the horrors of human trafficking.

We must continue strengthening the U.S. government's capacity to manage an orderly, fair, and humane immigration system at our southern border. A border patrol station is no place for a child. I understand the Administration is addressing this issue of building up capacity and if confirmed would prioritize further bolstering these efforts, where possible, in a manner that promotes both border security and the safety and security of children.

We must administer our lawful immigration system with integrity. If confirmed, I will prioritize ensuring that the Department maintains robust vetting to protect our country from threats to our national security and strong mechanisms to combat fraud in immigration programs.

We must honor our tradition as a nation of immigrants. If confirmed, I will work to ensure we administer our immigration system fairly and humanely, including with respect to the categories of lawful immigration that Congress has created.

81. Please describe how you view SPP's role in developing strategies, policies, and analyses across the Department's border security and immigration mission space; including but not

limited to, promoting foreign investment, trade, transportation security, and lawful immigration. If confirmed, how will you ensure that any policies developed are executed in accordance with existing laws and international agreements?

I believe the Office of Strategy, Policy, and Plans has an important role to play in coordinating policy and strategy on immigration and border security. In addition to its dedicated team of immigration and border experts, the Office is also home to the Department's International Affairs and Trade and Economic Security teams, and has a unique understanding to connect these critical and complementary DHS missions.

At least five DHS operational agencies play a role in managing these issues: USCIS, ICE, CBP, USCG, and FEMA. Effective execution of the Department's work requires coordination of the roles and actions amongst these agencies, as well as with interagency and international partners. I believe the Office should play an important role in that effort. If confirmed, I will instruct my team that Department policy and strategy must always comply with the laws that Congress has enacted, as well as our treaty and other international legal obligations.

82. What DHS immigration initiatives do you believe are the most critical at the moment?

From my vantage point as a private citizen, the most critical initiatives at this moment include building an orderly, fair, and humane migration process at our southern border; protecting the American people and the DHS workforce from the spread of COVID-19, including new variants; upholding our commitment as a nation of immigrants to fairly and securely administer the immigration programs Congress has enacted; improving border security through the smart deployment of technology and personnel; cracking down on transnational criminal organizations, including human and narcotics traffickers; and ensuring our immigration programs are administered with integrity, including strong controls to combat fraud and national security threats.

83. In leveraging data to inform DHS strategy development, how can the collection and dissemination of immigration statistics be improved?

I have always believed in the adage that you if you can't measure it, you can't manage it. Collecting and disseminating immigration-related data should be an important priority. From my previous time at the Department, I know the Office of Immigration Statistics resides in the Office of Strategy, Policy, and Plans and plays an important role in this work. If confirmed, I will assess how the Office of Immigration Statistics, together with DHS's operational components, can improve the statistics collection and analysis of the Department.

84. What do you believe are the main safety and security challenges along the southern border?

From my vantage point as a private citizen, I am concerned for the safety of our heroic frontline workforce along the southern border. Their jobs are dangerous in the best of times, and operating in the context of the COVID-19 pandemic adds further risk.



I am also concerned for the safety and welfare of unaccompanied children arriving at our border. They are fleeing desperate conditions in their home countries and are at great risk in making such a perilous journey on their own.

Lastly, I am also concerned about the appalling crimes perpetrated by transnational criminal organizations. Narcotics trafficking, including of fentanyl and other opioids, inflicts incredible damage to communities across our country. Human traffickers and gangs commit horrific crimes victimizing the most vulnerable.

85. How do you believe DHS can improve the analysis of the impact of migrant flows on border security?

From my vantage point as a private citizen, I believe DHS must capture a range of immigration and border statistics so that the Department can better understand migrant flows and our border security. If I am confirmed, I will work with the Office of Immigration Statistics and the operational immigration components at the Department to better understand how the Department is collecting and analyzing immigration and other metrics and how those processes can be improved.

86. As DHS is lead in the development of operational and resource allocation guidance, what do you see as the optimal allocation of resources in response to surge migration events in the southern border?

If I am confirmed, I will coordinate closely with the Secretary, the Deputy Secretary, the Under Secretary for Management, as well as DHS component heads, to ensure that DHS's resource allocations align to the Department's operational and policy priorities, including as to the Department's southern border strategy.

87. If confirmed, what steps will you take to ensure the Department has a holistic strategy for border security including both infrastructure and technological improvements?

I believe that any administration needs to have a comprehensive, risk-based strategy for securing our borders that adheres to our laws and protects our national interests. If I am confirmed, I will work on this strategic priority with the Secretary, Deputy Secretary and Under Secretary for Management, as well as DHS component heads.

88. The Secretary of Homeland Security and others in the administration have stated that economic insecurity, violence, and natural disasters in Honduras, Guatemala, and El Salvador are the root causes of irregular migration. What quantitative measurement of economic insecurity and violence in the Northern Triangle do you believe must be achieved to stop irregular migration due to these causes?

I am not familiar, in my capacity as a private citizen, with the range of available metrics on economic insecurity and violence in Northern Triangle countries. I believe the Department of State and the United States Agency for International Development would likely play a key role in assessing the state of country conditions in the Northern Triangle and

determining frameworks for measuring improvement, and I believe that it is important to do so.

89. What do you believe are the primary causes of illegal migration from Central America, and how do you believe the U.S. can partner with these countries to address the ongoing illegal migration?

From my vantage point as a private citizen, I believe that desperate conditions, particularly in the three Northern Triangle countries, drive people to migrate to the United States. Many are also seeking to reunite with family. The challenging conditions in the Northern Triangle include endemic crime, corruption, persecution, lack of economic opportunity, and the devastation wrought by recent hurricanes in the region. The United States has a critical role in facilitating improvement of these conditions and thereby address the root causes that push migrants to our borders.

If confirmed, I will assess how the Administration is taking on this important priority and what further can be done to advance it. I understand from the public record that the Administration is already taking steps to combat corruption, improve economic opportunities, and combat gang-fueled crime in the Northern Triangle.

90. If confirmed, how would you work to decrease the amount of drugs coming across the U.S. borders and into local communities? Specifically, how will you address policy on fentanyl and other synthetic compounds that have directly contributed to the deaths of hundreds of thousands of Americans?

Fentanyl and other opioids have wrought incalculable damage in our communities. I support extremely aggressive efforts to root out this scourge. I believe CBP should examine strategies, including through deployment of emerging technologies, which can improve detection and interdiction of drugs at the border. I also believe that ICE HSI should continue its noble work investigating and disrupting drug smuggling organizations. Finally, I was pleased to see that DHS recently issued an interim final rule to promulgate regulations that will enable CBP to implement the Synthetics Trafficking and Overdose Prevention (STOP) Act. The STOP Act is an important measure to combat drug trafficking through the mail, and I applaud Congress and the Department for their work enacting and implementing that law.

91. What should DHS's role be in combatting human trafficking and identifying trafficking victims by CPB and ICE? How can you streamline resources to investigate human trafficking and provide services to victims across DHS?

As the Department responsible for our immigration system and elements of our transportation system, DHS is well-positioned to combat human trafficking and must bring all authorities to bear on this pressing issue. When I was last at the Department, I was proud to work on the Blue Campaign, DHS's cross-component initiative to combat human trafficking and support victims of trafficking networks. The Department's law enforcement components do and must continue to prioritize disruption of human trafficking, including by leveraging the DHS Center for Countering Human Trafficking. Likewise, DHS should

examine ways to further promote awareness and training campaigns to educate the public on how to identify indicators of human trafficking, including at the border and on transportation systems.

92. Immigration and Customs Enforcement's Homeland Security Investigations is responsible for enforcing a wide range of federal laws. What are your initial recommendations for prioritizing investigative resources?

I certainly believe that ICE efforts to combat human trafficking, drug smuggling, and cyber crime—including child exploitation—are priority areas. Likewise, prioritizing national security and public safety investigations is critical. I also support ICE's efforts to combat criminal organizations that seek to exploit our legitimate trade, travel and financial systems. If confirmed, I look forward to learning more about how ICE HSI prioritizes its investigative resources and offering assistance with that prioritization, as needed, from my team.

93. When ICE or CBP apprehend unaccompanied migrant children, they are required to transfer those children to the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). The Government Accountability Office and the Senate Permanent Subcommittee on Investigations have reported on challenges keeping track of these children and ensuring prompt transfer between the agencies. What do you believe DHS's role and obligations are while caring for these children and transferring them to ORR? How would you improve the transfer process?

Unaccompanied children arriving at our border are vulnerable and deserve adequate shelter, food, and medical care. I understand this Administration has invested significant resources to develop suitable facilities to shelter the children, transfer them from DHS custody to the Department of Health and Human Services (HHS), and expeditiously place them with sponsors in the United States after conducting appropriate vetting to ensure the safety of the children. If confirmed, I will seek to assess these efforts to date and opportunities for additional collaboration between DHS and HHS.

94. Does the Department need to develop plans for migration surge events and to exercise and practice those plans both within the Department and with other federal agencies in advance of such events?

Given that migration surges occur periodically, I do believe it is sensible to plan proactively for them, including through appropriate exercises involving agencies with equities. Planning and preparation can ensure that when surges occur, they are handled in an orderly and secure manner and with sufficient available staffing and facilities capacity.

#### **IV. Accountability**

##### *Whistleblower Protections*

95. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.

- a. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and their claims were thoroughly investigated?

I have not directly handled whistleblower complaints during my career that I can recall.

- b. If confirmed, what steps will you take to ensure whistleblower complaints are handled appropriately at DHS?

I believe strongly in whistleblower protections and that whistleblowers improve our government and service to the American people. If confirmed, I will adhere to all established protocols, procedures, and applicable law for whistleblower protections and will direct my team to do the same.

- c. If confirmed, what steps will you take to ensure whistleblowers at DHS do not face retaliation, whistleblower identities are protected, and complaints of retaliation are handled appropriately?

If confirmed, I will ensure that whistleblowers are protected and not subject to retaliation. I will follow all whistleblower protection protocols and laws to ensure whistleblower claims are properly investigated and, if appropriate, referred to the Office of Special Counsel.

*Cooperation with Inspectors General*

96. What is your view of the role of the DHS Office of Inspector General (OIG)? Please describe what you think the relationship between the Under Secretary and the OIG should be. If confirmed, what steps would you take to establish a working relationship with the Inspector General?

Inspectors General (IG) are critical drivers of accountability and transparency in federal agencies. I respect and support their work. I believe the Office of the Inspector General has a duty to independently investigate and audit the Department's work and to report its findings to Department leadership, Congress, and the American public. I believe the Under Secretary should support the IG's work and if confirmed I look forward to meeting and working with the IG as appropriate.

97. If confirmed, do you commit to ensuring that all recommendations made by the DHS Inspector General are reviewed, responded to, if necessary, and, unless the agency justifies its disagreements with the recommendations, implemented to the fullest extent possible within a reasonable time period?

Yes.

98. If confirmed, do you commit without reservation to ensuring the DHS OIG receives timely access to agency records and to interview agency employees?

Yes.

99. If confirmed, what steps will you take to ensure your office and employees cooperate fully and promptly with OIG requests?

If confirmed, I will instruct employees as needed that cooperation with the OIG is expected, mandatory, and part of the job description.

*Cooperation with GAO*

100. If confirmed, do you commit without reservation to ensuring GAO receives timely, comprehensive responses to requests to DHS, including for records, meetings, and information?

Yes.

101. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?

Yes.

102. If confirmed, what steps will you take to ensure your office and employees cooperate fully and promptly with GAO requests?

If confirmed, I will instruct employees as needed that they must cooperate with GAO requests and that GAO has an important role in improving the Department and its service to the American people.

**V. Relations with Congress**

103. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Yes.

104. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

Yes.

105. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?

Yes.

106. If confirmed, how would you make certain that you respond in a timely manner to Member requests for information?

If confirmed, I look forward to communicating closely with Members and will make myself available to them. I believe Congress is entitled to timely information and will communicate that clearly to my team if I am confirmed.

107. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a Freedom of Information Act request?

Yes, I believe the Department should indeed have a presumption of openness and I will make that clear with my team if confirmed.

108. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

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**VI. Assistance**

109. Are these answers your own? Have you consulted with DHS or any other interested parties? If so, please indicate which entities.

Yes, these answers are my own. I used my own experiences, including my previous time at the Department, general knowledge of DHS, and publicly available information, to respond to the questions. I also received input from appropriate officials at DHS, who provided comments which I was free to accept or reject.

I, Robert Silvers, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



(Signature)

This 20<sup>th</sup> day of May, 2021



**Ranking Member Rob Portman  
Post-Hearing Questions for the Record  
Submitted to Robert P. Silvers**

**Nominations of John K. Tien to be Deputy Secretary, DHS;  
Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and  
Jonathan E. Meyer to be General Counsel, DHS  
Thursday, May 27, 2021**

1. Does the shift of production and distribution of synthetic opioids like fentanyl to Mexico pose a fundamental threat to the homeland?

Yes. Fentanyl and other synthetics are ravaging communities across our country. Increased production in Mexico will predictably lead to increased attempts to smuggle synthetic opioids across our southern border. If I am confirmed, I will examine ways to address this threat, including by disrupting drug trafficking organizations and by engaging on the issue with Government of Mexico counterparts. I commit to working on a bipartisan basis with this Committee on this priority issue if I am confirmed.

2. Does the Department currently have an effective strategy to bring all of its capabilities and authorities to bear in stemming the flow of deadly synthetic opioids from Mexico and dismantling the trafficking organizations responsible?

As I am not currently serving at the Department of Homeland Security (DHS), I do not know the current state of the Department's efforts, but I believe it is vital that DHS have an effective strategy to address this threat to our communities. I believe the Department should leverage capabilities of U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, and the Office of Intelligence and Analysis, among others, to determine the best disruption and enforcement approaches. I also support coordination with other federal agencies, like the Department of Justice and its law enforcement agencies and the State Department, as well as the Government of Mexico.

- a. Will you commit to making it a priority to ensure the Department is organized to address this risk to our citizens, if confirmed?

Yes.

3. If confirmed, what specific actions will you take to prioritize cybersecurity and ensure the right policies and strategy are in place and being implemented?

Cybersecurity is a top priority for me. If confirmed, I will assess the Department's current efforts across components generally. I will also assess the Department's plans to comply with the mandates of recent cybersecurity legislation – like the last National Defense Authorization Act – and the President's May 12th cybersecurity executive order. I believe both of these empower the Department and I would work with my team and DHS's operational agencies to address policy issues arising from implementation of these new authorities, if confirmed.

More broadly, cybersecurity issues that would be top of mind for me, if confirmed, would be combating ransomware, strengthening federal agency network security, increasing DHS visibility into incidents as they occur in the private sector, and enhancing programs and private sector relationships that can harden our critical infrastructure.

4. Currently, the Counterterrorism Coordinator, who also serves as the Assistant Secretary for Counterterrorism and Threat Prevention, is located within the Office of Strategy, Policy, and Plans.
  - a. Do you think this position is appropriately located within the Department?
  - b. Do you believe the Counterterrorism Coordinator can effectively inform, coordinate, and advise across components that have their own counterterrorism functions and missions from the policy office?

To answer both questions together, I do believe the Office of Strategy, Policy, and Plans can be an appropriate location for the Department's Counterterrorism Coordinator. That position has resided in different DHS offices at different times. Given that Congress created the Office of Strategy, Policy, and Plans to serve as the hub of the Department's coordination activities and to support unity of effort, I believe the Office is a suitable and logical location for this important function. If confirmed, I would be pleased to assess this further and to work with the Committee on counterterrorism issues, which would be a priority for me.

**Senator James Lankford**  
**Post-Hearing Questions for the Record**  
**Submitted to Robert P. Silvers**

*Involvement in DHS IG Investigation of then-Director Mayorkas*

- 1) During your confirmation hearing, you testified that you did not remember many of the facts surrounding your involvement with the EB-5 petition for the Gulf Coast investor who was a Huawei executive.

Senator Grassley included in an attachment to a letter to then-FBI Director Robert Mueller email correspondence from an individual who was serving as “Senior Counselor to the Director” of U.S. Citizenship and Immigration Services (USCIS). That email read: “Thank you for including me, (name redacted), but please remove me from discussions of how to proceed in the processing of the particular case. Would like to be looped in if it is determined there is a significant NS [national security] concern warranting front office attention or if broader policy issues are implicated. Thanks.” (Letter sent from Senator Grassley to then-Director Robert Mueller on July 23, 2013).

Your biographical questionnaire states that you served as Senior Counselor to the Director of USCIS from November 2011 to December 2013. Did you send this email?

Please provide a timeline and description of your involvement in this specific EB-5 case.

I do not have a specific recollection of this email, but have since reviewed it. I read this email as me telling the others on the chain that they should conduct the national security vetting and decide the case in the ordinary course. This was my general practice; security vetting of particular applicants and evaluating security concerns of specific applications was appropriately the role of the dedicated teams of career national security experts within the agency, including in the agency’s Fraud Detection and National Security Directorate. In this email I was leaving it to the career team of experts to proceed as they deemed best – as to both the security vetting and how to adjudicate any pending applications based on those results.

I do not remember being otherwise involved in this application. I do not know how this person’s application was ultimately decided and do not remember ever being asked to weigh in on any decision as to this individual. I am confident I did not override, or even question, any national security concerns in this applicant’s case. I take national security threats from the Chinese government and related entities incredibly seriously. In that regard, a significant aspect of my role on the EB-5 program was to build up the agency’s vetting capability and help ensure appropriate and robust coordination with the Intelligence Community to identify just those sorts of risks in EB-5 cases, particularly as to Chinese national investors.

My understanding is that most of the USCIS front office's involvement in adjudicative activity surrounding the Gulf Coast case occurred in 2010-2011, before my arrival at USCIS in November 2011.

- 2) Were you at any time involved in the adjudication or review process EB-5 petitions filed under the Virginia Center for Foreign Investment and Job Creation Regional Center, which had well-documented ties to former Virginia Governor Terry McAuliffe and Anthony Rodham, the brother of then-Secretary of State Hillary Rodham Clinton, and a Huawei executive?

No, I do not remember being involved in the adjudication or review process for petitions under this EB-5 regional center, and according to the Inspector General's report, then-Director Mayorkas's last involvement in decisions on these cases was in September 2011, which is before I began my service at USCIS. I did not communicate with Terry McAuliffe, Anthony Rodham, or any Huawei executive or any other applicants in this case. This was 8-10 years ago, and I cannot rule out that something crossed my desk mentioning the regional center given my mandate of improving security vetting and EB-5 program issues, but I do not remember playing any substantive role in these cases. I do remember in the autumn of 2012, a USCIS official in the context of a separate EB-5 case mentioned security concerns about EB-5 regional centers run by Terry McAuliffe and Anthony Rodham. I was not familiar with those cases but immediately responded that the agency must do its job being vigilant to all national security concerns, regardless of the parties involved.

- 3) If you were involved in the adjudication process for or subsequent review of the petitions filed under the Virginia Center for Foreign Investment and Job Creation Regional Center, were you aware of the specific national security holds pertaining to the Gulf Coast investor who was a Huawei executive?

I don't remember being part of the adjudication process or review of these petitions, including any security holds that may have been placed on the Huawei executive. I do not know what happened in that individual's case and I expect that the career experts in the USCIS Fraud Detection and National Security Directorate made the ultimate decision on that applicant's vetting. I did not order or encourage anyone to approve any case where there were concerns regarding national security threats pertaining to Huawei. To the contrary, I believe Huawei poses a singular threat to our national security and I support strong U.S. government action to counter the threat posed by Huawei. I would not have even questioned a decision to impose a hold on such a case if the agency's national security experts believed it was warranted.

- 4) The DHS Inspector General's Report, "Investigation into Employee Complaints about Management of U.S. Citizenship and Immigration Services' EB-5 Program," documents that then-Director Mayorkas exhorted individuals to "get to yes" in their adjudication of immigration applications, petitions, and benefit requests. The report also mentioned that, "but for Mr. Mayorkas' intervention, the matter [involving the 3 EB-5 petitions filed under the Virginia Center for Foreign Investment and Job Creation Regional Center]

would have been resolved differently.” Can you please describe to the Committee the extent of your involvement with the 3 petitions that were under investigation by the DHS IG?

The three petitions addressed in the Inspector General report are LA Films Regional Center, Las Vegas Regional Center, and Gulf Coast/Virginia Regional Centers. I was interviewed by the Inspector General’s office, as were many USCIS employees at all levels of seniority who had a role in administering the EB-5 program. I cooperated fully and told them about the extent of my involvement in all three cases. The Inspector General’s report identified no concerns about my conduct.

I have described in Questions 1-3 above the Gulf Coast/Virginia regional center case. I played a more substantive role reviewing the issues raised in the LA Films and Las Vegas Regional Center cases. My role in these cases dates back almost a decade and I do not remember every detail but I lay out below the issues that I remember they raised.

In LA Films, I recall stakeholders began complaining to the USCIS Director because the agency had approved an applicant’s business plan, but then subsequently reversed its decision in a subsequent filing even though no facts had changed. I learned that the agency had a history of reversing its own EB-5 decisions, which in the context of capital-intensive construction and other business projects was enormously problematic to the business community. The agency was essentially green-lighting a large business project to proceed, and then changing its mind downstream after businesses had taken action in reliance of the approval. This was unfair to U.S. businesses, and to the employees they had hired based on the prior project approval by USCIS, which now wanted to terminate the projects. It was also quite troubling from a program administration perspective, raising questions as to the quality and consistency of adjudications that the agency was issuing.

After Director Mayorkas received the complaints about LA Films, he asked his team to look into whether the complaints had merit. As an advisor, I helped coordinate the effort to do so and I looked into the case. The question that quickly emerged was whether there ought to be new policy and processes implemented to provide deference to prior agency decisions to give the business community some degree of certainty, consistent with the law. After the team and I briefed the Director, he decided to create a more formalized review process for whenever the agency wanted to reverse its own decision on whether an EB-5 business plan met the regulatory requirements, including by giving the affected business an opportunity to argue its case in advance. He also decided to formalize new policy on this question in the comprehensive EB-5 policy memo that the agency published on May 30, 2013, and I helped him develop this policy together with the EB-5 team based on the experience of this case.

In the Las Vegas Regional Center case, the business was a development project in Nevada that was shovel-ready, but its financing was going to fall through under the terms of the loan documents if it did not quickly receive USCIS approval. The project sponsor filed an “expedite

request,” and a range of stakeholders – from the Department of Commerce to members of both parties of the Nevada congressional delegation – appealed urgently to approve the request, fearing the loss of a job-creating project. An expedite request means that the case moves up in the line for review, but is still subject to full adjudication and vetting processing. USCIS had a written policy dictating the criteria for when expedite requests would be granted.

The Director asked the team to advise on what the issues were in the case. I recall that we learned that the EB-5 program virtually never granted expedite requests, even though USCIS had a clear policy that such requests could be granted that appeared to apply to these circumstances. The agency was not, in other words, following its own policy guidance and was imposing requirements that were not contained in any USCIS policy or regulation. This was an issue that required correction program-wide, and evaluation of this particular case permitted that need to come to light.

I had a broad portfolio during my time at USCIS, and because the EB-5 program was part of my portfolio and these matters were elevated to the Director, I reviewed these two cases in light of the complaints about the process that USCIS followed in its evaluation. I was not a decision maker on these cases or any others; I did not make the decision about whether to approve or deny an application. I was coordinating and identifying process and policy issues on behalf of the Director as part of my broader role building up and strengthening the EB-5 program (see Response to Question 5 below describing this role in my portfolio).

- 5) Did your portfolio as Senior Counselor to the Director of USCIS, at any time, include regulatory matters involving the EB-5 program, sub-regulatory matters involving the EB-5 program, policy issues involving the EB-5 program, national security issues involving the EB-5 program, operational matters involving the EB-5 program, and/or personnel matters involving the EB-5 program?

If so, please describe the specific regulatory, policy, national security, operational, personnel matters involving the EB-5 program you oversaw.

Yes. When I arrived at USCIS, Director Mayorkas asked me early on to help him to improve the EB-5 program. He believed, as the head of the agency, that the program was broken. I came to agree with him quickly after digging in with the team. EB-5 was the most complex program that USCIS administered but the program’s infrastructure was severely underdeveloped. There was insufficient fraud and security vetting – gaps in oversight that could allow national security threats to slip through or businesses to defraud investors. The cases involved complex economic and business issues, but there was little economic and business expertise in the agency to support the adjudications. There was no comprehensive policy framework to govern administration of the program.

Complaints about the agency’s faltering administration of the program were legion, and came in almost every day – from Congress on a bipartisan basis, from governors and mayors, and from the business community. The program had to be strengthened, and indeed rebuilt. Director

Mayorkas viewed doing so as a priority, and I took on as one of my responsibilities helping him to do that. Some of the work I did was at the programmatic level, but it was common also to address process issues, shortfalls and areas of improvement through cases, where the issues actually arose.

I worked extensively to fortify the program, together with career officials, to ensure it was soundly administered and that national security and fraud threats could be detected and rooted out. There is simply no question that the EB-5 program is stronger today because of this work to reform this complex program. The Director ordered sweeping organizational, policy, and personnel changes. These changes were not always popular internally, but they were necessary and what Congress should expect of agency leadership. I cannot remember every issue I worked on as part of these efforts, but the key initiatives I played a key role in supporting included:

- *Dedicated National Security Officers to the EB-5 Program.* Placed national security officers from the Fraud Detection and National Security Directorate full-time in the EB-5 Program Office to ensure that the program had security experts on staff.
- *Expanded security checks* to cover Regional Centers and executives participating in the program. Before these actions were taken, USCIS did not run routine vetting on Regional Centers at all, an enormous gap that undermined program integrity.
- *Initiated high level collaboration with the Securities and Exchange Commission* to enhance oversight of securities law compliance among entities participating in the EB-5 program, reducing fraud risk in the program.
- *Submitted technical assistance proposals to Congress to bolster EB-5 anti-fraud and national security efforts*, ahead of the pending reauthorization of the Regional Center program.
- *Established a presence at Treasury's Financial Crimes Enforcement Network (FinCEN) and partnered with other government agencies on enforcement.* This permitted USCIS to access Bank Secrecy Act data to target persons and financial transactions associated with terrorism finance, money laundering, tax evasion, or other illicit financial flows. USCIS also enhanced coordination with U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation, and the Committee on Foreign Investment in the United States on matters of EB-5 program integrity.
- *Reorganized the program* into a new Immigrant Investor Program Office, with SES-level leadership dedicated exclusively to EB-5 adjudications.
- *Injected greater expertise* by hiring economists and transactions attorneys to assist in evaluating the complex transactional documents submitted with EB-5 filings. At the start of 2009, the EB-5 program had just nine employees, and no economists. It grew during my tenure to approximately 80 employees, including 22 economists, as well as national security officers, corporate attorneys, and highly-credentialed adjudications officers.



- *Brought consistency to decision-making* by providing extensive policy guidance. USCIS issued a unified EB-5 policy memo in May 2013 to guide EB-5 adjudications and improve consistency among cases. Previously, USCIS had recorded EB-5 policy across a number of memoranda issued over the years in a piecemeal approach, resulting in inconsistent and unpredictable decision-making.
- *Modernized the system* by initiating a move to an all-electronic application process, and replacing an informal letter-writing application process with a standard application that permits USCIS to conduct a more meaningful and transparent review, and applicants to communicate directly with USCIS adjudicators via e-mail to quickly raise and resolve questions that arise during the adjudication process.
- *Ensured responsible financial management* by implementing a fee for EB-5 applications, with the rationale that these for-profit enterprises should pay their own way through the administrative system, and support the system from which they are benefitting. Previously, Regional Centers paid no fee with their applications, meaning the agency's most complex work was being subsidized by the rest of USCIS's fee-paying applicants.

#### *Parole Authority*

- 6) The Immigration and Nationality Act places significant constraints on the Secretary's discretion to exercise parole authority. INA 212(d)(5)(A) states: "The [Secretary of Homeland Security] may [...] in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." As a matter of policy, do you believe that the statutory guidelines around the Secretary of Homeland Security's discretionary parole authority allow for this authority to be applied to classes or categories of migrants?

If confirmed, what steps will you take to ensure that the Secretary's parole authority will be exercised within the statutory constraints?

To address both questions together, this is not an issue I have had the opportunity to study. If confirmed, I would look to the Office of the General Counsel to advise on the scope of authority with respect to parole and be guided by that advice.

- 7) While Congress has included language regarding parole-in-place in the FY2020 National Defense Authorization Act, Congress also limited that concept's application to military families only. As a matter of policy, do you believe that the concept of parole-in-place may be applied to individuals, categories, or classes of migrants beyond what was specified in the FY2020 NDAA?

This is not a question I have had the opportunity to study and consider. If confirmed, I will look into this issue, including by consulting with the Office of the General Counsel as to what the FY2020 National Defense Authorization Act requires, and be guided by the law as passed by Congress.

- 8) As a matter of policy, do you believe that the use of parole-in-place is appropriate absent explicit Congressional authorization?

This is not a question I have had the opportunity to study and consider, but I believe as a matter of policy and of law that the Department may only exercise authorities granted to it by Congress.

- 9) Can you please share with the Committee your interpretation of the phrase “parole *into* the United States” under INA 212(d)(5)(A)?

As a matter of policy, do you believe that this phrase limits the Secretary’s authority to exercise his parole authority for individuals who are already present in the United States?

I believe these questions are important questions of law. If confirmed and confronted with such a question, I would seek the advice of the Office of the General Counsel with respect to legal questions surrounding INA 212(d)(5)(A), and ensure any policy decisions are guided by the law.

#### *Abortion*

- 10) U.S. Immigration and Customs Enforcement’s (ICE) National Detention Standards specify that ICE will only pay for an abortion if the life of the mother would be endangered by carrying a fetus to term, or in the case of rape or incest. In all other circumstances, the detainee bears the cost of terminating the pregnancy. In all instances, ICE arranges transportation to the medical appointment at no cost to the detainee and, if requested, to religious or social counseling.

Will you commit to keeping this policy in place and enforcing it to ensure that taxpayer dollars are not funding abortions, including abortions for individuals in detention?

I am not familiar with the governing law, but I am not aware of any need or plan to change long-standing ICE policy on these issues.

- 11) Congress has continued to maintain the Hyde Amendment on a bipartisan basis each year in annual funding bills since 1976. If confirmed, will you continue to uphold and enforce the restrictions of the Hyde amendment – that no federal funding can pay for abortions except in the case of rape, incest or to protect the life of the mother – as enacted by Congress?

If confirmed, I will uphold all laws, including the Hyde Amendment, and will confer with the Office of the General Counsel to ensure I do so.

*Section 315 Authority*

- 12) The Department's authority under 40 U.S.C. § 1315 allows for the deployment of DHS personnel for the protection of Federal real property and personnel. The statute allows for certain authorities "including duty in areas outside the property to the extent necessary to protect property and persons on the property." Additionally, agreements are often entered into place between other branches. For example, the U.S. Marshal Service has authority to protect the Judicial Branch, but its standard operating procedures allow for the Federal Protective Services to be in Federal judicial buildings to supplement security.

How do you view the application of this authority to coordinate the protection of Federal employees and real property?

I have not studied these laws closely, but my understanding is that the Federal Protective Service (FPS) has important authorities to protect federal facilities, and I believe this is an essential mission. If confirmed, I certainly would support appropriate interagency agreements so that FPS can lend its capacity and expertise to other federal agencies requiring support, consistent with law and subject to appropriate policy and operational guidelines.

- 13) Congress has continued to maintain the Hyde Amendment on a bipartisan basis each year in annual funding bills since 1976. If confirmed, will you continue to uphold and enforce the restrictions of the Hyde amendment – that no federal funding can pay for abortions except in the case of rape, incest or to protect the life of the mother – as enacted by Congress?

If confirmed, I will uphold every law, including the Hyde Amendment, and will confer with the Office of the General Counsel to ensure I do so.

*Faith-Based Partnerships*

- 14) A report from the Obama administration in 2010 reinforced the importance of faith-based partnerships. Among the recommendations put forward in the report was to draw *more* on the local expertise and relationships of faith-based organizations as a way of filling gaps in the provision of essential services. Faith-based organizations are excellent, effective, and efficient at meeting the needs of our most at-risk populations. The report also highlighted the need to ease overly-burdensome reporting and regulation requirements placed on social service agencies. Do you agree that it is important to continue pursuing ways to engage and expand faith-based partnerships as a way of effectively addressing some of the most critical social service needs in our country?

Faith-based communities are essential partners to DHS. I agree it is important to continue pursuing ways to engage and expand faith-based partnerships and, if confirmed, I would look forward to working with you and this Committee on ways to do that.

- 15) The Supreme Court has, in multiple decisions, reiterated that religious organizations cannot be discriminated against in the distribution of a public benefit for which they otherwise qualify because of their religious beliefs or identity. Will you commit to ensuring that no policy of your Department will disqualify a religious organization from receiving aid or participating in grant programs simply because of the organization's religious beliefs or because the organization receives statutory protections for religious freedom like those in Title VII and Title IX?

I strongly support being inclusive of religious organizations where the law permits. Faith-based organizations are pillars of our communities and I am indeed honored to sit on the board of directors of a faith-based organization that partners closely with DHS.

- 16) An important part of prompting and expanding faith-based partnerships is providing clarity on the legal obligations that will be expected of faith-based organizations when they partner with the government. Title VII of the Civil Rights Act of 1964 protects the ability of religious organizations to hire employees that support its religious beliefs and mission. Do you agree that it is both logical and appropriate that religious organizations should be able to hire employees that support the religious mission and beliefs of the organization?

Do you agree that it is inappropriate for the Federal government to dictate to a house of worship or a religious organization what tenets of the faith should be observed?

Will you commit to ensuring that any nondiscrimination policy implemented by your agency will reinforce the hiring protections that Congress has passed in Title VII for religious organizations?

To answer these questions together, I have not studied these legal issues, but I believe strongly in the vital role of faith-based organizations in our country and the importance of non-discrimination policies and practices. If confirmed, I will advocate to be inclusive of faith-based organizations at every opportunity, and I would be pleased to work with you and this Committee on these issues.

**Senator Josh Hawley  
Post-Hearing Questions for the Record  
Submitted to Robert P. Silvers**

**Nominations of John K. Tien to be Deputy Secretary, DHS;  
Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and  
Jonathan E. Meyer to be General Counsel, DHS  
Thursday, May 27, 2021**

1. According to USCIS data, in 2009, the first year of President Obama's term, USCIS granted employment authorization to about 16,000 illegal aliens applying for asylum. By the end of President Obama's second term, the United States was issuing about 150,000 work permits per year to these applicants, many of whom were eventually denied asylum.
  - a. Given your prior service at USCIS, do you have a sense of why the number of work permits issued skyrocketed while you were serving at USCIS?

I do not recall issuance of employment authorization to asylum petitioners being an issue in my portfolio during my time at U.S. Citizenship and Immigration Services (USCIS), and so do not have a view on the trends in the data from that period.

- b. Were you ever concerned that issuing hundreds of thousands of work permits to illegal aliens was harming American citizens looking for work in the years following the 2008-2009 recession?

As noted above, I do not recall working on this issue during my time at USCIS.

- c. Do you believe there is abuse of our asylum process when it comes to migration or work authorization? And if so, what do we need to do to fix that?

As I am not currently serving at the Department of Homeland Security (DHS), I do not know the current state of this issue. However, I believe strongly in combatting fraud and other abuse in our immigration system and, if confirmed, will bring that commitment to my work as the Under Secretary for Strategy, Policy, and Plans.

2. A few weeks ago, the Biden administration quietly removed a proposed Trump administration rule that would have restricted employment authorization eligibility for illegal aliens with final orders of removal. Do you believe that illegal aliens who have been ordered deported by the courts should be eligible for work permits?

I am not familiar with the law or current DHS policy on this question. If confirmed and confronted with this issue, I would seek to consult with immigration experts and counsel in the Department.

3. Over the past year we've seen drug overdose deaths skyrocket. If confirmed to this policy-focused role, how will you work to reduce the number of drugs flowing across our southern border?

I am extremely concerned by the devastation that synthetic opioids like fentanyl have wrought in communities across our country. If I am confirmed, it will be a high priority of mine to examine ways to address this threat, including by taking strong action to disrupt drug trafficking organizations. I believe DHS should leverage capabilities of U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, and the Office of Intelligence and Analysis, among others, to determine the best disruption and enforcement approaches. I also believe in coordination with other federal agencies, like the Department of Justice and its law enforcement agencies and the State Department, as well as the Government of Mexico.

I commit to working on a bipartisan basis with this Committee on this issue if I am confirmed.

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

CHRISTOPHER D. ROBERTI  
SENIOR VICE PRESIDENT,  
CYBER, INTELLIGENCE, AND  
SECURITY POLICY

1615 H STREET, NW  
WASHINGTON, DC 20062  
(202) 463-5449  
[CROBERTI@USCHAMBER.COM](mailto:CROBERTI@USCHAMBER.COM)

May 26, 2021

The Honorable Gary Peters  
Chair  
Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Washington, DC 20510

The Honorable Rob Portman  
Ranking Member  
Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Peters and Ranking Member Portman:

The U.S. Chamber of Commerce strongly supports the nomination and urges the swift confirmation of Robert Silvers to be the next Under Secretary of Office of Strategy, Policy, and Plans for the U.S. Department of Homeland Security (DHS). His previous experience in the Department as the Assistant Secretary for Cyber, Infrastructure, Risk, and Resilience, his proven track record of working with multiple stakeholders, and his extensive knowledge of the DHS enterprise uniquely qualify him for this position.

Mr. Silvers has led a range of DHS-wide cybersecurity and supply chain risk management priorities through government service and within the private sector. He knows the importance and value in public-private sector collaboration to counter ransomware, combat nation-state espionage, and leverage the authorities and resources of the DHS. These partnerships allow companies to harden their cyber defenses and strengthen supply chain resilience.

As DHS Deputy Chief of Staff during the Obama Administration, Mr. Silvers played a crucial role by supporting the Global Entry and U.S. Customs and Border Protection (CBP) preclearance programs. This knowledge and experience would be vital as DHS leverages its resources to support and revitalize critical sectors of our economy, including travel and tourism, hotels and hospitality, and transportation. Mr. Silvers is well equipped to work with the Chamber and its state and local partners to reduce barriers and support the rebound in business and leisure travel.

In addition, Mr. Silvers would play a critical role in ensuring that cargo and shipping will safely and efficiently proceed to destinations through trade facilitation priorities established in the Office of Strategy, Policy, and Plans, and executed by CBP and the U.S. Coast Guard.

The Chamber support the nomination of Mr. Silvers, and we thank the committee for scheduling the May 27 hearing.

Sincerely,



Christopher D. Roberti

cc: Members of the Senate Committee on Homeland Security and Governmental Affairs



May 10, 2021

Chairman Gary Peters  
Senate Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

Ranking Member Rob Portman  
Senate Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Peters and Ranking Member Portman:

We write today to commend the nomination of Robert Silvers as Under Secretary for Strategy, Policy, and Plans at the Department of Homeland Security, and to encourage the Committee and the full Senate to act swiftly to confirm him.

Each of us has dedicated our careers to advancing our nation's cybersecurity at senior levels of government and industry. The cyber challenges facing our country have never been more pressing. Our critical infrastructure, our most sensitive data and intellectual property, and the ability of our own government to communicate and operate securely are at stake. In these times, we need experienced and trusted leaders in our government to drive the difficult work to secure our digital infrastructure.

Rob Silvers is such a leader. He is battle-tested in cybersecurity and calm under fire, knowing how to handle a crisis while also thinking strategically about longer term solutions and prevention strategies. Rob is widely acknowledged as a premier cybersecurity and incident response leader and has been at the center of many of the most significant cybersecurity issues in recent years. In his private law practice, many of the most sophisticated companies in the country turn to Rob to navigate them through attacks ranging from nation-state espionage to ransomware. He is a known and trusted figure in the law enforcement, intelligence, and civilian cybersecurity communities.

During his tenure at DHS, where he served as Assistant Secretary for Cyber Policy and before that as the Department's Deputy Chief of Staff, Rob was a key driver of the federal government's cybersecurity agenda. He was central to the federal response to major nation-state and criminal attacks. He also led the development of DHS's policies on incident response, Internet of Things security, and law enforcement efforts to disrupt and deter cybercrime. Rob is also an effective negotiator with other countries, including to advance shared cybersecurity priorities. He is a collaborative team player who puts mission first, which has helped him earn the trust and confidence of government partners, industry stakeholders, and the teams that he has led.

In recent months our country has witnessed extremely damaging cyberattacks. We must be clear-eyed about the seriousness of the threat to our national security, and there is no time to waste. The Under Secretary for Strategy, Policy, and Plans will be an important figure in shaping our strategy for cybersecurity as part of an exceptional group of individuals that the President has nominated and

appointed to fill key cyber leadership positions, including the Deputy National Security Advisor for Cyber and Emerging Technology, the CISA Director, and the National Cyber Director.

We respectfully ask that the Committee and the Senate act swiftly in support of Rob's nomination. Thank you for your consideration.

Respectfully,

Dmitri Alperovitch, Chairman of Silverado Policy Accelerator and Co-Founder and Former Chief Technology Officer, CrowdStrike

Stewart Baker, Former Assistant Secretary for Policy, Department of Homeland Security, and Former General Counsel, National Security Agency

J. Michael Daniel, Former White House Cybersecurity Coordinator

Shawn Henry, Former Executive Assistant Director for Criminal, Cyber, Response and Services, Federal Bureau of Investigation, and President, CrowdStrike Services

Aaron Hughes, Former Deputy Assistant Secretary for Cyber Policy, Department of Defense

John Hultquist, Vice President, Mandiant Intelligence

Jamil N. Jaffer, Founder and Executive Director, National Security Institute at the Antonin Scalia Law School at George Mason University

Christopher Krebs, Former Director, Cybersecurity and Infrastructure Security Agency, and Founding Partner, Krebs Stamos Group

Robert M. Lee, Founder and CEO, Dragos, Inc.

Jeanette Manfra, Former Assistant Director for Cybersecurity, Cybersecurity and Infrastructure Security Agency

Jeff Moss, Founder, DEF CON and Black Hat, and Former Chief Security Officer, Internet Corporation for Assigned Names and Numbers (ICANN)

Katie Moussouris, Founder and CEO, Luta Security

Andy Ozment, Former Assistant Secretary for Cybersecurity and Communications, Department of Homeland Security

Chris Painter, Former Coordinator for Cyber Issues, Department of State

Philip Reitering, Former Deputy Under Secretary for the National Protection and Programs Directorate, Department of Homeland Security

Paul M. Rosen, Former Chief of Staff, Department of Homeland Security

Dr. Phyllis Schneck, Former Deputy Under Secretary for Cybersecurity and Communications, Department of Homeland Security

Suzanne Spaulding, Former Under Secretary for the National Protection and Programs Directorate, Department of Homeland Security

Bryan Ware, Former Assistant Director for Cybersecurity, Cybersecurity and Infrastructure Security Agency

Senator Gary C. Peters, Chairman  
Senator Rob Portman, Ranking Member  
U.S. Senate Committee on Homeland Security & Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

May 7, 2021

Dear Chairman Peters and Ranking Member Portman,

We write in strong support of the nomination of Robert Silvers to serve as the Department of Homeland Security's Under Secretary for Strategy, Policy, and Plans. Rob is an accomplished leader in homeland and national security. We urge the Committee to act swiftly in approving his nomination to this important position, and for the Senate to quickly confirm him.

We are former senior homeland and national security officials who have served under presidents of both parties. Despite some political differences, we are unanimous in our enthusiasm about President Biden's decision to nominate Rob because we know that he shares our commitment to public service and to national security as a non-partisan issue. Rob brings both management experience and policy expertise and we are confident that he will be a highly effective leader at DHS.

Rob has a demonstrated track record of handling the range of national security priorities that DHS must manage. These include Rob's role in coordinating the Department's operational and policy responses to the Ebola crisis, mass terror attacks at home and abroad, evolving threats to aviation security, cyber threats aimed at critical infrastructure, and the federal government's gatekeeper role in ensuring that foreign investment into the United States does not compromise our national security. In his time in public service and in the private sector, Rob has helped organizations to harden their physical and digital security, to manage risk, and to develop and implement programs to protect themselves and their people. We know that Rob has the acumen, judgment, and experience to drive policy decisions that appropriately manage these risks and protect our country.

In addition to his substantive experience, Rob has managed teams and the execution of significant policy initiatives, which will equip him well as Under Secretary. As DHS's Assistant Secretary for Cyber Policy during the Obama-Biden administration, Rob led the office that spearheaded cybersecurity policy development and diplomatic initiatives for the Department. He and his team successfully drove initiatives supporting cyber crime enforcement, election security, cracking down on China's abusive behavior, advancing cyber agreements with key countries such as Israel and India, and helping to develop the federal government's cyber incident response plans and procedures.

Before he became Assistant Secretary, Rob held a number of senior roles at DHS, including serving as the Department's Deputy Chief of Staff. In that position, Rob was at the center of the Department's operational and policy decision-making processes across its 22 component agencies. He knows DHS from his time managing important and complex issues across counterterrorism, cybersecurity, transportation security, border security, and supply chain integrity and security, among others. He was integrally involved in DHS's response to some of the most significant security incidents in the last decade, ensuring that the Secretary and Deputy Secretary had the information they needed to make decisions, and that those decisions were carried out by DHS's 240,000 person workforce.

In the private sector, Rob has further distinguished himself as a manager and thought leader on critical security issues. In his law practice, for example, Rob regularly quarterbacks crisis response for global companies that are victims of cyberattacks, leading large and cross-disciplinary teams including attorneys, cyber forensic specialists, and IT teams, and advising CEOs and boards of directors on their responses. At the same time, he's worked to build public-private partnerships, assisting companies to engage with DHS, the FBI, and other law enforcement agencies to share critical threat and related cybersecurity information with the government.

Through all of this, Rob has earned the admiration and respect of his teams and his colleagues, including the undersigned. He is a thoughtful, collaborative, solutions-oriented leader. He is also, above all else, a public servant of the highest integrity.

We urge the Committee to act favorably and swiftly on Rob's nomination.

Sincerely,

Stewart Baker, Former Assistant Secretary for Policy, Department of Homeland Security

Jeremy Bash, Former Chief of Staff, Department of Defense and Central Intelligence Agency

Rand Beers, Former Acting Secretary, Department of Homeland Security

Alan Bersin, Former Acting Assistant Secretary for Policy, Department of Homeland Security

Reginald Brothers, Former Under Secretary for Science & Technology, Department of Homeland Security

Stevan Bunnell, Former General Counsel, Department of Homeland Security

Jane Holl Lute, Former Deputy Secretary, Department of Homeland Security

Vice Admiral Peter V. Neffenger, USCG (Ret.), Former Administrator, Transportation Security Administration

Paul M. Rosen, Former Chief of Staff, Department of Homeland Security

Paul A. Schneider, Former Deputy Secretary, Department of Homeland Security

Suzanne Spaulding, Former Under Secretary for the National Protection and Programs Directorate, Department of Homeland Security

Chad Sweet, Former Chief of Staff, Department of Homeland Security

Brig. Gen. Francis Taylor (Ret.), Former Under Secretary for Intelligence and Analysis, Department of Homeland Security

C. Stewart Verdery, Jr., Former Assistant Secretary for Border and Transportation Security Policy and Planning, Department of Homeland Security

Kenneth Wainstein, Former Homeland Security Advisor to the President and Assistant Attorney General for National Security

Joe D. Whitley, Former General Counsel, Department of Homeland Security



Eight Communities. One Voice.

#### Member Organizations

Jewish Community Board of Akron  
Canton Jewish Community Federation  
Jewish Federation of Cincinnati  
Jewish Federation of Cleveland  
JewishColumbus  
Jewish Federation of Greater Dayton  
Jewish Federation of Greater Toledo  
Youngstown Area Jewish Federation

#### Affiliated Communities

Beth Israel Synagogue, Hamilton  
Emanuel Jacob Congregation, Mansfield  
Temple Shalom, Springfield  
Knesseth Israel Temple, Wooster

#### Observer Organizations

Agudath Israel of America  
Commission on Legislation & Civic Action, Ohio Region  
American Israel Public Affairs Committee  
American Jewish Committee  
Cincinnati Chapter  
Cleveland Chapter  
Anti-Defamation League  
Hadassah  
Israel Bonds  
Jewish Council for Public Affairs  
Jewish National Fund, Cincinnati  
Jewish National Fund, Cleveland  
NA'AMAT USA  
National Council of Jewish Women  
Nogev Foundation  
Union for Reform Judaism  
Orthodox Union  
United Synagogue of Conservative Judaism  
ORT America

June 1, 2021

Hon. Rob Portman  
Ranking Member, Senate Committee on Homeland Security & Governmental Affairs  
United States Senate  
448 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Portman:

As you know, Ohio Jewish Communities (OJC) is the statewide government advocacy, public affairs, and community relations voice of Ohio's eight Jewish federations and their 150 nonprofit agencies serving the needs of thousands of Ohioans – of every faith, and of none - across the state each day. Today, we reach out on their behalf regarding the nomination of Robert Silvers to serve in the Department of Homeland Security as Under Secretary for Strategy, Policy, and Plans.

Historically, and as a general practice, OJC does not endorse candidates for office or nominees requiring Senate confirmation. However, we do write to you today to let you know of some of the very powerful accomplishments and professional experiences Robert has had that we believe you and the committee should be considering as you review his nomination. He is no stranger to our community, serving on the board of directors of the Secure Community Network (SCN), the American Jewish community's security umbrella organization. You are likely aware that SCN has already weighed in with the committee in support of his nomination. SCN and our other national partners who have worked with him in the past testify to his abilities. As important, he has been a leader – and a partner – on both physical and cyber security issues that have been such a priority for our community, including the Nonprofit Security Grant Program (NSGP). These issues are both even more critical now than perhaps ever before. He will also, if confirmed, oversee the Department's Counterterrorism Coordinator function as well as its community-based engagement programs to combat domestic violent extremism. As you know from your leadership in expanding the NSGP, as well as other programs such as TTVP to combat violent antisemitism, radicalization, and terror, DHS must lead in these areas. DHS must also reach out to stakeholders and create partnerships with communities at-risk of terror attack. These are areas in which Robert has the needed skills, experience, and expertise.

In an age of rising hate, homegrown violence, and domestic and foreign terrorism and a time of increasing emergency management issues and natural disaster needs amplified by the tail end of this global pandemic, the need for steady and experienced leaders at DHS able to meet the challenges of the day is paramount. That is true for all Americans, but doubly so for the Jewish community, which has seen a surge of violence and harassment, including never-before-seen-in-America street assaults. There is therefore a need to get those leaders into their positions quickly, without undue delay. We urge a swift vote both in committee, and then with the full Senate.

Thank you for allowing us to write today on this critical nomination. Please reach out with any questions, or for more information.

Sincerely,

Howie Beigelman  
Executive Director

cc: Hon. Gary Peters, Chairman, Senate Committee on Homeland Security & Governmental Affairs



**Statement of Jonathan Eugene Meyer**

**Nominee for General Counsel  
Department of Homeland Security**

**Before the  
U.S. Senate Committee on Homeland Security and Governmental Affairs**

**May 27, 2021**

Good Morning Chairman Peters, Ranking Member Portman, and distinguished members of the Committee.

I am honored to appear before you today as President Biden's nominee to serve as General Counsel of the Department of Homeland Security (DHS). I am grateful to the President and to Secretary Mayorkas for the trust they have placed in me, and to you for your consideration of my nomination. I would also like to thank Senator Brown for his kind introduction. As a son of Cincinnati, Ohio, I am deeply honored to have one of my Senators introduce me, while the other is serving as Ranking Member of this Committee.

I am also grateful to my family and friends for their support through this process. In particular, I would like to recognize my wife, Dr. Lauren Strauss, who is here with me today, along with our son, Ezra Meyer, and our younger daughter Naomi Meyer. Not here today, but in my mind and heart, is our oldest child, Corporal Jordana Meyer, who is currently serving in the Israel Defense Forces, and – her military schedule permitting – is watching this hearing online. Also watching online are my parents, Rabbi Margie Meyer and Professor Michael Meyer. We are a close family, and I value their love and support above all else.

It would be the highest honor of my professional life to be confirmed as General Counsel of DHS, to return to the office where I worked previously, and to lead the 2,500 attorneys who serve there. They are committed public servants and talented lawyers. I am also grateful for the support of four former General Counsels of DHS – two Democrats and two Republicans – who have endorsed my nomination.

I have devoted most of my 29-year legal career to public service. I spent seven years on Capitol Hill, serving in both chambers, and on both sides of the aisle. I served in the Departments of Justice and Homeland Security, in both career and political positions. And I have practiced law at three major law firms, including my current professional home, Sheppard Mullin Richter & Hampton. I am grateful to my Sheppard Mullin colleagues for their support as well. I believe all of these experiences have prepared me for the position to which I have been nominated.

The Office of the General Counsel (OGC) plays a vital role in the proper functioning of DHS. With the able assistance of OGC attorneys, the General Counsel serves as the chief legal officer of the Department and the senior legal advisor to the Secretary and other officials. If confirmed, I intend to reinvigorate, unify, and empower the attorneys of OGC. Too often too little heed is

paid to the experienced and insightful wisdom of the rank and file of OGC. I have served with the men and women of DHS OGC. I know them. And I know the immense value and incisive legal acumen that they bring to bear on behalf of the American people. In my view, the successful General Counsel is the one who appreciates these attributes and marshals them in service of our country.

One final personal note. Exactly 90 years ago, my grandfather, Karl Mattaeus Meyer, of blessed memory, was admitted to the bar and went to work for his government. A mere two years later, however, that career ended suddenly, when he was fired for being a Jew. Although he and his family – including my father – escaped Nazi Germany in 1941, and built wonderful new lives here, my grandfather, for whom my son is named, never practiced law again.

I have always viewed my legal career as a continuation of the one my grandfather began, but could not complete. In every legal office I have occupied, the first items to go up on the wall, and the last to be taken down, are two documents framed side by side – his hiring, and his firing by the Nazis. They serve as a reminder to me of the critical role that lawyers must play in preserving democracy and protecting our rights. If I am confirmed, you have my solemn promise that I will always remain true to those values.

Thank you, and I look forward to your questions.

REDACTED

## HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

### 1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
General Counsel, Department of Homeland Security	April 19, 2021

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Jonathan	Eugene	Meyer	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 2099 Pennsylvania Ave., NW		
City: Chevy Chase	State: MD	Zip: 20815	City: Washington	State: DC	Zip: 20006-6801

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Jon	N/A	N/A	N/A		1972      Est <input checked="" type="checkbox"/>	Present      Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1965	North Hollywood, Los Angeles, CA

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married	Married	Separated	Annulled	Divorced	Widowed
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Lauren	Beth	Strauss	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<b>First Name</b>	<b>Middle Name</b>	<b>Last Name</b>	<b>Suffix</b>
Jordana	Katey	Meyer	
Ezra	Mattacus	Meyer	

## 2. Education

List all post-secondary schools attended.

<b><u>Name of School</u></b>	<b><u>Type of School</u></b> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<b><u>Date Began School</u></b> (month/year) (check box if estimate)	<b><u>Date Ended School</u></b> (month/year) (check box if estimate) (check "present" box if still in school)	<b><u>Degree</u></b>	<b><u>Date Awarded</u></b>
Princeton University	Graduate school	Est <input type="checkbox"/> September 1990	Est <input type="checkbox"/> Present <input type="checkbox"/> June 1992	MPA	June 9, 1992
Columbia University School of Law	Law school	Est <input type="checkbox"/> August 1988	Est <input type="checkbox"/> Present <input type="checkbox"/> May 1992	JD	May 13, 1992
Harvard College	College	Est <input type="checkbox"/> September 1982	Est <input type="checkbox"/> Present <input type="checkbox"/> June 1986	AB	June 5, 1986

### 3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<b>Type of Employment</b> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<b>Name of Your Employer/Assigned Duty Station</b>	<b>Most Recent Position Title/Rank</b>	<b>Location</b> (City and State only)	<b>Date Employment Began</b> (month/year) (check box if estimate)	<b>Date Employment Ended</b> (month/year) (check box if estimate) (check "present" box if still employed)
Non-Government Employment	Sheppard, Mullin, Richter & Hampton LLP	Partner	Washington, DC	Est <input type="checkbox"/> September 2016	Est <input type="checkbox"/> Present
Non-Government Employment	Biden-Harris Presidential Transition	Volunteer	Washington, DC	Est <input type="checkbox"/> September 2020	Est <input type="checkbox"/> February 2021
Other Government Employment	Department of Homeland Security, Office of the General Counsel	Deputy General Counsel	Washington, DC	Est <input type="checkbox"/> February 2014 <sup>1</sup>	Est <input type="checkbox"/> September 2016
Other Government Employment	Department of Homeland Security, Office of the General Counsel	Senior Counselor	Washington, DC	Est <input type="checkbox"/> February 2011	Est <input type="checkbox"/> February 2014
Other Government Employment	Department of Justice, Office of Legal Policy	Deputy Assistant Attorney General	Washington, DC	Est <input type="checkbox"/> June 2009	Est <input type="checkbox"/> February 2011
Non-Government Employment	Amtrak	Special Deputy General Counsel	Washington, DC	Est <input type="checkbox"/> May 2007	Est <input type="checkbox"/> June 2009
Other Government Employment	Senator Joe Biden	Counsel, Acting Chief Counsel	Washington, DC	Est <input type="checkbox"/> January 2004	Est <input type="checkbox"/> May 2007

<sup>1</sup> I assumed the duties of Acting Deputy GC around December 2013, but did not receive the official appointment until February 2014.

Other Government Employment	Department of Justice, Executive Office for U.S. Trustees	Detailer to Biden staff, U.S. Senate Committee on the Judiciary	Washington, DC	Est <input type="checkbox"/> July 2001	Est <input type="checkbox"/> January 2004
Other Government Employment	Department of Justice, Office of Policy Development (Note: While I was in this position, the office name changed to the Office of Legal Policy, but my duties remained the same.)	Deputy Assistant Attorney General	Washington, DC	Est <input checked="" type="checkbox"/> July 2000	Est <input type="checkbox"/> July 2001
Other Government Employment	Department of Justice, Office of Policy Developments	Senior Counsel	Washington, DC	Est <input type="checkbox"/> October 1999	Est <input checked="" type="checkbox"/> July 2000
Non-Government Employment	Wilmer, Cutler & Pickering	Associate	Washington, DC	Est <input type="checkbox"/> October 1995	Est <input type="checkbox"/> October 1999
Unemployment	N/A	N/A	N/A	Est <input type="checkbox"/> June 1995	Est <input type="checkbox"/> October 1995
Non-Government Employment	Davis Polk & Wardwell	Associate	New York, NY	Est <input type="checkbox"/> October 1992	Est <input type="checkbox"/> June 1995
Unemployment	N/A	N/A	N/A	Est <input type="checkbox"/> August 1991	Est <input type="checkbox"/> October 1992
Other Government Employment	Department of State, Embassy Libreville	Legal Intern	Libreville, Gabon	Est <input type="checkbox"/> May 1991	Est <input type="checkbox"/> August 1991
Unemployment	N/A	N/A	N/A	Est <input type="checkbox"/> August 1990	Est <input type="checkbox"/> May 1991
Non-Government Employment	Davis Polk & Wardwell	Summer Associate	New York, NY and Paris, France	Est <input type="checkbox"/> May 1990	Est <input type="checkbox"/> August 1990
Unemployment	N/A	N/A	N/A	Est <input type="checkbox"/> August 1989	Est <input type="checkbox"/> May 1990
Non-Government Employment	Lawyers Committee for Civil Rights Under Law	Legal Intern	Washington, DC	Est <input checked="" type="checkbox"/> June 1989	Est <input type="checkbox"/> August 1989



Unemployment	N/A	N/A	N/A	Est <input type="checkbox"/> August 1988	Est <input type="checkbox"/> May 1989
Non-Government Employment	Communaute Israelite Liberale de Geneve	Animateur (youth coordinator)	Geneva, Switzerland	Est <input type="checkbox"/> February 1988	Est <input type="checkbox"/> August 1988
Non-Government Employment	Gore for President 1988	Monadnock Region Coordinator	Keene, NH	Est <input type="checkbox"/> August 1987	Est <input type="checkbox"/> February 1988
Other Federal Government	Representative Bill Gradison (R-OH)	Legislative Correspondent	Washington, DC	Est <input type="checkbox"/> September 1986	Est <input type="checkbox"/> August 1987
Other Federal Government	Representative Bill Gradison (R-OH)	Intern	Washington, DC	Est <input type="checkbox"/> June 1986	Est <input type="checkbox"/> August 1986
Non-Government Employment	Social Relations Library, Harvard University	Student Librarian	Cambridge, MA	Est <input checked="" type="checkbox"/> September 1985	Est <input checked="" type="checkbox"/> May 1986
Other (Funded Education-Related Research for Senior Thesis)	Harvard's Center for International Affairs and Center for Middle Eastern Studies	Researcher	Jerusalem, Israel	Est <input type="checkbox"/> June 1985	Est <input type="checkbox"/> August 1985
Non-Government Employment	Social Relations Library, Harvard University	Student Librarian	Cambridge, MA	Est <input checked="" type="checkbox"/> September 1984	Est <input checked="" type="checkbox"/> May 1985
Non-Government Employment	Temp Service (Note: I do not recall the name)	Temporary Office Worker	Cincinnati, OH	Est <input checked="" type="checkbox"/> June 1984	Est <input checked="" type="checkbox"/> August 1984
Non-Government Employment	Social Relations Library, Harvard University	Student Librarian	Cambridge, MA	Est <input checked="" type="checkbox"/> September 1983	Est <input checked="" type="checkbox"/> May 1984
Non-Government Employment	Jewish Community Center of Cincinnati Day Camp	Counselor	Cincinnati, OH	Est <input type="checkbox"/> June 1983	Est <input type="checkbox"/> August 1983
Non-Government Employment	Harvard Library Judaica Section	Cataloguer/Transliterator	Cambridge, MA	Est <input checked="" type="checkbox"/> February 1983	Est <input checked="" type="checkbox"/> May 1983

The listed periods of unemployment reflect when I was a full-time student, traveling, or moving between cities.

**(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.**

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
N/A		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>

#### **4. Potential Conflict of Interest**

**(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I will sign and transmit to the Department's Designated Agency Ethics Official, which will be provided to this Committee. I am not aware of any other potential conflicts of interest.

**(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.**

As a lawyer, I have represented clients with specific matters before the United States government who have advocated for action related to that specific matter. In addition:

- I represented a client in submitting comments to a proposed revision of the Federal Trade Commission's privacy Safeguards Rule.
- I represented clients in a Department of Commerce proceeding related to a mandatory tax on concrete block.

#### **5. Honors and Awards**

**List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.**

- Best Lawyers, Privacy and Data Security, 2021
- Legal 500, Media, Technology and Telecoms, 2017, 2020
- Sheppard Mullin “Marky” Award, 2018, 2020
- Legal 500, Government Contracts, 2017
- Secretary of Homeland Security’s Outstanding Service Medal, 2016
- U.S. Secret Service Director’s Honor Award, 2016
- Department of Justice Award for Outstanding and Dedicated Service, 2001
- Department of Justice Employee Volunteer Service Award, 2000, 2001
- Harlan Fiske Stone Scholar, Columbia Law School, 1989-90, 1992
- *Cum Laude* graduate, Harvard College, 1986
- *Magna Cum Laude*, awarded to senior thesis, Harvard College, 1986
- Harvard College Scholar, 1982-86
- *Summa Cum Laude* graduate, Walnut Hills High School, 1982
- First place, Knowledge of Israel Contest, 1982
- Third place, National Bible Contest, 1979

## **6. Memberships**

**List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.**

**Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam’s Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).**

<b><u>Name of Organization</u></b>	<b><u>Dates of Your Membership</u> (You may approximate.)</b>	<b><u>Position(s) Held</u></b>
Supreme Court Bar	2016 to present	Member
Adas Israel Congregation	App. 1995 to present	Member
District of Columbia Bar	1994 to present	Member
New York State Bar	1993 to present	Member

### 7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
N/A			

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Biden for President	Volunteer	Worked on various policy committees, raised a small amount of money	2019-2020

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Biden for President	\$550	2020
Biden for President	\$250	2019
Biden for President	\$1,000	2019
Biden for President	\$1,000	2019

Dettelbach for Ohio	\$1,500	2018
Dettelbach for Ohio	\$1,500	2017

### **8. Publications and Speeches**

**(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.**

I have listed below all responsive materials of which I am aware, and which I have found after diligent effort. If I become aware of any others during the pendency of my nomination, I will promptly submit them to the Committee.

<b><u>Title</u></b>	<b><u>Publisher</u></b>	<b><u>Date(s) of Publication</u></b>
COVID-19 Enforcement Trends One Year Into the Pandemic (Note: This piece can also be found on the Sheppard, Mullin, Richter & Hampton LLP Government Contracts Law Blog.)	The National Law Review	March 30, 2021
COVID-19 Enforcement Trends in 2020 and Their Implications for 2021 (Note: This piece can also be found on the Sheppard, Mullin, Richter & Hampton LLP COVID Insights Web Page.)	The National Law Review	March 1, 2021
GSA Schedule Handbook; Chapter 30, Cybersecurity	Thomson West	2020 (and prior years)
"IoT Legislation Advances in Congress"	Sheppard Mullin Government Contracts & Investigations Blog	September 29, 2020
PPP Data Could Lead To Trouble For Loan Recipients	<i>Law360</i>	July 17, 2020
"Aides du gouvernement américain en réponse au Covid-19 : les enquêtes arrivent"	Les Editions Legislatives	December 6, 2020

"What Does the Supreme Court DACA Decision Mean for DACA Employers and Employees?"	Sheppard Mullin Labor and Employment Law Blog	June 26, 2020
"How the New Presidential Proclamation Regarding Non-Immigrant Visas Affects Your Company"	Sheppard Mullin Labor and Employment Law Blog	June 23, 2020
"Securing the U.S. Bulk Power System: An Assessment of Executive Order 13920"	Sheppard Mullin Global Trade Law Blog	May 12, 2020
"Sheppard Submits Comments to Main Street Loan Program"	Sheppard Mullin Corporate and Securities Law Blog	April 17, 2020
"UPDATED: Checklist for CARES Act Assistance to Companies"	Sheppard Mullin Corporate and Securities Law Blog	April 10, 2020
"Checklist for CARES Act Assistance to Companies"  This web article was superseded by the updated version dated April 10, 2020.	Sheppard Mullin Corporate and Securities Law Blog	April 7, 2020
"Key Provisions in the Senate Stimulus Bill"	Sheppard Mullin Government Contracts & Investigations Blog	March 26, 2020
"CMMC Version 1.0: Enhancing DOD's Supply Chain Cybersecurity"	Sheppard Mullin Government Contracts & Investigations Blog	February 27, 2020
"Iran's Imminent Cybersecurity Threat"	Sheppard Mullin Eye on Privacy Blog	January 7, 2020
Cloud Computing Deskbook; Chapters 4 and 19	Thomson Reuters	2019
"GSA Implements Restrictions on Certain Chinese-Made Telecommunications Services and Equipment"	Sheppard Mullin Government Contracts & Investigations Blog	September 27, 2019
"Effective Last Month! – DoD's Implementation of New FAR Prohibitions on Chinese Telecommunications Equipment"	Sheppard Mullin Government Contracts & Investigations Blog	September 5, 2019

and Services in Government Contracts"		
"Effective Immediately! – FAR Amended to Include Prohibition on Chinese Telecommunications Equipment and Services in Government Contracts"	Sheppard Mullin Government Contracts & Investigations Blog	August 13, 2019
"New Executive Order To Further Restrict Business with Huawei and Other Foreign Adversaries Engaged in Cyber Espionage"	Sheppard Mullin Government Contracts & Investigations Blog	May 20, 2019
Will United States Border Protection Admit Your Foreign Visitor?	<i>Today's General Counsel</i>	Spring 2019
"Talk About Ironic: Brexit Group Fined Under EU-Related Privacy Regulations"	Sheppard Mullin Eye on Privacy Blog	February 19, 2019
"Cyber Concerns Lead to EU Recall of a Connected Kids Devices"	Sheppard Mullin Eye on Privacy Blog	February 13, 2019
"Court Finds Cybersecurity-Related Claims Sufficient in Securities Class Action"	Sheppard Mullin Eye on Privacy Blog	February 6, 2019
"Year In Review: Eye on Privacy 2018"	Sheppard Mullin Eye on Privacy Blog	January 28, 2019
"Pass It On: Locks Don't Prevent Leaks"	Sheppard Mullin Eye on Privacy Blog	January 9, 2019
"When the U.S. Government Declares Companies Cyber-Insecure, We Should All Pay Attention"	Sheppard Mullin Eye on Privacy Blog	January 7, 2019
"The List of Forbidden Products Grows: The NDAA's Prohibitions on Use of Certain Chinese-Made Equipment"	Sheppard Mullin Government Contracts & Investigations Blog	November 28, 2018

"Don't Be Fooled: Seven Myths About Congressional Oversight"	Sheppard Mullin Government Contracts & Investigations Blog	November 15, 2018
"Will U.S. Customs & Border Protection Admit Your Foreign Visitor? How to Avoid that Sunday Evening Phone Call from CBP"	Sheppard Mullin Latin America Blog	November 6, 2018
"FTC Seeks Comment on Fundamental Privacy Enforcement Issues"	Sheppard Mullin Eye on Privacy Blog	August 10, 2018
"DOJ Report Suggests Direction For Addressing Cyber Threats"	Sheppard Mullin Eye on Privacy Blog	August 8, 2018
"FTC Pursuing, and Getting More Specific, About Privacy Post-LabMD Finding"	Sheppard Mullin Eye on Privacy Blog	July 18, 2018
"FTC Signals that It Will Enforce Statements of GDPR Compliance"	Sheppard Mullin Eye on Privacy Blog	July 3, 2018
A Quick Checklist Of Restrictions On Travel To The US	<i>Law360</i>	June 29, 2018
"DHS Releases New Cybersecurity Strategy"	Sheppard Mullin Eye on Privacy Blog	May 21, 2018
"White House Eliminates Top Cybersecurity Position"	Sheppard Mullin Eye on Privacy Blog	May 18, 2018
"Dawn of the New FTC"	Sheppard Mullin Eye on Privacy Blog	May 9, 2018
"Crypto-Crime: The SEC and DOJ Go After BitFunder and Its BitFounder"	Sheppard Mullin Eye on Privacy Blog	March 5, 2018
"SEC Takes Baby Steps on Cyber, but Signals Greater Vigilance"	Sheppard Mullin Eye on Privacy Blog	February 27, 2018



"Justice Department Creates Cyber-Digital Task Force"	Sheppard Mullin Eye on Privacy Blog	February 26, 2018
"The Encryption Battle Will Continue in 2018"	Sheppard Mullin Eye on Privacy Blog	January 16, 2018
"2018 Likely a Year of Rising Government Standards for Securing Information"	Sheppard Mullin Eye on Privacy Blog	January 10, 2018
"Confused by the Evolving Travel Ban? Here's a Cheat Sheet with the Latest Guidance"	Sheppard Mullin Global Trade Law Blog	January 10, 2018
"2017 Saw Ransomware on the Rise – 2018 Will See Even More"	Sheppard Mullin Eye on Privacy Blog	January 8, 2018
"Will 2018 Bring Developments in Government Access to Electronic Records?"	Sheppard Mullin Eye on Privacy Blog	January 4, 2018
"Cybersecurity in the First Year of the Trump Administration"	Sheppard Mullin Eye on Privacy Blog	December 27, 2017
"Lessons Learned from Cyber Awareness Month – Part Four"	Sheppard Mullin Eye on Privacy Blog	November 27, 2017
CFPB Provides Guidance on Consumer Data Protection	<i>Financial Regulation Journal</i>	November 23, 2017
"Lessons Learned from Cyber Awareness Month – Part Three"	Sheppard Mullin Eye on Privacy Blog	November 20, 2017
"Lessons Learned from Cyber Awareness Month -Part Two"	Sheppard Mullin Eye on Privacy Blog	November 16, 2017
"The Latest Turn in the Travel Ban Road"	Sheppard Mullin Labor and Employment Law Blog	November 15, 2017
"CFPB Provides Guidance on Consumer Data Protection"	Sheppard Mullin Eye on Privacy Blog	November 14, 2017

"Lessons Learned from Cyber Awareness Month – Part One"	Sheppard Mullin Eye on Privacy Blog	November 13, 2017
"In January, Will You be Able to Board Your Domestic Flight With Your Current Driver's License?"	Sheppard Mullin Labor and Employment Law Blog	November 10, 2017
"The Travel Ban – A Quick Update"	Sheppard Mullin Government Contracts & Investigations Blog	July 27, 2017
"Sabre Cyber Breach: New Developments"	Sheppard Mullin Eye on Privacy Blog	July 10, 2017
"Dear Congress: Your District Needs a New E-4 Visa for Promising Entrepreneurs"	Sheppard Mullin Labor and Employment Law Blog	July 5, 2017
"The Travel Ban – A Quick Update"	Sheppard Mullin Labor and Employment Law Blog	July 5, 2017
"Dear Congress: Your District Needs a New E-4 Visa for Promising Entrepreneurs"	Sheppard Mullin Government Contracts & Investigations Blog	June 28, 2017
How a Consumer Group's Cybersecurity Initiative Could Shape the Market	<i>Morning Consult</i>	June 12, 2017
"The Supreme Court Reenters the Fray on Privacy"	Sheppard Mullin Eye on Privacy Blog	June 9, 2017
Presidential Executive Order on Cybersecurity: No More Antiquated IT	<i>Bloomberg Law Privacy and Security Law Report</i>	May 29, 2017
"Buy American and Hire American - New Executive Order Promises to Put American Workers First, But Practical Impacts Remain Unclear"	Sheppard Mullin Government Contracts & Investigations Blog	April 24, 2017

Tech and Trump: What the Next Four Years Might Bring	<i>Entrepreneur</i>	February 8, 2017
"Sheppard Mullin Travel Advisory and Immigration Update"	Sheppard Mullin Labor and Employment Law Blog	February 2, 2017
Some Context For Trump's New Immigration Executive Order	<i>Law360</i>	January 31, 2017
Companies in the Crosshairs?	<i>Entrepreneur</i>	December 6, 2016
Attack Of The Zombie Webcams: DDoS Attacks And The Insecure IoT	<i>Law360</i>	November 14, 2016
"FCC Issues New Privacy Rules for Internet Service Providers: Safeguarding Consumers or Lulling Them Into A False Sense of Privacy?"	Sheppard Mullin FCC Law Blog	November 1, 2016
"Surge's Success is Good News for Democrats"	<i>Roll Call</i>	December 10, 2007
"Pushing Political and Constitutional Limits: The Oregon Educational Initiative"	7 Journal of Law & Politics 4	Summer 1991
"Without Saying a Word": Israeli Soldier Protest Against the Lebanon War"	<i>Mosaic: A Jewish Student Journal</i>	Spring/Summer 1986

**(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.**

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Document Production Status Update, Part II	House Committee on Oversight and Government Reform	April 19, 2016

**(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.**

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Introductory remarks for panels	Homeland Security Law Institute, American Bar Association	May 31, 2019
"Legislative and Regulatory Outlook for Homeland Security," Panel Moderator	Homeland Security Law Institute, American Bar Association	May 31, 2019
"National Security and Cyber-Attacks"	Panel at Incident Response Forum 2018	April 18, 2018
FISMA, FAR, NIST, and HIPAA Requirements that Healthcare Providers Need to Know When Working with the Federal Government	IAHA Annual Health Law Symposium, Chicago, IL	November 2, 2017
Cybersecurity – What Now? What Next? And What it Means to You?	Where Are We Headed? Trends and Directions in the Aerospace & Defense Market 2018, Washington, D.C.	November 1, 2017
"Fighting Terrorism," Public Affairs Week 2017 public conversation	Marx School of Public and International Affairs, Baruch College	March 20, 2017
"[Un]Building Walls: Finding Our Place in Today's Global Community"	Panel at Harvard University	October 15, 2016
"General Counsel's Panel"	Homeland Security Law Institute, American Bar Association	August 28, 2015

"Remarks on the Importance of Government Intellectual Property"	DHS Patent Award Ceremony	June 16, 2015
The Challenges of Homeland Security: A Federal Perspective	Rebovich Institute for New Jersey Politics, Ryder University	April 13, 2015

I have also made numerous presentations to professional groups, potential and current clients, and groups of lawyers at my law firm, but none have constituted a formal speech.

### 9. Criminal History

**Since (and including) your 18<sup>th</sup> birthday, has any of the following happened?**

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)

No.

- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?

No.

- Have you been charged, convicted, or sentenced of a crime in any court?

No.

- Have you been or are you currently on probation or parole?

No.

- Are you currently on trial or awaiting a trial on criminal charges?

No.

- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?

No.

**If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation,**

where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

A) Date of offense:

a. Is this an estimate (Yes/No):

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
- 2) Firearms or explosives: **Yes / No**
- 3) Alcohol or drugs: **Yes / No**

D) Location where the offense occurred (city, county, state, zip code, country):

E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**

1) Name of the law enforcement agency that arrested/cited/summoned you:

2) Location of the law enforcement agency (city, county, state, zip code, country):

F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**

1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):

2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

3) If no, provide explanation:

G) Were you sentenced as a result of this offense: **Yes / No**

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

- J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**
- N) Provide explanation:

### 10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

No.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

Not to my knowledge.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

### 11. Breach of Professional Ethics

(A) Have you ever been disciplined 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?  
Exclude cases and proceedings already listed.

No.

<u>Name of Agency/Association/ Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
N/A			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

## 12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

**REDACTED**

REDACTED

**13. Lobbying**

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No.

**14. Outside Positions**

☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)
N/A					

### 15. Agreements or Arrangements

☒ See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)
Agreement to change partnership status (from contract partner to profit sharing partner) as of March 1, 2021	Sheppard Mullin LLP, under existing partnership agreement	Decision made February 2021, change effective March 2021

### 16. Additional Financial Data

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

**REDACTED**

REDACTED

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SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



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This 29th day of April, 2021

UNITED STATES OFFICE OF  
GOVERNMENT ETHICS**REDACTED**

April 30, 2021

The Honorable Gary C. Peters  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jonathan E. Meyer, who has been nominated by President Biden for the position of General Counsel, Department of Homeland Security.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David J. Apol  
General Counsel

Enclosures

**REDACTED**

April 16, 2021

Mr. Joseph B. Maher  
Designated Agency Ethics Official  
Department of Homeland Security  
2707 Martin Luther King Jr Ave, SE  
Washington, DC 20528

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of the General Counsel of the U.S. Department of Homeland Security. It is my responsibility to understand and comply with commitments outlined in this agreement.

#### SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

If I rely on a *de minimis* exemption under 5 C.F.R. § 2640.202 with regard to any of my financial interests in securities, I will monitor the value of those interests. If the aggregate value of interests affected by a particular matter increases and exceeds the *de minimis* threshold, I will not participate personally and substantially in the particular matter that to my knowledge has a direct and predictable effect on the interests, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1).

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional

obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse myself from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government.

I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

#### SECTION 2 – EMPLOYMENT RELATED INTERESTS

Upon confirmation, I will resign from my position with Sheppard, Mullin, Richter & Hampton LLP. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know Sheppard, Mullin, Richter & Hampton LLP is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Pursuant to the Partnership Agreement of Sheppard, Mullin, Richter & Hampton LLP October 15, 2019, I will receive a final partnership payment within three weeks following my departure. This payment will be based on my pro-rated share of the firm's profits through my date of departure. This payment will be based solely on the firm's earnings through the date of my resignation from the partnership. In addition, I will receive a payout of the firm's contribution for my defined contribution plan earned during 2021. I will not receive any other partnership share, contingency fees, or compensation following my departure. In addition, following my separation, I will receive a lump sum payout of my Cash Balance Pension Plan, which will be calculated based on an objective formula. Following this payout, I will not be eligible for any future benefits from the firm under this Cash Balance Pension Plan. Sheppard, Mullin, Richter & Hampton LLP will pay this amount to me within three months of my separation from the firm. Until I receive these payments, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on

the ability or willingness of Sheppard, Mullin, Richter & Hampton LLP to make these payments to me, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1).

### SECTION 3 – OTHER RESIGNATIONS

My positions with Biden for President and with PT Fund, Inc. terminated respectively in November 2020 and February 2021. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

### SECTION 4 – DIVESTITURES

As soon as practicable but not later than 90 days after my confirmation, I will divest my interests in the following entities:

- Apple Inc.
- AT&T Inc.
- Chevron Corp.
- Comcast Corp.
- Exxon Mobil Corp.
- International Business Machines Corp.
- Magnite Inc.
- Microsoft Corp.
- NCR Corp.
- Teradata Corp.
- Verizon Communications Inc.
- Vodafone Group Plc.

With regard to each of these entities, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I have verified that I will be able to carry out the divestitures within the timeframe described above.

I understand that I may be eligible to request a Certificate of Divestiture for qualifying assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will ensure that all divestitures discussed in this agreement occur within the agreed upon timeframes and that all proceeds are invested in non-conflicting assets. I understand that I must timely submit my request for a Certificate of Divestiture to allow for adequate time for OGE to process the Certificate of Divestiture, and in order to divest assets within the agreed upon timeframe.



I (including my spouse and dependent children if applicable) will not repurchase any asset I was required to divest without my consultation with my agency ethics official and the U.S. Office of Government Ethics.

#### SECTION 5 – SPOUSE EMPLOYMENT

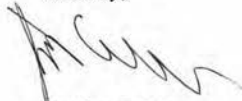
My spouse is employed by American University in a position for which she receives a fixed compensation. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for as long as my spouse continues to work for American University, I will not participate personally and substantially in any particular matter involving specific parties in which I know American University is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

My spouse is also self-employed providing consulting services to various organizations and providing speeches or teaching. For as long as my spouse continues to provide these services, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on my spouse's compensation or contracts, unless I first obtain a written waiver, pursuant to 18 U.S.C § 208(b)(1). Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, I also will not participate personally and substantially in any particular matter involving specific parties in which I know a client of my spouse is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

#### SECTION 6 – PUBLIC POSTING

I have been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Jonathan E. Meyer

**U.S. Senate Committee on Homeland Security and Governmental Affairs  
Pre-hearing Questionnaire  
For the nomination of Jonathan Meyer to be  
General Counsel, Department of Homeland Security**

**I. Nomination Process and Conflicts of Interest**

1. Did the President or the Secretary of the Department of Homeland Security (DHS) give you specific reasons why you were nominated to be the next General Counsel of DHS, and if so, what were they?

No.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as General Counsel? If so, what are they, and to whom were the commitments made?

No.

4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify any potential conflicts of interest. Any potential conflicts of interest would be resolved in accordance with the terms of an ethics agreement that I have signed, which has been transmitted to the Department's Designated Agency Ethics Official, and has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Please provide the name of any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.

None.

## II. Background of the Nominee

6. Why do you want to serve as DHS General Counsel?

I wish to become DHS General Counsel, first of all, because of my desire to serve my country. I am a strong believer in public service and have devoted most of my career to such service. I owe a great deal to this country, and I wish to pay it back and pay it forward.

Second, I wish to rejoin the Office of General Counsel, and to assist and lead its excellent legal team. In my time in the Office, I found the people and the legal talent there to be extraordinary. I wish to marshal my abilities to help them serve the country.

Third, I wish to contribute to the security of the United States. Having been on Capitol Hill on 9/11, and witnessed terrorism and homeland threats during my childhood, I am devoted to making sure our country remains secure, while at the same time abiding by law, and respecting privacy, civil rights, and civil liberties in a manner that comports with American tradition.

7. What specific background, experience, and attributes affirmatively qualify you to be DHS General Counsel?

My specific background, experience and attributes that affirmatively qualify me to be DHS General Counsel include:

- I am a member in good standing of the bars of the State of New York and the District of Columbia, as well as a number of federal courts, including the United States Supreme Court.
- I have practiced law for more than 29 years, in a variety of contexts. I have served three years at the Department of Justice, five years at DHS, eleven years at law firms in New York and Washington, DC, two years at Amtrak, and seven years in the House and the Senate, on both sides of the aisle.
- I have devoted my career to law, public service, and government. I earned a joint degree in law (from Columbia University) and public affairs (from Princeton University) and have concentrated on the intersection of those two areas, specifically government law. My leadership roles as a Deputy Assistant Attorney General at the Department of Justice, Special Deputy General Counsel at Amtrak, Senior Counselor and Deputy General Counsel at DHS, and member of the DHS Agency Review Team for the Biden-Harris Transition have all uniquely prepared me for the position of General Counsel of the Department.
- My seven years on Capitol Hill taught me the value of the legislative process and the oversight process, and the importance of the Executive Branch cooperating with the Legislative Branch in governing the country. I served on the Senate Judiciary

Committee during a period that included 9/11, the anthrax attacks, the invasions of Iraq and Afghanistan, and the creation of DHS. In the wake of 9/11, I helped organize the first transportation security hearing in the Senate and contributed to the national security efforts that followed.

- In my five years at DHS, I served as Senior Counselor to the General Counsel, and then as Deputy General Counsel. As a result, I came to know the Department and the Office of General Counsel well, and worked on legal issues that continue to face the Department, including cybersecurity, airline security, technology, immigration, and intelligence. I also oversaw the litigation team, the regulatory team, and led the Department's responses to congressional oversight.
- In the private sector, I have practiced law in a variety of legal areas, including assisting clients navigating the American immigration system, advising clients responding to U.S. government investigations, and counseling clients on cybersecurity law.
- I have received a number of awards and recognition for my public service, memorializing and recognizing the work I have performed for the American people.

8. Please describe:

a. Your leadership and management style.

My leadership style focuses, first of all, on leadership by example. I do not believe in asking the people I manage to do anything that I would not be willing to do myself. Moreover, I believe it is the duty of any leader to set a standard of integrity, humility and faithfulness to the law.

Second, as a leader, the buck stops with me, but I treat anyone serving with me as an equal. I believe that this raises morale and makes the rank and file feel more comfortable and satisfied in their work, and it also encourages them to speak honestly to me. I want my direct reports and anyone serving under me on the organizational chart to feel that they can tell me what they think, not what they surmise I may want to hear.

Third, I believe in the value of face-to-face interaction. When I feel the need to speak to a colleague, I generally try to walk to their office and sit down with them rather than simply make a call. Again, this improves both the morale of the workplace and the quality of the work product.

I take great pride in the fact that I have been able to serve as a trusted mentor to many attorneys and staff who have served with me. I have been fortunate in my career to be mentored by wonderful attorneys and I am a strong believer in paying it forward. From the most junior support staff to my most senior direct report, I have always tried to make time to provide advice and counsel. I believe it has not only fostered good relationships; but it has resulted in better work product.

## b. Your experience managing personnel.

I have managed personnel, in one form or another, in every position I have had for more than 20 years.

- From 1999 to 2001, as a Senior Counsel and then Deputy Assistant Attorney General, I managed teams working on particular policy issues, and co-led the Justice Department's Office of Policy Development (now the Office of Legal Policy) through the 2001 President Transition.
- From 2001 to 2007, working in the Senate Judiciary Committee office of then-Senator Joe Biden, I supervised junior personnel in specific assignments, and served for a time as Acting Chief Counsel of a staff of 4-5 attorneys.
- From 2007 to 2009, as Special Deputy General Counsel at Amtrak, I assisted the General Counsel in managing an office of dozens of attorneys.
- From 2009 to 2011, as Deputy Assistant Attorney General in the Office of Legal Policy, I co-led the office pending the arrival of a confirmed Assistant Attorney General, and led a team of dozens of attorneys working on judicial nominations.
- From 2011 to 2016, as Senior Counselor and then Deputy General Counsel at DHS, I managed teams of attorneys, ultimately numbering in the hundreds.
- From 2016 until now, as a partner at Sheppard Mullin, I lead teams of attorneys in counseling and representing corporate and individual clients.

## c. What is the largest number of people that have worked under your supervision?

When I was Deputy General Counsel of DHS, I had legal divisions and chief counsel offices reporting to me that included more than 800 attorneys.

## 9. Please give examples of times in your career when you disagreed with your superiors and advocated your position. Were you ever successful?

When I was a junior associate at a law firm, I disagreed with a strategy being implemented by the partner with whom I was working. Politely, and with due deference, I expressed my views. The partner disagreed and took the matter in a different direction. He later came to me and conceded that I had been right.

On another occasion, during my government service, I reviewed a classified legal issue and disagreed with the direction that an attorney senior to me was taking in interpreting a statute. I expressed my concerns respectfully. Ultimately, at my urging, a higher-level attorney reviewed the issue and came to the same conclusion I had reached.



10. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

I believe dissenting views are critical to the proper practice of law, particularly in public service. I have always encouraged it. For example, I have hired attorneys precisely because I knew they would feel free to disagree with me and would not hesitate to make dissenting arguments to me. I much prefer to be made aware of faults in my views before I make a decision than after I have made a mistake.

In another example, in my current private practice, I was recently approached by a more junior partner and an associate who were working with me on a matter, expressing their view that the approach I was taking was not the better strategy. After listening to their argument and thinking it over, I was persuaded, and I reversed my decision.

11. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country.

In December 2015, Congress passed a statute imposing new travel and vetting restrictions on travelers from certain countries. Many officials strongly disagreed with the statute and posited interpretations that I did not believe comported with its meaning or intent. In coordination with then-Deputy Commissioner of U.S. Customs and Border Protection Kevin McAleenan, I worked to make sure that our implementation of the law comported with what the statute required.

When I was an associate at a law firm, the firm accepted an engagement that I believed was inappropriate and posed deep ethical challenges. I declined to work on the matter and spoke out against the firm's decision to accept it. While I would not say the decision rose to the level of the best interest of the country, I believed then and do now that my position was in the best interest of the firm, and the right thing to do.

12. What would you consider your greatest success as a leader?

I have been fortunate to meet with success many times in my career. However, I believe my greatest success as a leader has been the strong relationships I have forged with my colleagues and direct reports and the mentoring I have offered to less experienced attorneys. Many of them have remained in touch with me long after we moved on to other workplaces, and have told me that I have served as a model of public service and integrity. In my mind, there is no higher compliment.

13. What do you consider your greatest failure as a leader? What lessons did you take away from that experience?

When I was at Amtrak, the General Counsel charged me with advising the company's new security apparatus and leading them to new security processes and procedures that would comply with the law and prevent terrorism. Rather than earn the security team's trust, I focused too much on instructing them to take certain actions. I never achieved

true buy-in from them and the company's performance suffered from it. I learned from that experience that it is always better to earn a client's or a team's trust than to issue orders and rely solely on my authority. I have been careful to abide by that lesson ever since.

14. During your career, has your conduct as a government employee ever been subject to an investigation or audit by an agency Inspector General, Office of Special Counsel, Department of Justice, agency Equal Employment Opportunity office or investigator, or any other federal investigative entity? If so, please describe the nature of the allegations/conduct and the outcome of the investigation(s) or audit(s).

No.

### III. Role of the General Counsel at DHS

15. Please describe your view of the Department's core mission and the General Counsel's role in achieving that mission.

The core mission of the Department is to safeguard the American people, our homeland, and our values, with honor and integrity. The General Counsel's role in achieving this mission is to serve as the Department's chief legal officer and advise the Secretary and other senior officials as to the legality and legal authority of the Department's actions. In addition, it is the General Counsel's job to lead the 2,500 attorneys of the Office of the General Counsel and ensure that they are advising their clients with integrity, accuracy, and superlative legal insight. Beyond those core activities, the General Counsel is also in a position to help coordinate the diverse components of the Department, lead the Department's efforts to respond quickly and efficiently to congressional oversight, and ensure that internal oversight by the Office of Inspector General, the Office for Civil Rights and Civil Liberties, and the Office of the Chief Privacy Officer is appropriately facilitated.

16. If confirmed, what will be the immediate highest priority issues that you expect to address? What longer-term goals would you like to achieve?

If confirmed, my first priority would be to familiarize myself with the current pressing issues facing the Department, to which I have not been privy as a private citizen, and begin addressing them. This would involve meeting with the Secretary and other senior leadership, and consulting with the existing leadership of OGC.

I am aware that among the legal issues currently facing the Department are matters in the crucial fields of immigration law, cybersecurity law, and counterterrorism.

In the longer-term, it is my goal to use OGC's unique presence in every major component of DHS to better unify the Department, both in terms of consistent provision of legal

services and more broadly to make the Department a more cohesive unit. This would lead to greater efficiency and consistency of work, and to higher morale.

17. What role do you believe the General Counsel should have in reviewing executive orders or other administration policies that impact DHS?

I believe that the General Counsel should be included in the interagency review process for executive orders or other administration policies that involve DHS equities. It is important that the General Counsel and the Department's attorneys have an opportunity to weigh in on such proposals.

18. What do you believe is the appropriate relationship between the DHS Office of General Counsel and component legal departments?

DHS component legal departments report to the General Counsel, with very few exceptions, and I believe that is appropriate. It is important for the General Counsel to be able to ensure consistency in legal advice across the Department. The number of attorneys and volume of issues are such that relatively few issues rise to the level of the General Counsel, so there is little danger that the component legal offices will be micromanaged by headquarters. Rather, it allows the General Counsel to coordinate the legal function across the vast Department, and it encourages cooperation across the legal offices.

19. Do you believe it is important to ensure consistency of legal positions across the Department? If so, what steps would you take to ensure that consistency?

Yes, I believe it is important to ensure legal consistency across the Department. In order to ensure that consistency, if confirmed, I would meet regularly with all of the Chief Counsels and Associate General Counsels, to understand what issues they are working on and coordinate those issues among the components, as well as to foster a sense of teamwork and cooperation in which all the attorneys work together to take cohesive and consistent legal positions.

#### **IV. Policy Questions**

##### *DHS Mission & Authorities*

20. Do you believe DHS has sufficient legal authority to enable it to interact effectively with other agencies, particularly when its mission overlaps with other agencies or requires DHS to coordinate federal efforts across agencies? Please explain.

The Homeland Security Act, Homeland Security Presidential Directives and other authorities give DHS a broad array of authorities, many of which require coordination with other Departments. Because I have not been at the Department for almost five years, I do not have a thorough understanding of the current state of play of the DHS authorities and their interactions with the authorities of other agencies. However, if



confirmed, it would be one of my top priorities to assess the current state of those authorities and advise the Secretary accordingly.

21. On what basis, if any, do you believe the Department may be entitled to withhold information or documents from Congress? Please explain.

As a general matter, I believe the Department should make every effort to produce to Congress the information it seeks. If I am confirmed, I commit to working closely with Congress to facilitate its oversight responsibilities and ensure that the Department is working appropriately to serve the American people.

22. What documents or information do you believe Congress does not have a right to? Please explain.

As a general matter, I believe Congress is entitled to the information that it needs to conduct its oversight and legislative responsibilities.

23. In 2012, in your prior role at DHS, you asserted that an agreement between DHS and the EU prevented Congress from receiving certain records that were requested by the Permanent Subcommittee on Investigations (PSI).

- a. Could you please explain your legal basis for making this argument?

I only vaguely recall this issue and do not recall the legal analysis that led to this conclusion. If confirmed, I would be happy to review material related to that decision at DHS and provide you with an informed response to this question.

- b. Do you still believe DHS can sign an agreement with another country to limit information provided in response to a congressional request?

Please see my response to Question 23a.

- c. While DHS ultimately produced the information, your assertions delayed production of material relevant to two bipartisan PSI investigations. If confirmed, how will you work to avoid unnecessarily delaying the production of documents or information responsive to the Committee's requests?

In the past, I was able to reduce DHS's oversight response time by 60% at the same time that the volume of incoming oversight requests doubled. I did so by prioritizing oversight within OGC, getting buy-in regarding the importance of speedy responses from the leadership of DHS and other agencies with equities in the oversight issues, and increasing the resources devoted to oversight response in OGC and elsewhere in the Department, among other initiatives. If confirmed, I would do so again as necessary. Having spent more time in the Senate conducting oversight than at DHS responding to it, I understand the frustrations that incomplete or inefficient oversight response can create, and the importance of Congress receiving the information it needs. It is my goal to

improve both the completeness and the rapidity of oversight response over the performances of either of the past two administrations.

24. Under what circumstances do you believe the Department should redact documents requested by the Committee?

As a general matter, I believe Congress is entitled to information that it needs to conduct its Constitutional oversight and legislative functions. While redaction may be necessary in some circumstances, if confirmed I commit to working closely with Congress to facilitate its oversight responsibilities and ensure that the Department is working appropriately to serve the American people.

25. In your prior roles at DHS, did you ever recommend not producing a document requested by a congressional committee? Please explain.

As an attorney at law, I am not permitted to disclose legal advice I give to clients – whether private or governmental. However, I can say that in all my work, I have strived to be transparent and responsive, including finding ways to provide relevant information through an accommodation process. If confirmed, I plan to continue this practice and work closely with Congress as it exercises its oversight responsibilities.

26. What criteria should the Office of the General Counsel use to decide whether and how to respond to requests from Congress for documents, information, or testimony?

First, DHS should always respond to requests from Congress for documents, information or testimony. Second, as to the form of that response, it is not solely OGC's prerogative to decide how to respond to a request. As the attorneys for the Department, OGC must consult its clients. Where other agencies have equities, OGC must consult those agencies as well. With regard to the legal criteria, OGC must advise its clients what the law permits, and what it requires.

27. If confirmed, what steps will you take to ensure that you are appropriately consulted on Administration policies and practices that effect the mission and operations of DHS?

It is crucial for the General Counsel of DHS to develop strong relationships with other key legal advisors in the Administration. I know a number of these individuals already, and if confirmed, intend to prioritize developing strong relationships with them. These relationships would foster the kind of communication and cooperation necessary to ensure that DHS is consulted in all relevant, legal, national security and homeland security policies and practices.

28. If confirmed, what role will the Office of General Counsel play in the resolution of official complaints made by the public and other entities against DHS components?

As the arbiter of legal requirements for the Department, it is OGC's duty to ensure that the Department complies with the law. As such, OGC must inform DHS components

when the law requires them to respond to complaints made by the public and other entities. In addition, OGC must fulfill any other role that Congress or the Secretary directs in this process.

29. As General Counsel, what steps will you take to ensure that products such as guidance, implementation memoranda, and protocols are reviewed and approved by the DHS Office of General Counsel? What steps, if any, will you take to review current products that are relied upon by DHS components?

If confirmed, I would take a number of steps to ensure that products such as these are reviewed and approved by OGC, including:

- Upon arrival, I would initiate a review of the processes for such review and see if they are lacking;
- I would consult with the Secretary and other senior leaders to see how we can improve and expand the review process;
- I would coordinate with component chief counsels and ensure that they are reviewing items relevant to their components and bringing significant ones to my attention;
- I would ask my deputies and chief counsel to send me the significant current products and initiate a review of them.

30. What role should the Office of General Counsel play in ensuring that DHS components properly notify and engage with state, local, tribal, and community groups impacted by their missions?

As Secretary Mayorkas has said, DHS is a department of partnerships. Developing and fostering partnerships with state, local, tribal and community groups is vital to the Department's mission and part of its founding visions. Therefore, it is important for OGC to do its part in ensuring that the Department fulfills this goal, by advising on the legal authorities that authorize such activities and encouraging compliance with them, as well as working with legal advisors among those groups that need our assistance in understanding the mission and authorities of the Department.

31. If confirmed, do you commit to ensuring that DHS components comply with any and all judicial decisions and orders?

It is my sworn obligation as an officer of the court and member of the bar to ensure compliance with judicial decisions and orders. If confirmed, my oath of office would also require me to do so. I commit to you to do all within my power to ensure compliance with judicial decisions and orders.

32. What role do you believe DHS should have regarding the review and examination of publically available social media activity, during the collection and production of open source intelligence reporting to inform State, Local, Tribal, and Territorial law enforcement agencies of potential threats?

First, I believe DHS should abide by and execute the law. The law regarding technology and privacy is rapidly evolving. The Supreme Court and various lower courts have recently weighed in on the encounter between technology and privacy rights. If confirmed, my job would include the duty to make sure DHS remains current on the state of the law and complies with it. However, DHS need not merely comply with the law. Privacy law sets a minimum standard regarding the extent to which privacy rights must be protected; it is a floor, not a ceiling. Another of my duties as General Counsel, if confirmed, would be to convene the appropriate stakeholders within DHS to make sure any policy decision-making processes made within DHS's authority have the right people at the table. In the case of privacy policy, a key entity is the Chief Privacy Officer and her staff. It is vitally important that they be included in these discussions and decisions. It is equally vital that the security operators be involved in the process and given an opportunity for input. Only with the right people at the table can the Department properly weigh individuals' interest in privacy against the country's interest in security of the homeland to strike the right balance.

Beyond the realm of privacy law, the review, examination and use of publicly available social media activity for intelligence purposes could also have First Amendment implications. These too must be carefully examined, with the appropriate stakeholders at the table, to properly balance individual rights and the need to protect the homeland.

#### *Civil Rights & Civil Liberties*

33. How should the Office of General Counsel work with and support the missions of the DHS Privacy Office and the Office of Civil Rights and Civil Liberties?

I believe strongly that it is vital for OGC to forge strong relationships with Privacy and CRCL. When I was at DHS, I joined the GC in working closely with the Privacy and CRCL officers and their staffs. OGC is in an organizational position to assist the oversight offices and make sure they have a seat at the table when important issues are being discussed. If I am confirmed, I plan to make sure OGC does so.

34. If confirmed, how will you ensure DHS components execute border searches in compliance with the law?

The legality of various forms of border searches has become a significant issue in recent years as the power of technology has grown. Secretary Mayorkas is focused on these issues, and I agree with him about their importance. It is vitally important for CBP to abide by the law in conducting its searches and to refrain from violating individuals' rights. If confirmed, I would work closely with the CBP Chief Counsel and our staff to make sure CBP personnel are fully informed about the contours of the law on border searches. This can be done through updated training and high-level communications to ensure the right tone is set at the top and all throughout the organization.



35. Based on your experience as a lawyer, please explain how you would work to secure the privacy of American citizens who may have to give up passwords or other sensitive information in the course of a border search?

Both at DHS and in private practice, I have devoted a significant portion of my work to issues relating to privacy. DHS is fortunate to have a robust Privacy Office, which was created by the legislation that formed the Department. Technology's many benefits bring with them new privacy challenges, and making sure we adequately protect privacy is one of the most important legal and policy issues of our time. If confirmed, I would work closely with the Privacy Office to monitor Department activities to ensure protection of individuals' privacy consistent with the law.

36. If confirmed, do you commit to ensuring that the DHS Privacy Office and the Office of Civil Rights and Civil Liberties are appropriately consulted on the review of DHS products such as guidance, protocols, and implementation memoranda?

I do. I believe it is vitally important to do so.

37. How will you balance homeland security technological advancements with individuals' privacy, civil rights, and civil liberties?

If confirmed, my primary guide in balancing the need to protect the homeland with the need to protect individuals' privacy, civil rights and civil liberties would be the law. Congress through its legislative authority, the founders through the drafting of the Constitution, and agencies through their regulatory actions, have directed us as to how to strike this balance. Where those elements are unclear, my goal would always be to find the least intrusive manner to successfully secure our country.

38. What role should the General Counsel play in developing and reviewing guidance, training, and protocols issued to frontline agents and officers regarding the proper use of border search authority?

It is very important for OGC to review any such guidance to make certain that it complies with the law.

#### *Immigration and Border Security*

39. You served in the Obama Administration during the implementation of the Deferred Action for Childhood Arrivals (DACA) initiative under the Obama administration. Can you elaborate on your views about using executive authority to craft immigration policy?

While I served at DHS when DACA was initiated, I was not involved in the conception or implementation of that initiative. As General Counsel, my role with regard to DACA or any other executive authority would be to advise my clients as to the legality of any such initiative. If confirmed and called upon to do so, I would approach this question as I would any other legal question – reviewing the law and advising my client whether a

proposed course of action complies with the law. I have not been reticent in the past when it has arisen, nor would I be if confirmed, to inform my clients that an proposal did not comply with the law if that were the case.

40. Would you be in favor of a path to citizenship for the more than 700,000 current Deferred Action for Childhood Arrivals (DACA) recipients? Why or why not?

If confirmed as General Counsel, that question would not come before me, as it is not a legal question. While I have no personal view on this policy question, I believe the President and Secretary Mayorkas have expressed the view that DACA recipients should be given a path to citizenship.

41. If you do support a path to citizenship for DACA recipients, what will your role be in advocating for this change? How do you see cases challenging DACA impacting the policy of DHS?

As noted, I don't believe I would play a role in advocating for this change, if confirmed. With regard to how cases challenging DACA impact the policy of DHS, I believe they do so in two ways: First, if the Department loses such a case, it must comply with any judicial order. Second, if the Department considers any changes to DACA, as part of that consideration, it must take into account whether such changes are legal and whether a court of law therefore would overturn such a policy.

42. Do applicants for asylum in the United States who claim threats from past or present criminal activity or association (including gang membership); presence in a country with generalized violence or a high crime rate; being the subject of a recruitment effort by criminal, terrorist, or persecutory groups; or the threat of criminal activity for financial gain based on perceptions of wealth qualify for asylum?

I have not studied this question or the law behind it, and I currently do not have the benefit of DHS's or DOJ's analysis of these questions. If confirmed, I would be happy to review these materials and provide you with a response.

43. If confirmed, will you ensure the Department defends the use of technology and tools, including border surveillance technology, that our frontline Border Patrol and Office of Field Operations agents need to use to secure the border against national security threats?

It is the duty of the General Counsel and his or her staff to defend DHS's actions when challenged. If the Border Patrol or the Office of Field Operations are challenged in their use of border search authority, I would work with the Justice Department to defend those activities and policies in court, as would be my duty if I am confirmed.

44. The Supreme Court recently held in *Niz-Chavez v. Garland* that the Department must provide aliens hearing times and dates in their "Notices to Appear" (NTAs, the charging documents in removal proceedings) to bar them from accruing additional presence in the United States for cancellation of removal under section 240A(b) of the Immigration and

Nationality Act (INA). If you are confirmed, how will you ensure that DHS follows the Supreme Court's recent ruling regarding the specificity of NTAs?

If I am confirmed, first, I would review the *Niz-Chavez* case to fully understand its requirements and the obligations it imposes on DHS. Second, I would consult with OGC's immigration law division, ICE's Office of the Principal Legal Advisor, and any other OGC offices charged with ensuring DHS compliance with the ruling in order to learn what DHS is already doing to come into compliance. Upon completing this review and consultation, if I conclude that we are either not doing enough to come into compliance or are not doing so sufficiently quickly, I would immediately develop a plan to do so, and would be pleased to report to the Committee on that plan and its progress.

#### *Narcotics*

45. Do you believe that our nation's ports of entry have adequate resources and manpower to prevent the illegal flow of drugs, contraband, and individuals posing security threats into this country?

I have not had an opportunity to review this policy and appropriations issue. As a private citizen, I do not currently have the information and data necessary to make that analysis. Moreover, if confirmed, I as General Counsel would not be charged with managing this issue as it is not a question of law.

46. How best can DHS work to decrease the amount of drugs coming across the United States borders and into local communities?

This is not a question that the General Counsel would be tasked to address. However, coming from the State of Ohio, a state that has been particularly beset by illegal drug problems, I can tell you that I think it is vital to the health of our country to reduce the availability of illegal drugs in our country.

47. Do you support the ability of the Department of Justice to permanently schedule fentanyl analogues as Schedule I? Can you discuss how this may impact law enforcement activities by DHS?

I do not have a view on these policy issues and do not have sufficient information to develop an informed view. If confirmed as DHS's General Counsel, this issue would not come before me. However, in addition to my response to the prior question, I spent six years working for the Crime and Drugs subcommittee of the U.S. Senate Judiciary Committee, in the employment of the Senator who was the long-time leader of the Senate Caucus on International Narcotics Control. I have seen up close the importance of the proper scheduling of dangerous drugs, as well as the need for strong, smart law enforcement work to reduce the drug problem across America.

#### *Human Trafficking*

48. What should the role of DHS be in combatting human trafficking and identifying trafficking victims by CPB and ICE?

Again, these operational questions are not ones that would come before the General Counsel of DHS, except to the extent that they raise questions of legality. However, I know from my prior experience at DHS, as well as my other government service, that human trafficking is a stain on our country and our society. It is hard to conceive of an activity more condemnable and tragic than the trafficking of another human being. I personally believe that DHS should do all within its power and authority to erase this stain and eliminate this horrible activity.

#### *Whistleblower Protections*

49. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.

- a. What role do you believe the Office of General Counsel should play in protecting whistleblowers at DHS?

The Office of General Counsel is one of the most important components for preserving and protecting the rights of whistleblowers. OGC must be vigilant in serving this role, and must cooperate with OIG, the Office of Special Counsel and other whistleblower-protecting entities as they do their work to respond to whistleblower complaints. Where necessary and appropriate, OGC should advise its clients regarding whistleblower rights and make sure they are preserved and protected.

- b. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

In my time at DHS, I regularly was asked to address matters relating to whistleblower complaints. I made it a priority to cooperate with the relevant entities investigating the complaints and directed the OGC staff to cooperate with any investigations, and not to retaliate against the complainants. I also made sure our attorneys advised their clients on the requirement not to retaliate against whistleblowers. The General Counsel, the rest of OGC leadership and I set the tone and made it clear that not only was support for whistleblowers a legal requirement, but it was also the right thing to do.

- c. If confirmed, what steps will you take to ensure that whistleblower complaints are handled appropriately at DHS?

As noted, I believe it is up to the General Counsel to set the tone and send the message that whistleblowers must and should be protected and respected. If confirmed, I would send that message from day one. Upon arrival at the Department, I would investigate the current status and actions with regard to whistleblower complaints and take any action necessary to make sure we are complying with the law and doing the right thing.



- d. If confirmed, what steps will you take to ensure whistleblowers at DHS do not face retaliation, whistleblower identities are protected, and complaints of retaliation are handled appropriately?

I would take the steps described above. In addition, I would secure good lines of communication with OIG, OSC, Capitol Hill and other whistleblower protection entities to make sure we are assisting them with their investigations and complying with their requirements.

*Cooperation with Inspectors General*

50. What is your view of the role of the DHS Office of Inspector General (OIG)? Please describe what you think the relationship between the DHS Office of General Counsel and the OIG should be. If confirmed, what steps would you take as General Counsel to establish a working relationship with the Inspector General?

OIG is an important element of the Department of Homeland Security. It is unique in its autonomy and its ability to conduct objective audits and investigations relating to waste, fraud and abuse. The relationship between OIG and OGC is key for components. It must be arm's length – in order to preserve OIG's autonomy – but it must be supportive and collegial. OGC must work to support OIG's efforts where necessary, while not trying to control it.

I have met IG Joseph Cuffari several times through my work on the Biden-Harris transition. We have developed a respectful and collegial relationship. If confirmed, I would look to reinforce that relationship, making clear to the IG that OGC respects his role and is available to assist if called upon. I would also act to make sure the Department responds timely and appropriately to any requests from OIG and to its recommendations to the Secretary.

51. What do you believe are the Department's responsibilities for complying with requests from the DHS OIG?

The Department has an obligation, both legal and ethical, to comply with DHS OIG requests. Doing so is not only the right thing and a legal obligation, but it also serves to improve the functioning of the Department.

- a. What do you see specifically as the General Counsel's role in complying with OIG requests?

As the arbiter of the Department's legal authorities and obligations, the General Counsel must advise the Secretary and the Department on their obligation to comply with requests from OIG. Moreover, the GC should set an example for such compliance by making sure that OGC leads the Department in such compliance.

- b. Do you believe there are lawful reasons to withhold documents from the OIG, and if so, what are they?

I believe it is the duty of the Department to cooperate with OIG in whatever way it can and to find ways to get to OIG the information it needs to do its job. I am not aware of any basis to withhold documents from OIG.

52. If confirmed, do you commit to ensuring all recommendations made by the DHS Inspector General to DHS are reviewed, responded to, if necessary, and, unless the agency justifies its disagreements with the recommendations, implemented to the fullest extent possible within a reasonable time period?

I do.

53. If confirmed, do you commit without reservation to ensuring DHS OIG receives timely access to agency records and to interview agency employees?

I do.

54. If confirmed, what steps will you take to ensure all DHS offices and employees cooperate fully and promptly with OIG requests?

OGC is one of OIG's primary interlocutors as it conducts its business. If confirmed, I would work to strengthen OGC's relationship with OIG and to work hand in glove with OIG to help it accomplish its goals and serve its mission. As necessary, I would communicate with components to educate them on the obligation to cooperate with OIG.

#### *Cooperation with GAO*

55. What do you believe are the Department's responsibilities for complying with requests from the Government Accountability Office (GAO)?

The Department has an ethical and legal obligation to cooperate and comply with GAO requests. Doing so is a legal obligation, it is the right thing to do, and it serves to improve the functioning of the Department and conserve taxpayer resources.

- a. Do you believe there are lawful reasons to withhold documents from GAO, and if so, what are they?

As a general matter, DHS employees should avoid withholding documents from GAO whenever possible. However, I understand that there are certain statutory provisions that authorize withholding such materials, including: (a) documents exempted from disclosure to the Comptroller General by statute; (b) documents the President designates as relating to foreign intelligence or counterintelligence activities; (c) certain deliberative process documents; and (d) certain law enforcement materials. The latter two categories must be certified by the Director of OMB or by the President.

- b. As General Counsel, how will you ensure that the relationship with GAO is a constructive one?

If confirmed, I intend to seek a meeting with GAO to develop a communicative relationship with the Office and to find out what I can do to improve the Department's responsiveness to GAO's requests.

56. If confirmed, do you commit without reservation to ensuring GAO receives timely, comprehensive responses to requests to DHS and its components for information, including for records, meetings, and information?

I do.

57. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?

I do.

58. If confirmed, what steps will you take to ensure all DHS offices and employees cooperate fully and promptly with GAO requests?

If confirmed, I would make clear to the components that they should prioritize responding to GAO, that the Department has legal obligations to cooperate with GAO, and the Department benefits from GAO's work.

#### *Office of Special Counsel*

59. What do you believe are the Department's responsibilities for complying with request from the Office of Special Counsel (OSC)?  
The Department has a responsibility to cooperate with the work of the Office of Special Counsel and to assist it in gathering the information it needs to do its work.

- a. Do you believe there are lawful reasons to withhold documents from OSC, and if so, what are they?

I understand that executive branch entities have withheld documents from OSC on the basis of attorney-client privilege, and that such claims have been challenged by OSC. I do not recall ever encountering that issue in my time in government service and have not had an opportunity to evaluate the issue and develop my own view on it.

- b. As General Counsel, how will you ensure that the relationship with OSC is a constructive one?

I would reach out to OSC leadership and ask them how DHS can do more to assist them. I know some of the leadership of OSC, so I believe I can forge a strong relationship of trust with them. Moreover, I would instruct OGC and communicate with the components to make sure they are doing what they can to assist OSC in its duties.

*FOIA*

60. The Freedom of Information Act (FOIA) plays a critical role in ensuring the integrity of our government and the vitality of our democracy. If confirmed, what will you do to ensure that the Department, and all of its component agencies, properly and efficiently comply with FOIA?

I would make FOIA compliance a priority. The Chief Privacy Officer of DHS is also the Chief FOIA Officer. Lynn Parker Dupree is serving in those positions and I intend to do what I can to assist her in her role, if I am confirmed. We have worked together before, and I believe our partnership would be very productive. When I served at DHS, I took part in the creation of a new process for FOIA response review and approval, streamlining it and eliminating opportunities for FOIA responses to be manipulated for political reasons.

61. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a FOIA request?

Yes.

**V. Relations with Congress**

62. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if confirmed?

I do.

63. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if confirmed?

I do.

64. Under what circumstances, if any, do you believe an official or employee of the Department may decline to testify before a congressional committee? Please explain.

As a general matter, an official or employee of the Department should always be prepared to testify before a congressional committee. When I served at DHS, a Congressional committee asked me to testify. Traditionally attorneys in the Office of the



General Counsel do not testify before Congress barring extraordinary circumstances. However, we determined that we should disregard that reticence and I testified willingly.

There can be circumstances when an employee of DHS might decline to testify, such as to preserve his or her Fifth Amendment rights, or if the testimony relates to a pending law enforcement investigation, but even in such circumstances, the Department should endeavor to find ways to convey to Congress information that it needs to conduct oversight and legislate.

65. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if confirmed?

I do.

66. If confirmed, how will you make certain that you will respond in a timely manner to Member requests for information?

I have always made oversight response a priority. When I was charged with overseeing this area at DHS in the past, we were able to improve the Department's response time by 60% even as the volume of incoming requests doubled. If confirmed, I would look to renew the Department's efforts in this direction, to meet and exceed that standard going forward.

67. Will you commit to ensuring that the Office of General Counsel has sufficient personnel to respond to congressional document requests and facilitate the internal review process to ensure the timely delivery of materials to Congress?

From my time running oversight response at DHS, as well as my time conducting oversight on Capitol Hill, I appreciate the value of making sure a Department has adequate resources to fulfill its obligation to respond to Congressional oversight. If confirmed, I commit to you that I would ensure that OGC has sufficient personnel and resources to respond to Congressional oversight in a timely manner.

68. In the course of responding to a congressional request, will you commit to providing documents and opportunities for briefings simultaneously to both the Chairman and the Ranking Member?

Yes. That was our policy when I conducted Congressional oversight response at DHS in the past, and I will continue to abide by it.

69. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

Yes.

**VI. Assistance**

70. Are these answers your own? Have you consulted with DHS or any other interested parties? If so, please indicate which entities.

Yes, these answers are my own and I am responsible for the content of all of the responses. I drafted them myself, relied on my own knowledge and experience, and have received comment from appropriate DHS staff, which I was free to incorporate or reject.

I, Jonathan E. Meyer, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



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This 20<sup>th</sup> day of May, 2021

**Ranking Member Rob Portman  
Post-Hearing Questions for the Record  
Submitted to Jonathan E. Meyer**

**Nominations of John K. Tien to be Deputy Secretary, DHS;  
Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and  
Jonathan E. Meyer to be General Counsel, DHS  
Thursday, May 27, 2021**

1. If confirmed, what role do you see the General Counsel's office having in defining the parameters on issues like civil rights, civil liberties, and privacy as DHS addresses domestic violent extremism?

The primary role of OGC, on this issue as others, is to inform the Department what the law requires, as well as what it authorizes. In this context, that will often mean balancing the need to exercise law enforcement authorities to secure the country against threats on the one hand, with protecting individuals' rights on the other. In addition, OGC can and should work to bring all the right stakeholders to the table for discussion on these issues, including working hand-in-glove with policy-making and operational components of the Department. This means ensuring that the Office for Civil Rights and Civil Liberties and the Privacy Office, as well as all the relevant law enforcement and counter terrorism components and offices, participate in policy development.

2. What are the critical legal questions DHS needs to clarify to ensure it is effective in addressing domestic threats?

As I am not currently at the Department, I cannot yet fully answer this question. If I am confirmed, I would make it a priority to learn what legal difficulties the Department is currently encountering in its attempt to address domestic threats. From my current standpoint as a private citizen, I believe that some of the key legal questions center on how domestic threats legally differ from foreign or international threats, the key statutory frameworks protecting civil rights and civil liberties, including the First Amendment, how they intersect with Departmental authorities to address and prevent terrorism, and whether any legal definitions relating to counterterrorism need revisiting by Congress or the Department.

3. If confirmed as the chief legal advisor for the Department and to the Secretary, would you advise that DHS should or should not conduct domestic surveillance by monitoring individuals' social media activity?

If confirmed, my advice would focus on what is required and permitted by the law, guided by the principle of protecting individuals' First Amendment rights and other civil rights and civil liberties, while securing the country against threats.

**Senator James Lankford  
Post-Hearing Questions for the Record  
Submitted to Jonathan E. Meyer**

**Nominations of John K. Tien to be Deputy Secretary, DHS;  
Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and  
Jonathan E. Meyer to be General Counsel, DHS  
Thursday, May 27, 2021**

*Parole Authority*

- 1) The Immigration and Nationality Act places significant constraints on the Secretary's discretion to exercise parole authority. INA 212(d)(5)(A) states: "The [Secretary of Homeland Security] may [...] in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." Do you believe that the statutory guidelines around the Secretary of Homeland Security's discretionary parole authority allow for this authority to be applied to categories or classes of migrants?

I have not studied these issues regarding parole in great detail, and I do not currently have at my disposal the many resources the Department has that might help me conduct this analysis. However, I do believe that parole determinations are and must be made on a case-by-case basis in accordance with the law. If confirmed, I will make it a priority to obtain a briefing on these issues.

If confirmed, what steps will you take to ensure that the Secretary's parole authority will be exercised within the statutory constraints?

If I were confirmed, I would meet with immigration law experts in the immediate office of the General Counsel, the Immigration Law Division, the Office of the Principal Legal Advisor at ICE, and the Chief Counsel's offices at USCIS and CBP to develop a unified, correct understanding of parole authority, and then advise the Department accordingly.

- 2) While Congress has included language regarding parole-in-place in the FY2020 National Defense Authorization Act, Congress also limited that concept's application to military families only. Do you believe that the concept of parole-in-place may be applied to individuals, categories, or classes of migrants beyond what was specified in the FY2020 NDAA?

The application of parole-in-place must always comply with the law, as stated in the FY2020 NDAA, the Immigration and Nationality Act, and elsewhere. If I were confirmed as General Counsel of DHS, it would be my duty to ensure that that occurs.



- 3) Do you believe that the use of parole-in-place is appropriate absent explicit Congressional authorization?

Any application of parole-in-place must comply with the law. If a statute duly enacted by Congress prohibited a particular use of parole-in-place, I would so inform Department leadership.

- 4) Can you please share with the Committee your interpretation of the phrase “parole into the United States” under INA 212(d)(5)(A)?

I do not currently have at my disposal the many resources the Department has that might help me conduct an analysis of that technical immigration statute. However, if confirmed, I would start with the language of the statute, review relevant regulations and court cases, and consult with the DHS immigration attorney specialists to develop my understanding of the statute. If confirmed, I will make it a priority to obtain a briefing on this issue.

Do you believe that this phrase limits the Secretary’s authority to exercise his parole authority for individuals who are already present in the United States?

I do not have the knowledge or access to the resources currently to have a belief that is responsive to this question. As I have noted in our courtesy visit and elsewhere, I believe an attorney advising a client on the meaning of the law must begin that analysis from an objective position, without a specific outcome in mind. If confirmed, I would review this question closely.

#### *Impoundment Control Act*

- 5) President Biden has paused construction of the border wall through Presidential Proclamation 10142. As you are aware, Congress appropriated over \$3 billion in the FY2020 and FY2021 Department of Homeland Security appropriations bills. If confirmed, you would serve as the Department’s chief legal officer and the senior legal advisor to the Secretary of Homeland Security.

Do you believe that the suspension of border wall construction as directed by Presidential Proclamation 10142 constitutes a violation of the Impoundment Control Act?

I understand that the Impoundment Control Act generally addresses the question of the obligation of appropriated funds. However, I have not previously had occasion to study the specific contours of this Act. Nor have I had access to the legal analysis that DHS OGC or other Administration lawyers presumably conducted to determine that Presidential Proclamation 10142 was legal. If I were confirmed as General Counsel, I would be happy to review these materials and any other relevant statutes and precedents and conduct such an analysis.

#### *Abortion*

- 6) U.S. Immigration and Customs Enforcement’s (ICE) National Detention Standards specify that ICE will only pay for an abortion if the life of the mother would be

endangered by carrying a fetus to term, or in the case of rape or incest. In all other circumstances, the detainee bears the cost of terminating the pregnancy. In all instances, ICE arranges transportation to the medical appointment at no cost to the detainee and, if requested, to religious or social counseling.

Will you commit to keeping this policy in place and enforcing it to ensure that taxpayer dollars are not funding abortions, including abortions for individuals in detention?

If I am confirmed as General Counsel, my duties will be focused on compliance with the law, not policy making. However, I would take responsibility for ensuring that any policy decisions made in this area comply with the law.

- 7) Congress has continued to maintain the Hyde Amendment on a bipartisan basis each year in annual funding bills since 1976. If confirmed, will you continue to uphold and enforce the restrictions of the Hyde amendment – that no federal funding can pay for abortions except in the case of rape, incest or to protect the life of the mother – as enacted by Congress?

Like any other law, it will be my duty to ensure that DHS complies with the Hyde Amendment so long as it remains law.

#### *Section 315 Authority*

- 8) The Department's authority under 40 U.S.C. § 1315 allows for the deployment of DHS personnel for the protection of Federal real property and personnel. The statute allows for certain authorities "including duty in areas outside the property to the extent necessary to protect property and persons on the property." Additionally, agreements are often entered into place between other branches. For example, the U.S. Marshal Service has authority to protect the Judicial Branch, but its standard operating procedures allow for the Federal Protective Services to be in Federal judicial buildings to supplement security.

How do you view the application of this authority to coordinate the protection of Federal employees and real property?

I believe DHS and other entities should utilize their authorities, including 40 U.S.C. § 1315, to do what is necessary to protect federal buildings, including coordination with other agencies where legal and appropriate.

#### *Faith-Based Partnerships*

- 9) A report from the Obama administration in 2010 reinforced the importance of faith-based partnerships. Among the recommendations put forward in the report was to draw *more* on the local expertise and relationships of faith-based organizations as a way of filling gaps in the provision of essential services. Faith-based organizations are excellent, effective, and efficient at meeting the needs of our most at-risk populations. The report also highlighted the need to ease overly-burdensome reporting and regulation requirements

placed on social service agencies. Do you agree that it is important to continue pursuing ways to engage and expand faith-based partnerships as a way of effectively addressing some of the most critical social service needs in our country?

As the son, brother and brother-in-law of rabbis, and the son, brother, brother-in-law and husband of seminarians, I believe strongly in the value of faith and faith-based institutions. Partnering with such institutions is, in my view, a valuable part of the DHS mission. I agree that it is important to continue pursuing ways to engage and expand faith-based partnerships to assist the DHS mission.

- 10) The Supreme Court has, in multiple decisions, reiterated that religious organizations cannot be discriminated against in the distribution of a public benefit for which they otherwise qualify because of their religious beliefs or identity. Will you commit to ensuring that no policy of your Department will disqualify a religious organization from receiving aid or participating in grant programs simply because of the organization's religious beliefs or because the organization receives statutory protections for religious freedom like those in Title VII and Title IX?

I have followed the Supreme Court's jurisprudence in this area, as well as that of lower courts. If I am confirmed, it will be my duty to ensure that DHS complies with the law as written by Congress, framed in the Constitution, and adjudicated by the courts.

- 11) An important part of prompting and expanding faith-based partnerships is providing clarity on the legal obligations that will be expected of faith-based organizations when they partner with the government. Title VII of the Civil Rights Act of 1964 protects the ability of religious organizations to hire employees that support its religious beliefs and mission. Do you agree that it is both logical and appropriate that religious organizations should be able to hire employees that support the religious mission and beliefs of the organization?

Yes.

Do you agree that it is inappropriate for the Federal government to dictate to a house of worship or a religious organization what tenets of the faith should be observed?

Yes.

Will you commit to ensuring that any nondiscrimination policy implemented by your agency will reinforce the hiring protections that Congress has passed in Title VII for religious organizations?

If confirmed, I will work to ensure that DHS complies with the hiring protections that Congress has passed in Title VII.

**Senator Josh Hawley  
Post-Hearing Questions for the Record  
Submitted to Jonathan E. Meyer**

**Nominations of John K. Tien to be Deputy Secretary, DHS;  
Robert P. Silvers to be Under Secretary for Strategy, Policy, and Plans, DHS; and  
Jonathan E. Meyer to be General Counsel, DHS  
Thursday, May 27, 2021**

1. Do you believe that when Congress appropriates funds for a federal program, the relevant federal agency is responsible under the law for obligating those funds?

I have not studied this matter, and do not currently have access to the legal expertise on this issue that is found within the General Law Division of the Office of General Counsel. In general, I believe it is the case that when Congress appropriates funds for a federal program, the law requires that they be obligated. I have not yet studied any potential exceptions to that generalization. If confirmed, I will make it a priority to obtain a briefing on this issue.

2. In a spending package passed last December, Congress appropriated and enacted into law nearly \$1.4 billion to be used specifically for the border wall system. Yet on his first day in office President Biden suspended construction of the border wall system. In fact, his exact instructions were to “pause work on each construction project on the southern border wall.” Do you believe that President Biden violated the law when he suspended these construction projects?

I have not studied this issue, and do not currently have access to the expertise necessary to reach a conclusion. If confirmed, I commit to ensuring the Secretary and the Administration have accurate and timely counsel regarding the legality of policy proposals relating to the Department.

3. On May 10<sup>th</sup> it was reported that DHS, through the Office of Intelligence & Analysis, is implementing a new strategy to analyze intelligence from public social media posts to build a type of warning system to detect violent events based on “narratives” or “grievances” online. What is your view of this government monitoring of social media?

As I am not yet serving in the Department, I do not know the details of this policy or the legal justification offered for it. I do know from my time at DHS that government review and monitoring of some social media has taken place for years, while other forms of social media monitoring have in the past been rejected as either illegal or inappropriately invasive of individual privacy. If confirmed, I will work with operational, intelligence, and other components to ensure that Departmental programs do not infringe on individuals’ First Amendment rights or on other civil rights and civil liberties, while ensuring the Department has sufficient legal authorities to safeguard the country against threats.

4. Do you believe this type of warning system risks chilling free speech or other First Amendment-protected activities?

Yes, I believe that risk exists. It is therefore critically important that, among other oversight, the General Counsel carefully evaluate any social media monitoring program for legality and authorization, including whether it violates any individual Constitutional or statutory rights. If confirmed, I commit wholeheartedly to undertaking this evaluation.

5. If confirmed, how will you work to ensure that this program does not bias against conservative “narratives”? For example, will you work to ensure that “narratives” such as skepticism of open-borders policy is not flagged as an area of concern by DHS intelligence?

If confirmed, I will. In my view, any such monitoring must be risk based and not viewpoint focused. The sole criterion in determining whether an individual or entity poses a danger must be the objective risk of harm rather than viewpoints on one side or another. This is not just a policy view; it is a way to ensure compliance with the law.



1 University Drive • UPO-781 • Campbellsville, Kentucky 42718 • tel 270.789.5001 • fax 270.789.5020  
Office of the President

May 4, 2021

Honorable Rand Paul  
United States Senator  
167 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Paul:

I am writing to offer words of support for Mr. Jonathan Meyer who has recently been nominated by President Joe Biden to serve as General Counsel for the United States Department of Homeland Security.

Working with others at Campbellsville University, I have had the opportunity to work with Mr. Meyer over the past couple of years in his current capacity as an attorney with the firm of SheppardMullin. He has provided excellent guidance to the University on a number of issues of importance to our academic programming. In 2019 he joined CU Provost Dr. Donna Hedgepath on Capitol Hill at a hearing of the United States Department of Homeland Security and Governmental Affairs Committee at which you questioned the Acting Secretary of USDHS on several matters, including some concerns that CU students had experienced.

Our experience in working with Mr. Meyer indicates that he is an ethical attorney who puts the law above ideology and politics. He has a record of a dedicated public servant who is able to work across party lines and to fulfill the obligations of public service with honor and integrity.

I encourage your support of Mr. Meyer's confirmation to serve as General Counsel for the United States Department of Homeland Security. Thank you for your consideration of Mr. Meyer's nomination.

Sincerely,

H. Keith Spears  
Interim President  
Campbellsville University

April 27, 2021

Chairman Gary C. Peters and  
Ranking Member Rob Portman  
U.S. Senate Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

RE: Endorsement of Jonathan Meyer

Dear Chairman Peters and Ranking Member Portman:

We are writing to encourage the Committee to endorse the nomination of Jonathan ("Jon") Meyer to be the General Counsel of the Department of Homeland Security (DHS). We are former General Counsels of DHS, both Democrats and Republicans, who have either worked closely with Jon during his prior service at the Department or have come to know him in other professional settings.

Jon is an exceptionally talented, highly ethical lawyer with a broad array of senior legal experience in both the public and private sectors. His public service includes five years with DHS, as well as prior work in both chambers of Congress for Members of both parties, including as a Counsel to Senator Joe Biden on the staff of the Senate Judiciary Committee. He has also served as a Deputy Assistant Attorney General for Legal Policy at the Justice Department, and as a Special Deputy General Counsel for Amtrak. Jon is a seasoned and accomplished public servant who would undoubtedly be an outstanding candidate for a number of senior positions in the new Administration.

We believe, however, that Jon's extensive experience within the Department's Office of the General Counsel (OGC)—Deputy General Counsel from 2013 to 2016, and Senior Counselor to the General Counsel from 2011 to 2013—would make him uniquely able to "hit the ground running." Jon would not only bring deep experience with the legal and institutional issues facing the Department, he would also have the advantage of having previously worked with many of the senior career lawyers within OGC. And not only does Jon know them, they already know and respect him—both as an outstanding and diligent lawyer and as a wise and effective leader.

In his role as Deputy General Counsel, Jon oversaw hundreds of lawyers in various components and divisions of the Department, including the chief counsel's offices of TSA, the U.S. Secret Service, and FEMA, as well as Headquarters OGC divisions responsible for litigation, science and technology, and intelligence law issues. Jon is a strong and effective leader and manager, notable during his time at DHS OGC for his energetic recruitment and mentorship of less experienced attorneys, including a number of diverse junior attorneys whose careers Jon helped advance.



DHS is still a relatively young federal agency with a complex structure and critical, wide-ranging security and law enforcement functions. It will take time for someone unfamiliar with the structure and dynamics of the Department to make progress. Jon Meyer, however, is superbly well positioned to know what needs to be done from day one, and he has the talent, experience, personal character, and judgment to be successful.

We enthusiastically endorse your favorable consideration of Jon Meyer to be confirmed by the U.S. Senate for the position of General Counsel of DHS.

Sincerely,



Stevan E. Bunnell  
DHS General Counsel (2013-2017)



Ivan L. Fong  
DHS General Counsel (2009-2012)



John M. Mitnick  
DHS General Counsel (2018-2019)



Joe D. Whitley  
DHS General Counsel (2003-2006)

*United States Senate*

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

*Committee on Homeland Security and Governmental Affairs*

*Carl Levin, Chairman*

*Tom Coburn, Ranking Minority Member*

**FEDERAL SUPPORT FOR AND  
INVOLVEMENT IN STATE AND LOCAL  
FUSION CENTERS**

**MAJORITY AND MINORITY  
STAFF REPORT**

**PERMANENT SUBCOMMITTEE  
ON INVESTIGATIONS  
UNITED STATES SENATE**



October 3, 2012

that has been committed to the DVIC project since 2006.<sup>340</sup> According to SEPARTF, the DVIC will employ over 130 personnel in a 24-hour-a-day, 7-days-a-week operation.<sup>341</sup>

In September 2009, a FEMA grant officer visited SEPARTF to conduct a grant monitoring site visit.<sup>342</sup> Despite FEMA's multi-million-dollar obligations to the center over a three-year period, the FEMA officer did not visit the actual location of the DVIC as part of the site visit. FEMA could not conduct a site visit of the fusion center itself, because despite years of grant funding, the center did not physically exist.

In 2009, the FEMA officer reviewed the promises the task force had made regarding the progress it would make on DVIC in 2008, when FEMA had awarded it \$2.6 million.<sup>343</sup> The FEMA officer determined that no progress had been made on any of them — including what may have been the most fundamental: “Establish the DVIC facility and provide contractors and staff to operate the fusion center.”<sup>344</sup> Three years and \$11 million in obligations, yet the center did not exist.

“Milestones shows [sic] zero progress,” the official noted in the 2009 monitoring report, but appeared to excuse the task force's inaction. “When the monitoring was conducted it was very early in the Grant cycle and the Grantees and Sub-recipients were in the process of ob[li]gating funds and initiating projects.”<sup>345</sup> Despite finding no progress in 2009, FEMA continued to direct funding to the project in 2010 and 2011.<sup>346</sup>

In October 2011, a FEMA official conducted the next site visit to Philadelphia.<sup>347</sup> This monitoring visit took place five years after FEMA's initial grant to DVIC in 2006. By that time, the Commonwealth of Pennsylvania had frozen the FEMA grant funds it held that were intended for the center, because of concern that the local officials in charge of the project were planning to improperly spend millions in FEMA funding to refurbish and equip an old industrial building to house not only DVIC, but an even larger criminal intelligence center for the Philadelphia Police Department. FEMA grant guidance and Federal law prohibit the use of grant funds for construction.<sup>348</sup> In addition, expenditures for non-fusion center needs would have gone against the task force's promises to use the funds exclusively for the fusion center.<sup>349</sup> State officials were

<sup>340</sup> DVIC Funding Overview, SEPARTF; PSI-PEMA-05-0090.

<sup>341</sup> Response to Subcommittee questionnaire (7/23/2010), Delaware Valley Intelligence Center, PSI-Delaware Valley Intelligence Center-01-0001.

<sup>342</sup> The task force is a subgrantee of the state of Pennsylvania; it receives, allots and spends FEMA grant funds for the Philadelphia region.

<sup>343</sup> “Philadelphia Urban Area FY 2009 Monitoring Report” (9/17/2009), FEMA, at 21; DVIC Funding Overview, SEPARTF; PSI-PEMA-05-0090.

<sup>344</sup> “Philadelphia Urban Area FY 2009 Monitoring Report” (9/17/2009), FEMA, at 21.

<sup>345</sup> Id.

<sup>346</sup> “Programmatic Monitoring Report, Pennsylvania – Philadelphia Area, HSGP/UASI” (10/18/2011), FEMA, DHS-HSGAC-FC-059194; Grant Agreement Between PEMA and SEPARTF for FEMA FFY 2010 UASI funds, (6/10/2011), at 37; “FY2011 HSGP Investment Justification: Fusion Center Addendum,” at 2.

<sup>347</sup> “Programmatic Monitoring Report, Pennsylvania – Philadelphia Area, HSGP/UASI” (10/18/2011), FEMA, DHS-HSGAC-FC-059194.

<sup>348</sup> 6 U.S.C. § 609 (b)(4).

<sup>349</sup> Correspondence from Christopher F. Wilson, Pennsylvania Governor's Office of General Counsel, to Edward Atkins, Chair, Southeastern Pennsylvania Regional Task Force (9/15/2011), PSI-PEMA-05-0003. The

so concerned they told SEPARTF that they would not reimburse any construction costs related to the DVIC until FEMA granted a waiver to do so.

FEMA officials were aware of these concerns at the time of the visit – indeed, according to state officials, FEMA shared their doubts.<sup>350</sup> Specifically, FEMA officials knew that project officials planned to use FEMA grant funds to pay for building renovations, which was explicitly barred by FEMA grant guidelines.<sup>351</sup> Just a few weeks earlier, local officials had written FEMA asking for an “immediate and favorable” decision to waive that restriction so that the project “may proceed along its current promised timeline.”<sup>352</sup>

Despite local officials’ efforts to get around FEMA spending restrictions and allocate millions of taxpayer dollars to disallowed construction and renovation costs, the FEMA monitoring report from the October 2011 visit contained no particular criticisms or sense of urgency regarding the fusion center. For instance, the report form asked: “During the course of the programmatic Site Visit, were there indicators of possible non-compliance with grant

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Subcommittee investigation discovered that a DHS official, Joseph Liciardello, served as one of the DVIC project’s managers, outside of his professional capacity as a DHS employee. (“I am the Co-Lead on the [DVIC] Project Management Team.” Email from Joseph Liciardello to ISC@DHS.gov, “Subject: Request for documents” (9/23/2010), DHS-HSGAC-FC-020104.) He assisted in crafting documents and providing advice for the project and seemed to be counseling the project on how to recharacterize construction costs they intended to cover using grant funds: (“I . . . am handling the lease negotiations for the DVIC for most of the week.” Email from Joseph Liciardello to Kurt Bittner, “Subject: RE: DVIC – Siemens Contact Information,” (10/11/10), DHS-HSGAC-FC-022630; “We cannot reference construction so I added ‘or additional funding as necessary’ to . . . the enhanced lease payment clause.” Email from Joseph Liciardello to Evalyn Fisher, “Subject: FW: DVIC Lease” (10/5/2010), DHS-HSGAC-FC-024159; “As to the request for a change from SEPARTF ‘construction’ to ‘requirements[.]’, it is necessary because of restrictions found in the grant guidance concerning allowable costs.” Email from Joseph Liciardello to Douglas Kubinski, “Subject: RE: DVIC Intergovernmental Cooperation Agreement between the City and Task Force” (2/17/2011), DHS-HSGAC-FC-023663).

In interviews with the Subcommittee, Mr. Liciardello said he never referred to himself as a project lead for DVIC, and that his role was “administrative,” and “assistance.” He said he was versed in the lease process but only because he was a “referee” between the parties. Subcommittee interviews of Joseph Liciardello (10/31/11 and 11/2/11).

The Subcommittee was unable to confirm the extent of Mr. Liciardello’s role in the project, in part because DHS did not produce all emails from his account related to his extra-professional involvement the project. In a written explanation, the Department stated, “our technological representatives were unable to access” emails from May and June 2011. Response to Subcommittee inquiry (8/17/2012), DHS, DHS-HSGAC-FC-059294.

<sup>350</sup> “Issues were first raised regarding the construction issue in late February 2011,” PEMA officials told the Subcommittee. “They rose to DHS’ level . . . we have an April 26, 2011 note from Dennis Donehoo [of FEMA] requiring a [construction] waiver.” Subcommittee interview of Pennsylvania Emergency Management Agency officials (11/14/2011).

<sup>351</sup> “The Federal Emergency Management Agency (FEMA) has asked PEMA for the status of the construction/renovation waiver as Federal guidance requires such a waiver . . . . PEMA will be unable to reimburse the SEPARTF for any expenditure related to the DVIC until such a time that SEPARTF submits a construction/renovation waiver to PEMA and that waiver is consequently approved by FEMA[.]” Correspondence from Christopher F. Wilson, Chief Counsel, Governor of the Commonwealth of Pennsylvania, to Ed Atkins, Chairperson, Southeastern Pennsylvania Regional Task Force (9/15/2011), PSI-050-0004.

<sup>352</sup> Correspondence from Edward J. Atkins, Chairman, Southeastern Pennsylvania Regional Task Force, to Dennis Donehoo, Program Analyst, FEMA (9/26/2011), PSI-PEMA-05-0012. FEMA did not grant the waiver.

## VII. RECOMMENDATIONS

- **Congress should clarify the purpose of providing federal monetary and other support for DHS's fusion center efforts.** The Subcommittee's investigation could not verify that the statutory basis for DHS's involvement in fusion centers – to strengthen federal counterterrorism efforts – was reflected in the department's efforts. Congress should require DHS to conform its efforts to match its counterterrorism statutory purpose, or redefine DHS's fusion center mission.
- **DHS should reform its intelligence reporting efforts at state and local fusion centers to eliminate duplication.** DHS reporting from fusion centers duplicates – often poorly – better intelligence-sharing processes undertaken by other agencies. The Joint Terrorism Task Forces receive threat-related information; the National SAR Initiative shares suspicious activity reports from state and locals; and the Terrorist Screening Center gathers information on state and local officials' interactions with individuals in the National Counter Terrorism Center's TIDE database.
- **DHS should improve its training of intelligence reporters.** DHS must ensure that any DHS personnel engaged in reporting intelligence information from within the United States be adequately trained and certified to prevent violations of U.S. law or DHS guidelines, policy or regulations.
- **DHS should strictly align fusion center grant funding to meet federal needs.** When FEMA gives states and cities grant funds for a fusion center, it should not allow those dollars to be spent on items that do not directly contribute to improving the fusion center's abilities to contribute to its federal mission of counterterrorism.
- **DHS should track how much money it gives to each fusion center.** FEMA should identify how much money it grants to states and urban areas for direct or indirect support of each individual fusion center, and report those amounts annually to Congress.
- **PM-ISE should evaluate fusion center capabilities and performance.** At the request of DHS, the Program Manager for the Information Sharing Environment (PM-ISE) in the Office of the Director of National Intelligence conducted a national assessment of fusion center capabilities that produced useful findings, and PM-ISE should use that model to conduct future evaluations. In addition, it should begin to evaluate fusion centers' performance as participants in federal counterterrorism information-sharing efforts.
- **DHS should link funding of each fusion center to its value and performance.** Granting funds for state and local fusion center efforts year after year, without expecting or even examining the results received from previous grants, provides no mechanism to ensure federal taxpayers receive a return on their investments.
- **DHS should timely disclose to Congress significant problems within its operations.** Serious issues plagued DHS fusion center efforts for years, yet officials were reluctant to share them with Congress. Even when asked about these problems, DHS avoided

acknowledging the problems, initially withheld documents, and repeatedly resisted Subcommittee requests, which unnecessarily prolonged the Subcommittee investigation.

- **DHS should align its practices and guidelines to protect civil liberties, so they adhere to the Constitution, federal law, and its statutory mission.** DHS should strengthen its protections to prevent DHS personnel from improperly collecting and retaining intelligence on Constitutionally protected activity. It should not retain inappropriate and illegal reporting. It should strictly enforce policies, and hold all of its employees to the highest standards, including by promptly barring poorly performing personnel from issuing domestic intelligence reports involving Americans.

# # #

OCT 31 2012

Ms. Tammy Hudson  
Records Officer  
Department of Homeland Security  
7<sup>th</sup> and D Street SW  
Washington, D. C., 20528

Dear Ms. Hudson:

The National Archives and Records Administration (NARA) has received information from the U. S. Senate Permanent Subcommittee on Investigations alleging the possible loss of email record material related to the management of grant funds awarded by the Federal Emergency Management Agency (FEMA) to the Delaware Valley Intelligence Center (DVIC).

In the course of the Subcommittee's investigation, interviews with a Department of Homeland Security staffer, Joseph Liciardello, revealed connections between Mr. Liciardello and the DVIC grant. When the Subcommittee requested that DHS produce all emails from Mr. Liciardello's official DHS employee email account, however, the Subcommittee was told that DHS technological representatives were unable to access emails from May and June of 2011. This response to the Subcommittee's inquiry was recorded in the published report of the Subcommittee's findings, *Federal Support For And Involvement In State and Local Fusion Centers: Majority and Minority Staff Report* (October 3, 2012). The specific allegation concerning DHS email is found on pages 67-68 in Footnote 349, and is also referenced as Exhibit #10 of that same report, "DHS Response to Subcommittee Inquiry 8/17/2012".

As you are aware, 44 U.S.C. 3102 requires Federal agencies to provide effective controls over the creation, maintenance and use of records in the conduct of current business. Further, 36 CFR 1236 lays out specific guidelines for the protection and management of electronic records, including email.

We request that you look into this matter to determine whether an instance of destruction of Federal records actually occurred and notify us of your findings. If you conclude Federal records were alienated without proper authorization, we request that you furnish us with a report as



required and described under 36 CFR 1230.14 (How Do Agencies Report Incidents?) at <http://www.archives.gov/about/regulations/part-1230.html#1230.14>>. Your report should include a statement about the safeguards established to prevent further loss of records.

We look forward to your response and thank you for your cooperation.

If you have any questions, please contact Erin Cayce of the Records Management Services Section at 301-837-1907 or [erin.cayce@nara.gov](mailto:erin.cayce@nara.gov).

Sincerely,

PAUL M. WESTER, JR.  
Chief Records Officer  
for the U.S. Government

Enclosures

cc:  
Official file – ACNR  
Reading file – ACNR, AC  
Day file – CRO

File 1301-1b Unauthorized Disposal – Department of Homeland Security  
S: \Alleged\DHS - unauthorized destruction of e-mail initial letter 2012.10.doc

Ec/sg/10/31/12



November 17, 2016

Ms. Tammy Hudson  
Records Officer  
Department of Homeland Security  
7<sup>th</sup> and D Street SW  
Washington, DC 20528

Dear Ms. Hudson:

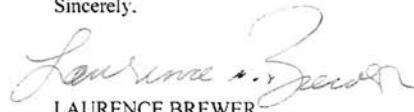
We reviewed your letter dated 31 October 2016, addressing the possible loss of email records related to the management of grant funds awarded by the Federal Emergency Management Agency (FEMA) to the Delaware Valley Intelligence Center (DVIC), specifically emails dated between May - June 2011 from Mr. Liciardello's email account. Your letter indicates that the allegation of loss was erroneous as reported in the United States Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs report.

Additionally, you requested and received Mr. Liciardello's emails for the time period between May - June 2011, many of which reference DVIC, demonstrating that the email records in question have been preserved.

The National Archives and Records Administration accepts your description and appreciates the efforts made clarifying the circumstances surrounding this allegation. We consider this matter closed. Thank you for your cooperation.

If you have further questions or concerns, please contact Dawn Sherman-Fells, Archivist & Senior Records Analyst, at 301-837-2083 or via email to [Dawn.Sherman@nara.gov](mailto:Dawn.Sherman@nara.gov)

Sincerely,

A handwritten signature in cursive script, appearing to read "Laurence Brewer".

LAURENCE BREWER

Chief Records Officer

for the U.S. Government