

Stenographic Transcript  
Before the

COMMITTEE ON  
ARMED SERVICES

## **UNITED STATES SENATE**

HEARING TO CONSIDER THE NOMINATIONS OF:  
HONORABLE JOHN E. WHITLEY,  
TO BE DIRECTOR OF COST ASSESSMENT AND PROGRAM  
EVALUATION, DEPARTMENT OF DEFENSE;  
HONORABLE SHON J. MANASCO,  
TO BE UNDER SECRETARY OF THE AIR FORCE;  
MICHELE A. PEARCE, TO BE GENERAL COUNSEL  
OF THE DEPARTMENT OF THE ARMY;  
AND LIAM P. HARDY, TO BE A JUDGE OF THE UNITED STATES  
COURT OF APPEALS FOR THE ARMED SERVICES

Tuesday, August 4, 2020

Washington, D.C.

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4 PROGRAM EVALUATION,  
5 DEPARTMENT OF DEFENSE;  
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7 TO BE UNDER SECRETARY OF THE AIR FORCE;  
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13 COURT OF APPEALS FOR THE ARMED SERVICES  
14

15 Tuesday, August 4, 2020  
16

17 U.S. Senate  
18 Committee on Armed Services  
19 Washington, D.C.  
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21 The committee met, pursuant to notice, at 9:05 a.m. in  
22 Room SD-G50, Dirksen Senate Office Building, Hon. James M.  
23 Inhofe, chairman of the committee, presiding.

24 Committee Members Present: Senators Inhofe  
25 [presiding], Wicker, Fischer, Cotton, Rounds, Ernst, Tillis,

1 Cramer, Scott, Blackburn, Hawley, Reed, Shaheen, Gillibrand,  
2 Blumenthal, Hirono, Kaine, King, Peters, Manchin, Duckworth,  
3 and Jones.

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1           OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S.  
2 SENATOR FROM OKLAHOMA

3           Chairman Inhofe: This committee will come to order.

4           The committee meets today to consider the nominations  
5 of Dr. John Whitley, to be Director Cost Assessment and  
6 Program Evaluation; Mr. Shon Manasco, to be Under Secretary  
7 of the Air Force; Ms. Michele Pearce, to be General Counsel  
8 for the Army; and Mr. Liam Hardy, to be Judge of the Court  
9 of Appeals for the Armed Forces.

10          Thank you all for being here today. We are familiar  
11 with all four of these nominees.

12          Dr. Whitley, at the beginning of this administration,  
13 the Senate confirmed you to be the Assistant Secretary of  
14 the Army for Financial and Management Controller. You have  
15 a long line of accomplishments in that field.

16          Mr. Manasco, you have been previously confirmed to be  
17 Assistant Secretary of the Air Force for Manpower and  
18 Reserve Affairs. You have a record of distinguished  
19 service, and we appreciate your willingness to take this on.

20          Ms. Pearce, you began your career in the service as an  
21 Air Force Judge Advocate, and since then you have performed  
22 excellently and well in numerous senior civilian legal  
23 positions in the House of Representatives and the Department  
24 of Defense.

25          And, Mr. Hardy, you serve presently as the Deputy

1 Attorney General in the Office of Legal Counsel in the  
2 Department of Justice where you are charged to resolve the  
3 most significant challenges and legal issues. So it is nice  
4 to have you continue your services.

5 It is standard in this committee to ask the required  
6 questions. So as I ask these questions, if you vocally come  
7 out, I would like to hear four yeses or four noes.

8 Have you adhered to the applicable laws and regulations  
9 governing conflicts of interest?

10 Dr. Whitley: Yes.

11 Mr. Manasco: Yes.

12 Ms. Pearce: Yes.

13 Mr. Hardy: Yes.

14 Chairman Inhofe: Will you ensure that your staff  
15 complies with the deadlines established for requested  
16 communications, including questions for the record in  
17 hearings?

18 Dr. Whitley: Yes.

19 Mr. Manasco: Yes, sir.

20 Ms. Pearce: Yes.

21 Mr. Hardy: Yes.

22 Chairman Inhofe: Will you cooperate in providing  
23 witnesses and briefers in response to congressional  
24 requests?

25 Dr. Whitley: Yes.

1 Mr. Manasco: Yes.

2 Ms. Pearce: Yes.

3 Mr. Hardy: Yes.

4 Chairman Inhofe: Will those witnesses be protected  
5 from reprisal for their testimony or briefings?

6 Dr. Whitley: Yes.

7 Mr. Manasco: Yes.

8 Ms. Pearce: Yes.

9 Mr. Hardy: Yes.

10 Chairman Inhofe: Do you agree, if confirmed, to appear  
11 and testify upon request before this committee?

12 Dr. Whitley: Yes.

13 Mr. Manasco: Yes.

14 Ms. Pearce: Yes.

15 Mr. Hardy: Yes.

16 Chairman Inhofe: Do you agree to provide documents,  
17 including copies of electronic forms of communications in a  
18 timely manner when requested by a duly constituted committee  
19 or to consult with the committee regarding the basis for any  
20 good faith delay or denial in providing such documents?

21 Dr. Whitley: Yes.

22 Mr. Manasco: Yes.

23 Ms. Pearce: Yes.

24 Mr. Hardy: Yes.

25 Chairman Inhofe: And last, have you assumed any duties

1 or undertaken any actions which would appear to presume the  
2 outcome of the confirmation process?

3 Dr. Whitley: No.

4 Mr. Manasco: No.

5 Ms. Pearce: No.

6 Mr. Hardy: No.

7 Chairman Inhofe: We all know that we are dealing with  
8 the most dangerous world I believe that we have experienced  
9 before since I have been chairman of this committee. The  
10 committee is focused on ensuring that DOD has the  
11 authorities and resources it needs to complement the  
12 National Defense Strategy. That is this document right  
13 here. That is where six Republicans, six Democrats, all  
14 experts in their fields, agreed, and we have been following  
15 this. This has been our blueprint, and I appreciate that  
16 adherence to that.

17 As you are key senior leaders in the Department of  
18 Defense, you would play a key role in supporting Secretary  
19 Esper and Secretary of the Air Force Barrett, Secretary of  
20 the Army McCarthy, as they implement the National Defense  
21 Strategy while caring for our most important assets, the men  
22 and women of our armed forces. We look forward to hearing  
23 your views on these and other important issues.

24 Senator Reed?

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1           STATEMENT OF HON. JACK REED, U.S. SENATOR FROM RHODE  
2 ISLAND

3           Senator Reed: Well, thank you very much, Mr. Chairman.

4           Before I turn to today's witness panel, I must say a  
5 few words about the weekend appointment of Anthony Tata to  
6 perform the duties of Deputy Under Secretary of Defense for  
7 Policy. As everyone here is aware, this committee had a  
8 thorough and thoughtful process for the consideration of the  
9 nomination of Mr. Tata to be the Under Secretary of Defense  
10 for Policy. We dedicated an entire week of this committee's  
11 time to him. But after a closed executive session last week  
12 and much discussion, it was determined that there were too  
13 many questions and concerns on both sides of the aisle to  
14 move forward on his hearing.

15           Yet, after the Senate declined to give its consent to  
16 this nomination, the President and the Department of Defense  
17 appointed him to perform the duties of a Senate-confirmed  
18 position. Moreover, it is one that actually has a person  
19 confirmed for it. Mr. Anderson was confirmed to be the  
20 Deputy Under Secretary of Defense for Policy on June 8th.

21           The President has the prerogative to appoint  
22 individuals to positions, and there are a myriad of  
23 unconfirmed positions in the Defense Department and the  
24 National Security Council for Mr. Tata. Yet, he was put in  
25 a position that requires a Senate confirmation that he does

1 not have. I find this to be an outrageous abuse of  
2 presidential power, which not only ignores but, indeed,  
3 insults the Senate and this committee. I believe the  
4 committee should carefully consider an appropriate response  
5 to this end-run around our rules and our constitutional  
6 prerogatives.

7 And now let me turn to the nominees. Let me first  
8 thank them for their commitment to service and their  
9 families for their support throughout this process.

10 Mr. Whitley, you have been nominated to serve as the  
11 Director of the Cost Analysis and Program Evaluation Office,  
12 or CAPE. In this important role, we hope you will provide  
13 independent and data-driven analysis that gives both Defense  
14 Department leadership and Congress real facts on the costs  
15 of programs. We need to make sure that independence and  
16 transparency and cost estimation are preserved in the face  
17 of pressures from the military services, the senior  
18 leadership of the Pentagon and administration, and the  
19 defense industry to support their particular programs. And  
20 I would like to hear how you would maintain this  
21 transparency in your testimony.

22 I would also like to hear how you would evaluate the  
23 ever-escalating costs of COVID-related response efforts in  
24 the Department, including support to the defense industrial  
25 base, and how you would provide independent and apolitical

1 assessments of these costs.

2 Mr. Manasco, if you are confirmed as Under Secretary of  
3 the Air Force, you will face a number of critical issues  
4 that confront the service. Although not at the same level  
5 as the Army and the Marine Corps, the Air Force has had to  
6 support operating tempos that are very high compared to  
7 normal. In doing that, the Air Force leadership has to face  
8 the difficult challenge of balancing its modernization needs  
9 against the costs of supporting ongoing operations.

10 If confirmed, you will likely run the day-to-day  
11 operations of the Department, but would undoubtedly have  
12 other duties such as taking significant steps to build up  
13 the acquisition workforce and maintain confidence in the Air  
14 Force acquisition system as we look to expand the size of  
15 the Air Force. The Under Secretary will also have to  
16 address the retention of pilots and aircraft maintainers,  
17 positions which already have shortfalls that are expected to  
18 get worse before they get better. All of these duties will  
19 only be more complicated as you try to maintain high  
20 readiness levels, while leading the airmen and civilians of  
21 the Air Force under the challenging conditions of the COVID-  
22 19 pandemic. I am interested in hearing how you plan to  
23 balance so many competing demands.

24 Ms. Pearce, you have been nominated to be the General  
25 Counsel for the Department of the Army and you appear to be

1 very well qualified to serve in this position. You served  
2 as the Acting Army General Counsel for several months. You  
3 also served as the Principal Deputy General Counsel. Based  
4 on this experience, you know full well the challenges facing  
5 the Army when it comes to legal issues.

6 For example, the Army General Counsel is a key advisor  
7 on the Army's efforts to ensure diversity. Historically,  
8 this has been a difficult legal issue that requires a  
9 careful balancing of the desire to increase diversity  
10 without crossing a constitutional redline of giving  
11 preference based on ethnicity or gender.

12 The Army General Counsel will also provide legal and  
13 policy advice to the Secretary on Army programs to prevent  
14 and respond to the significant issues of sexual assault,  
15 sexual harassment, and domestic violence. We continue to  
16 have concerns about senior leader accountability for  
17 misconduct, ethical lapses, and for failures of leadership.  
18 As General Counsel, you will have a significant role in  
19 advising the Secretary and Army leadership on all of these  
20 matters.

21 And lastly, Mr. Hardy, you are well qualified to serve  
22 as a judge on the highest military appellate court, the  
23 United States Court of Appeals for the Armed Forces. Your  
24 experience as a clerk for a judge on the U.S. Court of  
25 Appeals for the Armed Forces has given you a very unique

1 opportunity to learn about the Uniform Code of Military  
2 Justice. Clerking for a judge on the U.S. Court of Appeals  
3 for the District of Columbia and for a Supreme Court Justice  
4 gives you another vantage point from which to assess the  
5 military justice system. And finally, teaching classes on  
6 military justice at two prominent law schools, Harvard and  
7 Notre Dame, keeps you up-to-date on current developments in  
8 military law. In light of this background, I will be very  
9 interested in your views of the military justice system as  
10 it currently stands, as well as proposals to reform it.

11 Again, I thank the nominees for their willingness to  
12 serve, and I look forward to the testimony.

13 Thank you, Mr. Chairman.

14 Chairman Inhofe: Thank you, Senator Reed.

15 We do have some Senators that are with us remotely, and  
16 so I will tell you how we are going to do this. Since it is  
17 impossible to know just when they arrive, we are not going  
18 to do the normal early bird rule. Instead, we will just go  
19 in the order of seniority. We will do standard 5-minute  
20 rounds, and I ask those colleagues on the computers to keep  
21 an eye on the clock. You will have access to that.

22 And finally, I remind people to mute their microphones.  
23 No matter how many times we warn this and ask this, there  
24 are always two or three forgetting that.

25 And, gentlemen and Ms. Pearce, we are going to begin

1 with opening statements, and we will ask you to keep your  
2 statements brief so we will have ample time for questions.  
3 As you can see, we have an excellent turnout between those  
4 who are here remotely and those who are here in person. So  
5 we will start with the opening statement with Dr. Whitley.  
6 You are recognized.

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1           STATEMENT OF HON. JOHN E. WHITLEY, TO BE DIRECTOR OF  
2 COST ASSESSMENT AND PROGRAM EVALUATION, DEPARTMENT OF  
3 DEFENSE

4           Dr. Whitley: Thank you, Chairman Inhofe, Ranking  
5 Member Reed, distinguished members of the committee. Thank  
6 you for the opportunity to appear before you today and for  
7 your consideration of my nomination to be the Director of  
8 Cost Assessment and Program Evaluation. It is an honor to  
9 appear here before you.

10           I would also like to thank President Trump for  
11 nominating me and Secretaries Esper and Norquist for  
12 supporting me for this position. It is a tremendous honor  
13 to be considered for the leadership of CAPE in this  
14 administration and to support the leadership of Secretaries  
15 Esper and Norquist.

16           I would also like to thank my family for their support:  
17 my wife Danielle, my son Joshua, and my daughter Ginger.  
18 They know the long hours and challenges that come with  
19 serving in this capacity and have steadfastly supported me  
20 throughout my time in public service.

21           And most importantly, I would like to thank our men and  
22 women in uniform, our civilian workforce, and their  
23 families. America's most valuable asset is our people, and  
24 I am honored to be considered for a position to serve them.

25           DOD's road map is the National Defense Strategy. If

1 confirmed, my primary focus will be to support Secretary  
2 Esper in his efforts to fully implement the NDS. To  
3 accomplish this, DOD must continue aggressive investment in  
4 the capabilities and forces needed for great power  
5 competition. As Secretary Esper has said, the Department  
6 needs a sustained rate of 3 to 5 percent real growth to  
7 fully implement the NDS. If this does not occur, if we face  
8 flat or declining budgets, then these investments must be  
9 funded by reform, which includes the realignment of  
10 resources from lower-priority programs and activities to  
11 vital NDS investments.

12 CAPE plays a major role in every phase of NDS  
13 implementation. In partnership with Policy and Joint Staff,  
14 CAPE leads the future analytic process that identifies the  
15 key capabilities and forces needed to fight a near-peer  
16 adversary in the future. In partnership with Comptroller,  
17 CAPE leads the resource allocation process of the  
18 Department, providing independent, quantitative analysis in  
19 support of the leadership's decisions on which programs to  
20 fund. In partnership with CMO, CAPE supports reform efforts  
21 aimed at identifying resources that can be realigned to fund  
22 NDS priorities. And CAPE leads the Department's analysis of  
23 alternatives and cost estimating functions in support of the  
24 acquisition process, helping DOD successfully acquire NDS  
25 capabilities.

1 I would like to say again thank you to the committee  
2 for your consideration, and I look forward to answering your  
3 questions.

4 [The prepared statement of Dr. Whitley follows:]

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1 Chairman Inhofe: Excellent. Thank you very much.

2 Mr. Manasco?

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1           STATEMENT OF HON. SHON J. MANASCO, TO BE UNDER  
2           SECRETARY OF THE AIR FORCE

3           Mr. Manasco: Chairman Inhofe, Ranking Member Reed, and  
4           distinguished members of the committee, I am honored to be  
5           here today and humbled to sit alongside my fellow nominees.

6           I would like to thank President Trump, Secretary Esper,  
7           and Secretary Barrett for their trust and confidence.

8           I also want to thank my mother Kathryn, my father  
9           Benny, my wife Noelle, and my three sons, Gavin, Cade, and  
10          Ty. Their love and support allows me to continue serving  
11          our nation and those in uniform.

12          I am proud to be part of a family with a rich history  
13          of military service dating back to the Revolutionary War.  
14          And members of my family have fought in every major conflict  
15          since. And 32 years ago, I too answered the call to serve  
16          in uniform. And it was a freshman Congressman from  
17          Oklahoma's 1st district who took a chance and nominated me  
18          to attend two service academies. So on a hot summer day in  
19          1988, I stood on the plain at West Point and with 1,300 of  
20          my classmates took an oath, an oath to support and defend  
21          the Constitution of the United States.

22          Whether in uniform or working as a senior executive in  
23          three of the most admired companies in the world, I have  
24          been true to that oath, made every effort to live honorably,  
25          lead honorably, and to serve honorably.

1 Chairman Inhofe, thank you for taking the chance, a  
2 chance on me all those years ago.

3 These past 2 years, I have served alongside roughly  
4 685,000 Department of the Air Force military and civilian  
5 members. My travel to spend time with them has taken me to  
6 11 countries on four continents, from Alaska to Antarctica  
7 and from Korea to Qatar. There I witnessed firsthand their  
8 resolve, their resiliency, and importantly, their results.

9 Through these experiences, I can say with confidence  
10 that we have the finest aerospace professionals in the  
11 world. Period. These members are the core of our  
12 warfighting strength, and they deserve nothing but the  
13 finest leadership, care, and equipment. If we are to be  
14 successful against a peer adversary, this Department will be  
15 a critical node in the competitive nexus between us and  
16 those who wish to do us harm.

17 If confirmed, I commit to working collaboratively and  
18 transparently with Congress and our sister services to  
19 develop ready and modern forces that are capable of securing  
20 our national interest around the world.

21 Senators, I am grateful for your consideration and  
22 regardless of the outcome of this process, I want to state  
23 for the record it has been an honor of a lifetime to be part  
24 of this team.

25 I look forward to answering your questions.

[The prepared statement of Mr. Manasco follows:]

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1 Chairman Inhofe: Thank you very much, Mr. Manasco.  
2 And Ms. Pearce.

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1 STATEMENT OF MICHELE A. PEARCE, TO BE GENERAL COUNSEL  
2 OF THE DEPARTMENT OF THE ARMY

3 Ms. Pearce: Senator Inhofe, Ranking Member Reed, and  
4 distinguished members of this committee, I am humbled to be  
5 here and wish to thank the President and Secretary McCarthy  
6 for their support of my nomination.

7 I also wish to thank my family: my husband Steve, a  
8 retired Air Force officer and third generation fighter  
9 pilot; my daughter Cate, a student at the University of  
10 Virginia; and my son Alex, a rising freshman and ROTC cadet  
11 at the University of Colorado who hopes to serve as a  
12 fighter pilot like his father, his grandfather, and his  
13 great grandfather in World War II before him. Their  
14 unwavering love and support and many sacrifices during my  
15 nearly 24 years of public service have made today possible.

16 I would like to briefly share some additional  
17 information with you as you consider my nomination moving  
18 forward.

19 My values and beliefs were shaped by my parents and the  
20 opportunity I had to grow up on military bases and live in  
21 wonderfully diverse communities.

22 My father was a Vietnam War veteran and worked as a  
23 radioman for almost a decade underway at sea on nuclear  
24 submarines during the Cold War.

25 My mother, Cecelia Rivera Sanchez, also selflessly

1 served our nation for more than 2 decades as a military  
2 spouse. She grew up on a farm in Puerto Rico and lived a  
3 purpose-driven life. She was a devoted mother to four  
4 children, a Sunday school teacher, and a person committed to  
5 making her community better by volunteering at every  
6 opportunity to help others. She was a woman of true  
7 character, and her commitment, dedication, and selflessness  
8 serve as examples for me and for us all.

9 She passed away weeks ago and will soon be laid to rest  
10 at Arlington National Cemetery with my father. I am  
11 incredibly grateful to serve a nation that so well honors  
12 those, like my parents, who have sacrificed for the many  
13 freedoms we enjoy.

14 If confirmed, I would bring the values my parents  
15 taught me, in addition to my professional experience, to the  
16 consequential responsibilities of the position of Army  
17 General Counsel.

18 On active duty as an Air Force Judge Advocate, I worked  
19 on military justice, sexual assault, and harassment and  
20 equal opportunity issues. I deployed in support of  
21 Operation Iraqi Freedom when my daughter Cate was just 3 and  
22 my son was 1 years old and conducted numerous oversight  
23 visits in Afghanistan in my role as an oversight staff  
24 member on the House Armed Services Committee.

25 In addition to those experiences, I served as an

1 adjunct faculty member at the Air Force Judge Advocate  
2 General School training young judge advocates in trial  
3 practice and procedure.

4 After 13 years of active duty service, I worked on the  
5 House Armed Services Committee as the staff lead of the  
6 Readiness Subcommittee, among other positions, and as a  
7 senior defense advisor here in the United States Senate. I  
8 appreciate the value and indeed the necessity of working  
9 closely with Congress to ensure the Department can meet our  
10 national security missions and requirements.

11 If confirmed, I would faithfully execute my duties as  
12 the Department's senior attorney. I would work to ensure  
13 that Army senior leaders receive timely, accurate, and  
14 candid legal advice to ensure we are postured to meet  
15 challenges, including the ethical implementation of AI,  
16 employment of machine learning capabilities, and other  
17 emerging technologies that require focus and oversight.

18 I would also continue to implement the Army's Project  
19 Inclusion, a program focused on improving diversity across  
20 the force, ensuring that all who serve our nation have an  
21 equal opportunity to compete for promotion and to advance  
22 through the ranks to lead.

23 In closing, I will ensure that the Office of General  
24 Counsel team is responsive to the needs of the warfighter  
25 and accountable for upholding the laws and regulations that

1 govern our mission.

2 I am humbled and honored to be here.

3 Thank you very much for the opportunity to appear  
4 before this committee. I look forward to answering your  
5 questions.

6 [The prepared statement of Ms. Pearce follows:]

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1 Chairman Inhofe: Thank you very much.

2 Mr. Hardy?

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1           STATEMENT OF LIAM P. HARDY, TO BE JUDGE OF THE UNITED  
2 STATES COURT OF APPEALS FOR THE ARMED FORCES

3           Mr. Hardy: Mr. Chairman, Senator Reed, distinguished  
4 members of the committee, thank you for the honor and  
5 privilege of appearing before you as a nominee to be a judge  
6 on the U.S. Court of Appeals for the Armed Forces.

7           I would like to thank the President for nominating me  
8 for this position. If confirmed and appointed, I will do my  
9 very best to vindicate the confidence and the trust that he  
10 has placed in me.

11          I would also like to thank my wife Jennifer and my  
12 three children, Grace, Luke, and Sarah who wish they could  
13 be here today. I know that but for their unwavering support  
14 and love, I would not be here today.

15          The Supreme Court described the American military  
16 justice system, as it had existed for nearly 2 centuries  
17 from the founding of the nation through World War II, as a  
18 rough form of justice emphasizing summary procedures, speedy  
19 convictions, and stern penalties. At that time, the Court  
20 believed that military law emphasized the iron hand of  
21 discipline more than it did the even scales of justice.

22          Finding this situation unacceptable in the early 1950s,  
23 Congress dramatically reformed the military justice system  
24 to ensure that the men and women who serve in the armed  
25 forces enjoy to the extent possible, given the needs of the

1 military, the same constitutional and legal protections that  
2 our service members swear to defend. As part of these  
3 reforms, Congress enacted the Uniform Code of Military  
4 Justice and established an independent civilian court, the  
5 Court of Military Appeals, now the U.S. Court of Appeals for  
6 the Armed Forces. Those actions demonstrated our country's  
7 dedication to protecting the constitutional and due process  
8 rights of services while also maintaining the disciplined  
9 and effective operation of the military.

10 Today, the success of those reforms is obvious. The  
11 Supreme Court recently observed that the Court of Appeals  
12 for the Armed Forces functions much like any other American  
13 appellate court, reviewing criminal convictions without any  
14 suggestion that it is beholden to or under the influence of  
15 the military. The Court confirmed that the military justice  
16 system's essential character is judicial. If confirmed and  
17 appointed, I intend to continue that tradition of judicial  
18 independence and civilian oversight of the military justice  
19 system.

20 Thank you, Mr. Chairman. I will be happy to answer any  
21 questions you may have.

22 [The prepared statement of Mr. Hardy follows:]

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1 Chairman Inhofe: Thank you. Thank you. I thank all  
2 four of you.

3 Dr. Whitley, we talked about this document several  
4 times, and in this document it says that we should be making  
5 the increase from a 3 to a 5 percent real growth in the DOD  
6 budget. Now, it has been several years now and we have not  
7 done that yet. Were they wrong or were we wrong in not  
8 complying with that request?

9 Dr. Whitley: Senator, as I said in my opening  
10 statement, as you said, as Secretary Esper said, to really  
11 robustly implement the NDS in a low risk fashion requires 3  
12 to 5 percent real growth.

13 What we have done, as you know, in the fiscal year  
14 2021, the fiscal year 2021 budget -- that budget was  
15 basically flat. What we did -- I was performing the duties  
16 of CAPE Director at that point in time working with  
17 Secretary Esper and Secretary Norquist. And what we did is  
18 we led an aggressive effort to identify lower-priority  
19 programs, areas where we could take risk so that we could  
20 then realign that funding to the NDS priorities and made, as  
21 you know, significant investments in space --

22 Chairman Inhofe: I would observe the last time we did  
23 that was back during the Reagan administration.

24 Mr. Manasco, in your opening statement you commented  
25 that a member gave you that opportunity to go to an academy,

1 and who was that member?

2 Mr. Manasco: Senator, I think you might know him as  
3 Senator Jim Inhofe from Tulsa, Oklahoma.

4 Chairman Inhofe: Yes. And I want to tell you how  
5 proud I have been since that time.

6 First of all, it has been stated that the Air Force is  
7 too small, too old to do what the nation asks it to do. So  
8 I would ask you, first of all, if you agree with that  
9 assessment. And secondly, if confirmed, where do you see  
10 the greatest risk in capability and capacity for the Air  
11 Force?

12 Mr. Manasco: Senator, I would agree that the Air Force  
13 is too small for what the nation has asked. But just as we  
14 have to get bigger, we actually have to get better. So the  
15 biggest opportunity that I see is for us to balance near-  
16 term risks and invest in the future so that we can be  
17 prepared to implement the National Defense Strategy and, in  
18 particular, to be able to compete and win against Russia and  
19 China.

20 Chairman Inhofe: Very good.

21 And, Ms. Pearce, we have had several hearings now on  
22 some of the failures and successes of our privatization  
23 policy for housing, and I would like to know your ideas on  
24 this because, if confirmed, what would be your role in  
25 establishing accountability inside the Army for sustaining

1 the high quality of housing that we anticipate or that we  
2 should be anticipating for our members?

3 Ms. Pearce: Senator, my role would be to ensure that  
4 we are complying with all authorities and regulations and  
5 statutes related to the privatized housing. I am pleased to  
6 report that I had the opportunity to walk through a number  
7 of housing units recently at Fort Belvoir. That opportunity  
8 gave me great insight into a lot of improvements that we  
9 have undertaken due to, I recognize, the hard work of many  
10 members of this committee working in coordination with Army  
11 senior leaders to ensure that we are on the right track with  
12 housing.

13 At this point in time, I am happy to report we have, in  
14 the Army, conducted 100 percent barracks inspections, home  
15 inspections, and moving forward, I will look forward to  
16 continuing to ensure that we are focused on this issue and  
17 making sure that just like others like myself who grew up in  
18 military housing can live in safe and secure, clean and  
19 sanitary housing. That is the basic minimum that we owe  
20 those who serve in uniform.

21 Chairman Inhofe: That is good. That is good. Yes, we  
22 have come a long ways, but there is a long ways to go also.  
23 We look forward to your service in that area.

24 Mr. Hardy, what do you think you would anticipate be  
25 among the most significant legal issues that you might be

1 called upon to address, if you are confirmed as a judge?

2 Mr. Hardy: Senator, something that is certainly coming  
3 up in the military justice system is the proper jurisdiction  
4 of that system, who should be subject to the UCMJ. I mean,  
5 certainly there are questions -- I mean, there are no  
6 questions about the core service members, but there are new  
7 questions about retirees and people who are on the periphery  
8 of the military and whether or not they should continue to  
9 be subject to the UCMJ.

10 Chairman Inhofe: Very good.

11 Senator Reed?

12 Senator Reed: Well, thank you very much, Mr. Chairman.

13 Let me just go back to the chairman's first point which  
14 is the standard questions, and you all gave unequivocal  
15 yeses to them. However, in your advance policy responses in  
16 writing, there was equivocating language, something like in  
17 accordance with applicable laws and longstanding Department.  
18 I think we would all like to hear an unequivocal yes. So  
19 can I begin with Dr. Whitley? Yes?

20 Dr. Whitley: Yes, Senator.

21 Mr. Manasco: Yes, Senator.

22 Ms. Pearce: Yes, Senator.

23 Mr. Hardy: Yes, Senator.

24 Senator Reed: So we can forget about the equivocating  
25 modifying language in the questions. Thank you.

1 Dr. Whitley, the Navy just recently eliminated the  
2 Center for Cost Analysis, which is their counterpart to  
3 CAPE. To what extent do you feel that that will increase  
4 the likelihood that Navy will have over-optimistic estimates  
5 about their abilities?

6 Dr. Whitley: I think that is a real risk, Senator. I  
7 think CAPE was very concerned about that move. It happened  
8 before I got there, was performing the duties of. And my  
9 understanding of what happened is an agreement was reached,  
10 a memorandum of agreement, where some of the  
11 responsibilities of that office was assuming would shift to  
12 CAPE. I do not know the details of that. It happened  
13 before I got there. But if I were confirmed, Senator, I  
14 would be very committed to making sure that adequate cost  
15 estimating, independent cost estimating is done not only on  
16 all Navy systems but on Air Force and Army systems as well.

17 Senator Reed: And I think also too that with  
18 responsibilities must come resources. So CAPE cannot be  
19 handed some responsibilities without money.

20 Dr. Whitley: My understanding is that the MOA does  
21 have resource sharing with it, Senator.

22 Senator Reed: Thank you, Doctor.

23 So what company were you in, Mr. Manasco?

24 Mr. Manasco: Senator, I was a proud member of the H3  
25 Hurricanes and the F2 Zoo.

1 Senator Reed: Okay. All right. You are qualified.

2 [Laughter.]

3 Senator Reed: One of the problems -- and I had the  
4 occasion to speak with General Brown just last week -- is  
5 there has been an increase in accidents in the Air Force.  
6 And I know you have a myriad of responsibilities, but have  
7 you been giving thoughts to what is causing this and what  
8 can be done to minimize the number of accidents?

9 Mr. Manasco: Senator, like all members of the senior  
10 leadership team, I do get notifications of when we have  
11 these accidents. And I share General Brown's concern over  
12 this.

13 If confirmed, Senator, what I would want to continue to  
14 reinforce is just steadfastness, discipline, and never ever  
15 bending as it relates to the safety standards. So I do  
16 believe we have the right safety standards. We have to  
17 refocus our efforts on being disciplined about following  
18 them.

19 Senator Reed: Thank you.

20 Ms. Pearce, again you have excellent experience.

21 One of the issues that has come -- and it is recent,  
22 but I think it will be pressing -- is that you very well  
23 might be called upon to advise military officers about their  
24 role in participating in operations which involve the  
25 citizens demonstrating their First Amendment rights. Can

1 you give us a sense of how you would approach that problem,  
2 what advice you might give to the military officers?

3 Ms. Pearce: Senator, yes. I would be prepared to  
4 ensure that the rules for the use of force are clear,  
5 concise, and understood by all participants in any type of  
6 such missions.

7 I would like to call out the Army senior leadership for  
8 their great work in deescalating recent events in D.C., and  
9 in large part, the reason why those missions happened  
10 without great incident was because of leadership. And I  
11 think that leadership is an integral part of ensuring moving  
12 forward that our people have the right training, they have  
13 the right understanding of their missions, and they are  
14 prepared to respond to the myriad threats that they would  
15 likely encounter in those circumstances.

16 Senator Reed: And also an appreciation of the  
17 constitutional rights that are being exercised by the  
18 citizens that might be before them. Is that accurate too?

19 Ms. Pearce: Yes, Senator. And as our Chief of Staff  
20 likes to say, we are going to do things right and we are  
21 going to do things the right way. I have often heard him  
22 repeat that refrain, and it absolutely I think reflects well  
23 on the Army and all those who wear the Army uniform as they  
24 protect peaceful protesters when engaging in these types of  
25 missions.

1 Senator Reed: Thank you.

2 Mr. Hardy, I have just a few literally seconds left,  
3 but you have got tremendous experience. Can I ask you just  
4 to give me what your sense is the biggest fault in the  
5 military justice system at the moment? If you could fix one  
6 thing, the proverbial fix one thing question, and very  
7 quickly.

8 Mr. Hardy: Senator, from my experience and my  
9 perspective, I think the military justice system is  
10 operating extremely well. It certainly had its issues, at  
11 least viewed from the outside, 70 years ago, but I think  
12 today I think the military justice system really stands as  
13 an example of how to properly balance the needs of the  
14 military and the rights of the service members.

15 Senator Reed: Thank you very much.

16 Thank you, Mr. Chairman.

17 Chairman Inhofe: Thank you, Senator Reed.

18 Senator Wicker?

19 Senator Wicker: Thank you, Mr. Chairman.

20 And let me direct my questions to Dr. Whitley. It was  
21 good to talk to you on the phone the other day. Thank you  
22 very much and thank you for your testimony.

23 I think the chair and I are delighted that you  
24 mentioned early on in your testimony the National Defense  
25 Strategy. The chairman alluded to this book that has been

1 present at all almost all of our hearings. It is the  
2 assessment and recommendations of the National Defense  
3 Strategy Commission. It came out actually in January of  
4 2018. So here we are 2 and a half years later.

5 And I would point your attention to some words on page  
6 52. Congress should increase the size of the base defense  
7 budget significantly through the future years defense  
8 program. Failing that, it may be necessary to alter the  
9 expectations of the U.S. defense strategy and our global  
10 strategic objectives. I do not want to see us do that.

11 What has happened to the threat in the year and a half  
12 since this commission published its study?

13 Dr. Whitley: Senator, the intelligence community and  
14 Policy are much better to speak on that, but what I would  
15 say from my assessment is the threat has not diminished in  
16 any appreciable way and our challenges have actually  
17 increased since that point in time.

18 Senator Wicker: I certainly agree with you.

19 And I think if we ask specifically then about the  
20 Chinese navy -- and this is something that you are able to  
21 comment about. What have they done in the 2 and a half  
22 years?

23 Dr. Whitley: They are investing significantly and  
24 aggressively and rolling out significant new capabilities.

25 Senator Wicker: And if we are going to compete, we are

1 going to have to be smarter, but we are going to have to be  
2 bigger. That is my assessment. Would you agree with that  
3 assessment?

4 Dr. Whitley: Yes, Senator, I would. All of the  
5 analyses I have seen say that we need a larger Navy.

6 Senator Wicker: Okay. Now, we have put the 355-ship  
7 requirement in statute a few years ago. It is my  
8 understanding that the Force Structure Assessment, which we  
9 have used in the past, is now being replaced with regard to  
10 the Navy and Marine Corps by the Future Navy Force Study.  
11 Admiral Gilday stated that the Force Structure Assessment  
12 document had been completed around January of this year, and  
13 it requested a ship count actually north of 355 ships.  
14 Former Acting Secretary of the Navy Modley went a step  
15 further and said the Force Security Assessment recommends  
16 390 manned ships, an additional 45 manned -- unmanned ships  
17 for a total of 435.

18 How will this new Future Navy Force Study look at  
19 things differently and when can we expect a specific number  
20 coming out of that assessment, sir?

21 Dr. Whitley: Yes, Senator. I do not know the date.  
22 As I was nominated for this position, I stepped back,  
23 obviously, from responsibilities working on that.

24 Senator Wicker: About what time did you step back?

25 Dr. Whitley: I am expecting in the fall, Senator, but

1 if I am wrong, we will correct the record and we will get  
2 the people who are working it to provide you that.

3 So to your questions, all of the analyses I have seen  
4 have resulted in a number or requirement that was north of  
5 355. And I think one of the challenges we had with the  
6 President's budget submission and why we did not submit the  
7 30-year shipbuilding plan was because it did not have a  
8 credible pathway to get there. It assumed resource  
9 constraints for 5 years and then assumed there were no  
10 resource constraints. And what the Secretary was concerned  
11 about was that that was not a credible document to send to  
12 you.

13 The Secretary, as he said here, is incredibly committed  
14 to 355. His belief is that the number is north of 355. And  
15 so what he has tasked the Navy and CAPE to do and what I  
16 would do, if confirmed, Senator, would be working with the  
17 Navy to get a credible path to a number as quickly as  
18 possible that is north of 355.

19 Senator Wicker: Okay. Now, it is my understanding  
20 that there was some report that CAPE had been tasked to make  
21 the Navy lighter. I have real doubts about making the Navy  
22 lighter.

23 There is also a leaked memo that reportedly calls for a  
24 fleet of only nine aircraft carriers. We do not build  
25 aircraft carriers in my State. This is not a provincial

1 matter. But I have got doubts about going from 11 to nine  
2 aircraft carriers. So what can you tell me about what you  
3 know about those?

4 Dr. Whitley: So I cannot speak to the force mix and  
5 what the analyses will say on force mix. What I can say,  
6 Senator, is what I have seen, and this was driven really by  
7 the Navy's analysis and my understanding is CAPE's analysis  
8 concurred with it, which is that we made the move to a more  
9 distributed fleet, a more survivable fleet, a more lethal  
10 fleet. I think those are the key attributes that will be  
11 guiding the analyses that are underway right now.

12 Senator Wicker: Well, I want to work with you and the  
13 entire Department and this committee in making our  
14 Department of Defense and our Navy stronger and better  
15 capable of meeting this increased threat that we have seen.  
16 Thank you, sir.

17 Dr. Whitley: I agree completely, Senator, and I am 100  
18 percent looking forward to working with you, if confirmed.

19 Chairman Inhofe: Thank you, Senator Wicker.

20 Senator Shaheen?

21 Senator Shaheen: Thank you, Mr. Chairman.

22 Before I begin questioning, I would just like to  
23 associate myself with the comments of Senator Reed early on.  
24 I think the President's action over the weekend to appoint  
25 Anthony Tata to a position that essentially has the same

1 responsibilities as the one to which he clearly was not  
2 qualified. We could tell from where the committee was going  
3 on that that he was unlikely to get approval of this  
4 committee.

5 But that action really makes a mockery of the oversight  
6 responsibilities of this committee and of the Senate. Right  
7 now, we have 18 of 60 Senate-confirmed positions that are in  
8 acting capacity in the Department of Defense. That is  
9 almost a third of the positions that require this  
10 committee's oversight.

11 And I would argue that it is not just a mockery of this  
12 committee and the Senate, but it also makes a mockery of the  
13 dedicated men and women who serve in the Department of  
14 Defense, who serve in our military, who have committed  
15 themselves to public service and acted in an honorable  
16 fashion, and to put somebody into this position where he  
17 should be modeling behavior of Anthony Tata's character and  
18 past behavior I think really sends the wrong message to our  
19 men and women serving in the military.

20 So I hope, Mr. Chairman, that this committee will take  
21 some action in response to what the President has done  
22 because I think it is very important to the continued  
23 oversight responsibilities that we all have.

24 I would like to begin my questions first by thanking  
25 all of you for your testimony today and for your willingness

1 to be considered for these important positions.

2 And I would like to begin with you, Mr. Manasco. As I  
3 am sure you are aware, the 157th air refueling wing at Pease  
4 Air National Guard Base in New Hampshire is the first Air  
5 National Guard base to get the new KC-46 aircraft. And let  
6 me be clear. Unlike Senator Wicker, I am being very  
7 provincial here. But due to the issues with the KC-46  
8 program, the Air Force has reassigned about 120 airmen to  
9 other bases, but it has committed to their return as soon as  
10 the KC-46's are repaired and the missions begin.

11 These airmen are critical to the active association  
12 model at Pease, which combines active and reserve elements  
13 to operate a weapon system. I wonder if you could tell me  
14 what your philosophy is relative to the active association  
15 model. Is this something that you think is important for  
16 the future of active associations in the Air Force?

17 Mr. Manasco: Senator, yes. I think it can be a very  
18 effective structure, and if confirmed, I would continue to  
19 look for ways to do that.

20 Senator Shaheen: Thank you.

21 I hope you will also be willing to look for missions in  
22 the interim that those people who are still with the 157th  
23 can use to ensure that they continue their training and  
24 active duty work so that they are ready when the KC-46's are  
25 ready to fly refueling missions.

1 Mr. Manasco: Ma'am, you have my commitment to do just  
2 that.

3 Senator Shaheen: Thank you.

4 My next question is for Ms. Pearce. As you know, PFAS  
5 chemicals are a very serious issue that affect more than 600  
6 military installations across the country. And in your  
7 response to the advance policy questions, you indicated that  
8 you will work closely with Secretary Esper and the  
9 commission that he has appointed to address PFAS issues in  
10 the Department of Defense.

11 Can you talk about what more you think the Army can be  
12 doing to address this challenge?

13 Ms. Pearce: Senator, first, let me express my deep  
14 concerns about ensuring that our military families and the  
15 communities that host our military bases and welcome our  
16 military families with open arms never have to drink unsafe  
17 drinking water.

18 The Army has undertaken a comprehensive review of how  
19 we mitigate these types of threats. We are fully supportive  
20 of Secretary Esper's stated goals to ensure that we keep  
21 leadership involved in reviewing these issues and ensuring  
22 that our families can drink safe drinking water. We have  
23 limited the number of opportunities to utilize PFAS/PFOA,  
24 and I envision us continuing to focus on this. But in  
25 instances where we become cognizant that there is a concern

1 or a threat, we will take immediate action, and you have my  
2 commitment to continue to focus on this critically important  
3 issue moving forward, if confirmed.

4 Senator Shaheen: Thank you very much.

5 My time is up but, Mr. Manasco, I would just point out  
6 that we are very appreciative of the work that the Air Force  
7 has done at the former Pease Air Force Base with respect to  
8 remediation of PFOA and PFAS chemicals in our water. It has  
9 been issue and the Air Force has really worked in  
10 partnership, and we appreciate that. Thank you.

11 Thank you, Mr. Chairman.

12 Chairman Inhofe: Thank you, Senator Shaheen.

13 We will now hear from Senator Cotton who is here via  
14 Webex. So we look at the screens. Senator Cotton? I think  
15 you have your mute on. Senator Cotton, we are unable to  
16 hear you. Let us try the mute. Okay. We are going to ask  
17 for some technical help for Senator Cotton, and if you do  
18 not mind standing by, we will put somebody else in and then  
19 come back to you because we are unable to hear you. Okay?

20 Senator Rounds, you are recognized and then we will  
21 come back to Senator Cotton.

22 Senator Rounds: Thank you, Mr. Chairman.

23 First, thank you, all of our nominees, for your service  
24 and your willingness to participate in this process.

25 Mr. Manasco, during our call 2 weeks ago, I shared with

1 you my strong desire to leverage the lessons learned from  
2 the acquisition of the F-22 as we proceed with the  
3 procurement of the F-35, which will be the largest  
4 acquisition effort in Pentagon history. Two-thirds of the  
5 lifecycle costs of the F-35 are expected to come from  
6 operations and sustainment.

7 First, I would like to know what are your thoughts on  
8 keeping the price per unit, sustainment costs, and total  
9 ownership costs down? And can you share with me what your  
10 thoughts are about the lessons that we learned regarding our  
11 lack to follow through with the total purchases of F-22's as  
12 originally planned?

13 Mr. Manasco: Senator, thank you and thank you for your  
14 time a couple weeks ago.

15 Make no mistake. The F-35 is an exquisite platform.  
16 And the way in which we can lower our total cost of  
17 ownership is to continue to procure them so that we take the  
18 R&DT money that we have spent and cost that out over the  
19 number of airplanes that we buy. That is first and  
20 foremost.

21 With respect to sustainment cost, we believe it is  
22 really important to continue to work with the OEM  
23 manufacturer to get access to the right data so that we can  
24 collectively look at that. And at the same time, we can  
25 really begin to tap into a broader set of suppliers that can

1 help us create some competition to be able to lower those  
2 costs down. And so, if confirmed, those are the things that  
3 I am going to remain focused on with respect to this  
4 platform.

5 And then with respect to the F-22, many of my  
6 colleagues who fly that aircraft would love to have more of  
7 them in the inventory today. And so we are taking lessons  
8 from that situation and applying them to the F-35.

9 Senator Rounds: Thank you, sir.

10 Mr. Whitley, if confirmed, what steps would you take to  
11 enable CAPE to better estimate the costs of cyber  
12 capabilities and IT systems?

13 Dr. Whitley: Yes, Senator. I think that is an  
14 important area of development. My understanding is that  
15 work has begun on that already. So in particular, a lot of  
16 the software work that goes into weapon systems is done  
17 within the government, and so that has been a weakness in  
18 data capture for the defense contractors. So what CAPE has  
19 been doing is building the capability and the databases to  
20 collect that data from the Army, Navy, and Air Force in  
21 their software centers, Senator.

22 Senator Rounds: Basically what you are saying is  
23 either we do not have enough information or we are not doing  
24 a good job of assimilating it?

25 Dr. Whitley: Absolutely, Senator. The question is

1 data.

2 Senator Rounds: Thank you.

3 Ms. Pearce, do you think that you would have the  
4 resources that you need to provide adequate legal advice on  
5 Army acquisition, logistics, and technology programs? I am  
6 really kind of curious as to your thoughts given the great  
7 complexity of these topics. If confirmed, would you assess  
8 -- I guess what I am curious about is do you believe that  
9 you have the ability and that of your team to provide legal  
10 review of legislative proposals of importance to the Army.  
11 Is there anything that you need with regard to resources in  
12 terms of the team needs itself in order to do that job?

13 Ms. Pearce: Senator, based on my experience in my  
14 previous role as the Deputy General Counsel for legislation,  
15 I am very familiar with the legislative review process and  
16 the proposal process. You have my commitment that I will  
17 continue to facilitate that process and share with the  
18 committee any information that the committee requires as the  
19 committee undertakes its really important work putting  
20 together the NDAA each year.

21 I am confident that I have the resources and the  
22 personnel with the subject-matter expertise to handle these  
23 complex questions in the area of acquisitions and contracts  
24 and such. I have a team of attorneys who have served many  
25 of them in uniform, many of them as long-term civilians in

1 my office. They bring to the table subject-matter expertise  
2 to help me and my counterpart, the Judge Advocate General of  
3 the Army, to sort through complex legal questions, to work  
4 together as a team, and to get to the right thoroughly  
5 researched legal advice that we are required to provide  
6 senior leaders so that they can make well informed decisions  
7 on these matters.

8 Senator Rounds: Thank you.

9 And, Mr. Hardy, I would just note that you come with a  
10 great deal of expertise and background. I just want to know  
11 one thing. If confirmed, would you have any suggested  
12 legislative initiatives for Congress to consider regarding  
13 military law that you are aware of at this time?

14 Mr. Hardy: Senator, no. I do not think it would be  
15 appropriate, if I were to be confirmed for a judge sitting  
16 on a court, to make any legislative recommendations to the  
17 Congress. I think that is the proper role for the executive  
18 branch and for Congress itself.

19 Senator Rounds: Thank you.

20 Thank you, Mr. Chairman.

21 Chairman Inhofe: Thank you, Senator. And I appreciate  
22 you bringing up the problem that we suffered with the F-22.  
23 Some of us back at that time saw this coming. And we  
24 certainly do not want to make the same mistake with the F-35  
25 that we made at that time.

1           We are going to go to the next Senator, Senator  
2 Blumenthal. Then we are going to come back to Senator  
3 Cotton.

4           Senator Blumenthal: Thank you, Mr. Chairman.

5           Thank you all for your service and for being here  
6 today.

7           I want to join a number of my colleagues in expressing  
8 dismay and outrage in the President's decision to appoint  
9 General Tata to a top policymaking position of extraordinary  
10 consequence to our men and women in uniform after  
11 withdrawing that nomination. The reason for the withdrawal  
12 of the nomination is that almost certainly he would have  
13 been rejected by this committee after our review  
14 meticulously of his record. He was unfit to serve. He is  
15 unqualified for the position where he is now serving.

16           And the President has demonstrated not only disrespect  
17 for this committee but also for the men and women in uniform  
18 whose lives he will affect and for the very dedicated  
19 Pentagon public servants that you hope to join. He has made  
20 this confirmation process a sham, and the fact that so many  
21 of the top policymakers in the Pentagon are serving on an  
22 acting basis I think reflects his mocking Congress'  
23 oversight role. It is more than just a personal insult. It  
24 is in fact a disrespect for the institutional role of this  
25 committee.

1           And so I join in feeling that we must take action. I  
2 personally am disinclined to support any nominee of the  
3 President to the Department of Defense at this time. And  
4 given that he has acted in such bad faith and disrespect, I  
5 will almost certainly oppose nominees unless something is  
6 done to correct the situation.

7           Let me ask a few questions. Ms. Pearce, I know you  
8 have almost certainly been following this tragic story of  
9 Vanessa Guillen and know that her family has said that she  
10 experienced sexual harassment and assault but was unwilling  
11 or unable to report it because of her lack of trust in  
12 military leadership. Are you committed to changing the  
13 culture both at the base where she served and in the Army in  
14 general?

15           Ms. Pearce: Absolutely, Senator. As a person who  
16 found myself in the circumstance where I had to report on a  
17 person who supervised me when I served on active duty, I  
18 fully appreciate Specialist Guillen's concerns related to  
19 reporting and all of the different ramifications and  
20 implications of her doing so. I was very saddened about  
21 this case when I learned of it. I am following this case  
22 closely. You have my commitment that we are going to take  
23 the appropriate action as a result of this case, once the  
24 investigation is complete.

25           Senator Blumenthal: Thank you. I know that you have

1 written, you have served on committees dealing with sexual  
2 assault in the military.

3 Let me ask you a question that I think goes to  
4 appropriate remedies for victims and survivors of sexual  
5 assault. As you know, the Feres Doctrine is a ruling  
6 interpreting the Federal Tort Claims Act to bar active duty  
7 service members from pursuing lawsuits against the  
8 Department of Defense, including sexual assault because it  
9 is regarded as incident to military service. I frankly am  
10 at a loss to understand how sexual misconduct could be a  
11 considered a part of military service. I am considering  
12 legislation that would provide an exception to the Feres  
13 Doctrine for military sexual assault.

14 Will you consider and review proposals to provide an  
15 exemption so that members of the military who are victims  
16 and survivors of sexual assault can bring legal action  
17 against the Department of Defense?

18 Ms. Pearce: Senator, you have my commitment to do so,  
19 if confirmed.

20 Senator Blumenthal: Thank you.

21 Mr. Whitley, you have written previously on safe  
22 storage laws. Your article I think was some time ago. It  
23 said, in effect, that you believe that safe storage laws  
24 have no utility, no positive effect. Do you continue to  
25 have that belief?

1 Dr. Whitley: Senator, that was empirical research that  
2 was contributing to a larger body of literature on that  
3 topic, and I am not current on that literature but I believe  
4 that research was sound.

5 Senator Blumenthal: So you would agree that safe  
6 storage laws for firearms can have a positive effect.

7 Dr. Whitley: Oh, they certainly can and they can  
8 certainly have negative effects. And the empirical  
9 literature was trying to sort out and quantify those things,  
10 Senator. Absolutely.

11 Senator Blumenthal: Thank you.

12 Thank you, Mr. Chairman.

13 Chairman Inhofe: Thank you, Senator Blumenthal.

14 We will now have Senator Tillis. He will be on Webex.  
15 We are going to try the system again. It does not seem to  
16 be working. Let us try to see if Senator Cotton's machine  
17 will come up.

18 Senator Tillis: Mr. Chairman, this is Tom Tillis. Can  
19 you hear me?

20 Chairman Inhofe: Yes. We do hear you now. We do not  
21 see you.

22 Senator Tillis: I think we are having a problem with  
23 the video. So if I may, I will just participate by voice.

24 Mr. Whitley, I have a question for you. Yours is an  
25 area that is very important to me when it comes to cost

1 estimating and keeping projects on track. If I were in the  
2 hearing room today, I would bring my 680-page RFP for the  
3 next generation handgun that started in the Air Force, moved  
4 to the Army. It took 10 years to decide on the handgun, and  
5 by the time it is fully deployed, it is going to need to be  
6 replaced.

7 So how do we go about looking differently at projects?  
8 I would think that a next generation handgun project would  
9 be somewhat more simple than, let us say, the F-35 project.  
10 How do we go and start stratifying these programs and  
11 provide for more accountability at the execution level and  
12 more in-process assessment rather than just determining how  
13 much longer it is going to take or how much more it is going  
14 to cost? At what point do we start rethinking programs that  
15 are shifting so far to the right like the next generation  
16 handgun?

17 Dr. Whitley: Yes, Senator. Absolutely. If I  
18 understood your question correctly, you are getting at what  
19 is the appropriate acquisition strategy for things that are  
20 particularly more like off the shelf or should be less  
21 customized.

22 So let me separate -- CAPE has two roles here. The  
23 first role is for a given acquisition strategy, for a given  
24 set of requirements, what is the estimated cost and what is  
25 an independent view of the estimated cost. The second is

1 CAPE plays an active role. It does not lead, but it plays  
2 an active role in the acquisition process.

3 So I think advocating for the things you are talking  
4 about there, Senator, if I were confirmed, would be in that  
5 second role where we participate. I would be participating  
6 in the decision-making process with others led by ANS and  
7 led by the service acquisition authorities on what was the  
8 proper approach to acquisition of that system.

9 Senator Tillis: Yes. It just seems to me we have got  
10 to have some way for those who are observing the process to  
11 kind of stop the assembly line row and wonder whether or not  
12 we are executing properly a lot more early in the cycle than  
13 the nearly 10 years it took to get the next generation  
14 handgun procured.

15 Let us see. Ms. Pearce, a quick question for you. I  
16 think that Chairman Inhofe mentioned military housing. That  
17 is something I have paid a lot of attention to in my role as  
18 chair of the Personnel Subcommittee. I actually believe  
19 that we have made some progress, but I have a lot of reports  
20 down at Fort Bragg and Camp Lejeune of much more work to do.

21 One of the things that I think we ultimately have to  
22 look at is how we have contracted military housing. We have  
23 got 80 or so different contracts spread out across a very  
24 diverse portfolio. And I know that it would be difficult,  
25 but I think that we need some smart lawyers to go in there

1 and rethink the contracts with some of these providers  
2 dealing with their financial obligations to see if a part of  
3 the problem is the very rigid nature of how the contracts  
4 currently exist.

5 Have you paid any attention to that as we are trying to  
6 go through and fix the privatized housing?

7 Ms. Pearce: Yes, Senator. That is in fact an issue  
8 that my office has been grappling with. In particular, very  
9 recently Department leadership hosted a roundtable  
10 discussing the future viability of the privatized housing  
11 initiative.

12 I do not have any thoughts immediately today about the  
13 right path forward, but I am committed, if confirmed, to  
14 take a look at the contracts that you describe, look at  
15 their terms and what is in the realm of possible with  
16 respect to long-term viability of the program, which I think  
17 is a top concern of Department leadership and, of course,  
18 the legal team supporting them.

19 Senator Tillis: Thank you very much.

20 Thank you, Mr. Chair.

21 Chairman Inhofe: Thank you.

22 Senator Hirono?

23 Senator Hirono: Thank you, Mr. Chairman.

24 I would like to associate myself with the concerns  
25 expressed by my Democratic colleagues regarding the

1 President's recent action relating to General Tata.

2 These next two questions I ask of all nominees who come  
3 before any of my committees. Very brief yes or no answers.  
4 And I would like to start with Secretary Whitley followed by  
5 Secretary Manasco, then Ms. Pearce and Mr. Hardy.

6 The first question. Since you became a legal adult,  
7 have you ever made unwanted requests for sexual favors or  
8 committed any verbal or physical harassment or assault of a  
9 sexual nature? Secretary Whitley?

10 Dr. Whitley: No, I have not, Senator.

11 Mr. Manasco: No.

12 Senator Hirono: Can you all unmute yourself for the  
13 next question?

14 So Secretary Manasco?

15 Mr. Manasco: No, I have not.

16 Senator Hirono: Mr. Pearce?

17 Ms. Pearce: Senator, no I have not.

18 Senator Hirono: Ms. Pearce. Sorry.

19 Mr. Hardy?

20 Mr. Hardy: No.

21 Senator Hirono: Next question. Have you ever faced  
22 discipline or entered into a settlement related to this kind  
23 of conduct? We will go down the line again.

24 Dr. Whitley: No, Senator, I have not.

25 Mr. Manasco: No, Senator, I have not.

1 Ms. Pearce: No, Senator.

2 Mr. Hardy: No, Senator.

3 Senator Hirono: Thank you.

4 I have questions for Secretary Whitley. So I would  
5 appreciate for this series of questions a very short  
6 basically yes or no responses.

7 In your advance policy questions responses, you said  
8 you contributed to the development of the fiscal year 2021  
9 President's budget. When the Secretary of Defense testified  
10 on March 4th, he stated that the fiscal year 2021 budget  
11 request aims to achieve -- and I quote -- irreversible  
12 implementation of a National Defense Strategy, which  
13 includes enhancing missile defense capability pursuant to  
14 the 2019 Missile Defense Review.

15 Do you agree with Secretary Esper's statement?

16 Dr. Whitley: Yes, Senator. We made significant  
17 investments in the NDS in the 2021 budget submission.

18 Senator Hirono: Thank you.

19 Secretary Esper also testified that INDOPACOM is the  
20 Department's number one priority, and he made a commitment  
21 to defend all 50 United States and territories with, quote,  
22 radars and deflectors, end quote, as necessary.

23 Do you agree with Secretary Esper's statement?

24 Dr. Whitley: About the importance of INDOPACOM and the  
25 Pacific theater, absolutely, Senator.

1 Senator Hirono: Thank you.

2 In the DOD budget request, which you informed, it  
3 quotes, it increases missile defense capability and capacity  
4 to keep pace with adversary missile systems input while  
5 investing in a layered defense of the homeland. End quote.

6 Is that correct?

7 Dr. Whitley: Yes, sir. There was an adding of -- the  
8 multilayered defense was added in the 2021 submission.

9 Senator Hirono: Mr. Whitley, for 4 years, Congress has  
10 authorized and appropriated funding for the homeland defense  
11 radar Hawaii, HDRH, a key part of a system that provides  
12 layered defense of the homeland, something you just  
13 committed to. The DOD's own 2019 Missile Defense Review  
14 underscores the mission-critical need for building HDRH, and  
15 yet you recommended to the Secretary of Defense during the  
16 defense-wide review to zero out funding for HDRH in fiscal  
17 year 2021. You were at CAPE as the Acting Director during  
18 all of the defense-wide review deliberations, and the  
19 Secretary of Defense said the zeroing out of the funding for  
20 HDRH was due to the delay in siting.

21 Do you agree with that?

22 Dr. Whitley: Yes, Senator. The way it was presented  
23 by the Missile Defense Agency to us in the 2021 bill is that  
24 because of the siting delays, they were not going to be able  
25 to cite in 2021. So the funding was removed in 2021.

1           Senator Hirono: Well, of course, we all know that the  
2 Missile Defense Agency continues to be very committed to  
3 HDRH.

4           But going on, Commander General Davidson, INDOPACOM  
5 Commander, provided an independent assessment to Congress  
6 earlier this year outlining his resourcing requirements for  
7 implementing the National Defense Strategy. This assessment  
8 cited an HDRH study dated February 28th, 2020 perform by the  
9 Cost and Program Evaluation team as saying, quote, HDRH  
10 presents the solution for the gap in our ability to detect,  
11 track, discriminate, and defeat, end quote, ballistic,  
12 cruise, and hypersonic threats. End quote. It additionally  
13 included HDRH as one of the most critical investments to  
14 increase joint force lethality to, quote, adequately defend  
15 American interests. End quote.

16           This CAPE report that he cites was completed in  
17 February but has still not been released to Congress. When  
18 will we see it? Do you know?

19           Dr. Whitley: So, Senator, I am not involved with that  
20 process now. I am not involved in CAPE activities. My  
21 understanding is that study is underway.

22           Senator Hirono: Well, it was completed. So should you  
23 get your appointment, would you commit to releasing that  
24 report to Congress?

25           Dr. Whitley: If I am confirmed, I would expedite -- if

1 it is not done, I would ensure that it gets expedited and  
2 make that a very high priority, Senator.

3 Senator Hirono: Thank you.

4 Do you agree with Admiral Davidson's assessment of his  
5 theater's requirements and his unfunded priority list  
6 requests?

7 Dr. Whitley: I am sorry. What was that, Senator?

8 Senator Hirono: Do you agree with Admiral Davidson's  
9 assessment of his theater requirements, which includes HDRH,  
10 and his unfunded priority list requests?

11 Dr. Whitley: I mean, I think we have to see what the  
12 analysis says, Senator, but I think there is broad agreement  
13 within the Department in the analysis that I have seen that  
14 since we have significant more investments to make in the  
15 INDOPACOM theater to fully implement --

16 Senator Hirono: Well, clearly HDRH is something that  
17 has been supported by Congress for the last 4 years, and if  
18 there is going to be a shift away from funding for HDRH, we  
19 would be very interested in what kind of analysis you have  
20 done.

21 Chairman Inhofe: Very good. Thank you, Senator  
22 Hirono.

23 Senator Hirono: Thank you.

24 Chairman Inhofe: We are going to try Senator Cotton  
25 again. Apparently that is not going to work.

1 I believe Senator Cramer was here. Well, let us find  
2 out.

3 Senator Cramer: I am. Thank you, Mr. Chairman.

4 Thanks to all of you for being here and for your  
5 service.

6 Ms. Pearce, thank you, first of all, for your service.  
7 My condolences on the loss of your mother. She sounded like  
8 she was remarkable.

9 Ms. Pearce: Thank you, Senator, very much.

10 Senator Cramer: Thanks for taking the time to visit  
11 with me previously to this hearing as well. I thought they  
12 were productive, and hopefully they will have been.

13 For those that do not know, we talked about the Dakota  
14 Access Pipeline protests and the role that the U.S. Army  
15 Corps of Engineers played in facilitating a lot of illegal  
16 activity, followed by resistance to be helpful in any way in  
17 terms of cost of cleanup, cost of enforcement, policing. It  
18 ended up costing the State of North Dakota \$38 million to  
19 hire police officers from around the country to come in and  
20 defend it, not only legal commerce, but defend other police  
21 officers and police officers' families, and like I said,  
22 clean up an environmental disaster on the shores of the  
23 Missouri River when it was all done.

24 That said, first, to be clear, prior to me bringing  
25 this issue to your attention, did you ever work on the case

1 or advise the Department of Justice on it within your  
2 current role in the Army?

3 Ms. Pearce: No, Senator.

4 Senator Cramer: That is good for you because I can  
5 guarantee you if you had or anyone else to come before this  
6 committee who has their fingerprints on that would not get  
7 my support.

8 The last time we spoke, you said that you had been  
9 briefed on the details of the case and that you mentioned  
10 certain shortcomings I think was your word in how it had  
11 been handled. And we particularly focused on the fact  
12 through the Federal Tort Claims Act, which North Dakota has  
13 filed a claim, as you know, sets aside the 6-month period  
14 for discussion, for negotiating. And other than  
15 acknowledging North Dakota's lawsuit and a request for  
16 discussions, no such effort has been made by the Federal  
17 Government. In fact, the Army ignored it as has the  
18 Department of Justice.

19 Can you explain what the faults were that you see as  
20 you were briefed that you referenced?

21 Ms. Pearce: Yes, Senator. So first and foremost, let  
22 me be clear regarding my views on collaboration not only  
23 with the committee but with local stakeholders, members of  
24 our communities, ranchers, citizens, workers on the pipeline  
25 themselves. I am very concerned about their health, their

1 welfare, and their safety. It is my understanding after  
2 thoroughly reviewing all of the pleadings that there were  
3 absolutely missed opportunities to reach perhaps a  
4 settlement.

5 As you are well aware, based on the fact that this case  
6 is in litigation, the decision moving forward is out of my  
7 hands. I will assure you, however, that I am committed to  
8 addressing any concerns that I have moving forward if, at  
9 some point in the future, I have an opportunity to weigh in  
10 and share my views.

11 Senator Cramer: Okay. I am quickly running out of  
12 time. So thank you for that. I am going to give you an  
13 opportunity to be more specific.

14 But, first of all, I want to ask you this question. I  
15 am looking at the welcome page on the website on the Office  
16 of the General Counsel's home page. And it says this. Line  
17 1, the General Counsel is the chief lawyer of the Army  
18 ultimately responsible for determining the Army's on any  
19 legal question. Do you agree that that is your job?

20 Ms. Pearce: That is correct, Senator.

21 Senator Cramer: Okay.

22 Moving forward, opportunities. I want to see if we can  
23 get you one. As I said, the Corps' response to the suit was  
24 to seek to dismiss it. And then the Department of Justice  
25 sought to not have to have a hearing, and God forbid they

1 should have to come to North Dakota and have the  
2 inconvenience of a layover in Minneapolis. I am not sure  
3 they get out of their house anymore to be honest with you.  
4 We are still free out in North Dakota. The judge made sure  
5 they had to come there. They did.

6 Now, the judge will make this determination on merit.  
7 If the State's case is able to proceed, will you commit to a  
8 meeting with the Attorney General of North Dakota, Wayne  
9 Stenehjem, as the chief lawyer ultimately responsible for  
10 the Army's position? Will you commit to meeting with  
11 Attorney General Stenehjem to discuss a potential  
12 resolution?

13 Ms. Pearce: Absolutely, Senator.

14 Senator Cramer: Will you instruct the counsel at the  
15 Department of Justice to explore all reasonable means to  
16 resolve the case?

17 Ms. Pearce: I will convey my concerns that I have  
18 expressed to you privately and publicly, and I will ensure  
19 that my views are not just communicated verbally but in  
20 writing.

21 Senator Cramer: That would be great.

22 I will just wrap up, Mr. Chairman, by saying we are  
23 having a hearing on somebody who wants to be the chief  
24 counsel. I appreciate that. It sounds like it is a really  
25 important position when they are ultimately responsible for

1 determining the Army's position. And yet, we have this bank  
2 of lawyers over at the Department of Justice who have zero  
3 regard for States' rights, zero regard for federalism. It  
4 is an agency that has barely gotten better and certainly not  
5 below the level of Attorney General as near as I can see as  
6 it comes to respect for States. So I am grateful to have  
7 somebody seeking this job that is willing to state their  
8 position, but I also want you to be ultimately responsible.

9 With that, I yield. Thank you.

10 Chairman Inhofe: Thank you very much.

11 The chair got us out of order. So I think we are going  
12 to go now to Senator Ernst.

13 Senator Ernst: Thank you, Mr. Chair.

14 And thank you so much to all of our nominees as well  
15 for your willingness to serve in your roles.

16 Mr. Manasco, I will start with you, sir. The Air Force  
17 recently signaled that it may move the National Guard  
18 KC-135's from primary aerospace vehicle inventory status to  
19 backup aerospace vehicle inventory status. And I am a  
20 little concerned that this decision would impact negatively  
21 our Air National Guard units especially the 185th air  
22 refueling wing, which is located in my great State of Iowa.  
23 And placing an aircraft on this backup inventory status will  
24 likely result in losing the personnel assigned to the  
25 aircraft and then negatively impact the mission readiness to

1 fulfill air refueling requirements.

2           So how can the Air Force consider moving the KC-135  
3 into the BAI status when the KC-46 squadrons are not yet  
4 mission-capable?

5           Mr. Manasco: Senator, a few months ago, I had the  
6 benefit of being able to fly on a KC-46, and I have seen  
7 that aircraft at its best and I have seen it be  
8 unsuccessful. And so I am pleased and we are pleased as a  
9 Department around the direction that that is headed.

10           What is true is we are going to have to continue to  
11 make really difficult choices within our tanker portfolio so  
12 that we can be in a situation to divest in some platforms so  
13 that we can continue to invest in new.

14           I have not been a part of that decision, Senator, but  
15 if I am confirmed, I will look into it.

16           Senator Ernst: Thank you. And if you will commit as  
17 well -- I know there are a number of us with the same  
18 concerns with our squadrons. But if you would stay in touch  
19 with us before those moves are made, just to continuously  
20 let us know what their status is, I think that would be very  
21 important to all of us.

22           Mr. Manasco: Senator, you have my commitment to be  
23 transparent and collaborative through the process.

24           Senator Ernst: Thank you. I appreciate that.

25           And, Ms. Pearce, if we could turn to an issue that we

1 have struggled with for many, many years and in the area of  
2 sexual assault within the military. Judge advocates general  
3 in the Army are now starting to specialize in specific  
4 tracks of military justice, such as sexual assault. And  
5 what is your view of this specialization in the Army JAG  
6 Corps, and how will it help the military improve our  
7 military justice system and thus stamp out sexual assault  
8 within the military?

9 Ms. Pearce: Senator, my colleague, the Judge Advocate  
10 General, is very focused on this issue. While he is the  
11 primary proponent for those programs, if confirmed as the  
12 senior attorney legal officer for the Department of the  
13 Army, I will continue to work collaboratively with him on  
14 any measure, including these types of efforts that increase  
15 specialization, increase training, and ensure that those who  
16 are trying these cases have the skill sets required. As you  
17 well know, these are very complicated cases. They have  
18 significant ramifications, not just for those who are  
19 involved directly in the allegations, but also the units  
20 that have to provide the support for those who are involved.  
21 And I believe that we are making progress on that front, but  
22 I commit to you, if confirmed, I will continue to focus on  
23 this critically important issue.

24 Senator Ernst: Thank you, Ms. Pearce.

25 And are you familiar with the special victims counsels?

1 Ms. Pearce: Yes, Senator.

2 Senator Ernst: So we have the special victims counsel  
3 or our victim's legal counsel -- and they are critical to  
4 supporting service members who have been victims of sexual  
5 assault and, even more recently, domestic violence. And  
6 since the program's inception in 2013, there have been a lot  
7 of different reforms focused on prevention and also the  
8 advocate resources and empowerment that are now afforded to  
9 victims.

10 In your view, how has the right of certain victims to  
11 be represented by these SVCs or VLCs impacted the military  
12 justice system throughout the entire court martial process?

13 Ms. Pearce: I cannot speak more in favor of these  
14 programs. They have been critical to helping survivors of  
15 sexual assault, sexual harassment, and soon domestic  
16 violence issues in cases to understand what their rights are  
17 to allow them to be informed so that they can make good  
18 decisions for themselves.

19 I was on the staff of the House Armed Services  
20 Committee when this program was developed. I was on the  
21 Military Personnel Subcommittee as a professional staff  
22 member at the time. I was fully supportive of it then, and  
23 truly, from the time that I first served in the United  
24 States Air Force, when I swore my oath to support and defend  
25 the Constitution in 1996, I have observed remarkable change

1 and reform in all of these processes. But in my view, this  
2 particular reform is so essential to inspiring our folks who  
3 suffer from these most egregious crimes the opportunity --  
4 it affords them the opportunity to be willing to participate  
5 in the process and to be willing to stand up and to speak  
6 for himself and herself. So I cannot say enough, Senator,  
7 about how valuable those programs are because they really  
8 just provide invaluable services to those survivors who  
9 desperately need it.

10 Senator Ernst: Thank you very much. I really, really  
11 appreciate your perspective and thank you for that. I look  
12 forward to working with you.

13 Thank you, Mr. Chair.

14 Chairman Inhofe: Thank you, Senator Ernst.

15 Senator Kaine?

16 Senator Kaine: Thank you, Mr. Chair.

17 And thank you to the witnesses and nominees. I intend  
18 to support your confirmation for these positions. It is  
19 always a bad thing because you can only go downhill from  
20 this point in your answers to my questions.

21 I do also want to thank the staff. They are very  
22 smart. We have got a Virginia Tech grad and a mother of a  
23 UVA student. And they put the Sooner-West Pointer as a  
24 neutral Switzerland between you, which was very smart.

25 I want to follow up on Senator Ernst's lines of

1 questioning about sexual assault.

2 I was here my first year in the Senate in 2013 when the  
3 Armed Services Committee embarked on a series of reforms.  
4 And we have done major reforms and virtually every year  
5 added to it to try to tackle this challenge. And I would  
6 say at that time on the committee and maybe still, there  
7 were probably three strains of thinking among committee  
8 members.

9 There were those who believed absolutely dealing with  
10 issues of sexual assault and sexual harassment needed to be  
11 left within the chain of command and there need not be a  
12 major change of the kind that my colleague, Senator  
13 Gillibrand, was proposing.

14 The second category were those who strongly believed  
15 with Senator Gillibrand that investigation and prosecution  
16 of sexual assault and some other major crimes needed to be  
17 taken to an independent prosecutor.

18 There was a third group of us -- and I am in the third  
19 group -- who was new to the committee, was grappling with  
20 the magnitude of the problem, listened very carefully to the  
21 Pentagon preference for keeping things within the chain of  
22 command, and voted that way, but said but we are going to  
23 monitor the results. If this is the way you think we can  
24 deal with this problem, special victims counsel, some of the  
25 other changes we made, we are going to monitor the results.

1 We are not averse to pulling these cases out of the chain of  
2 command into an independent prosecution, but let us try it  
3 this way and we will see if we are happy.

4 And I will just say that I am, with a number of members  
5 -- and I have spoken with them this year in the NDAA  
6 process. We are not happy with the results. We just do not  
7 see the progress in the annual surveys that are done to  
8 suggest either that instances of sexual assault and  
9 harassment are coming down as we would hope or fear of  
10 retaliation, fear of intimidation is reducing as we would  
11 hope.

12 And so, Ms. Pearce, I am going to start with you, and I  
13 do want to ask my judicial nominee as well. I think he  
14 needs to be a little more careful about his answer for  
15 reasons he stated earlier. But if I could start with you,  
16 Ms. Pearce.

17 Tell us from your standpoint your own thoughts as  
18 somebody who is deeply involved in this, who has had a tough  
19 experience, who has had a report, who has been judge  
20 advocate general, who has trained attorneys in this -- tell  
21 me why I should feel optimistic that the path that we are  
22 pursuing is a path that is going to lead to success.

23 Ms. Pearce: Senator, I will start with I would change  
24 your phrasing a bit. I would be cautiously optimistic that  
25 we have the right people doing the right things to ensure

1 that the system works. It is not working well if you look  
2 at the numbers from a prevalence perspective and otherwise.

3 Senator Kaine: So, in other words, you do not read the  
4 data over the last 7 years differently than I do. You are  
5 not making an argument that, no, look, the instances of  
6 sexual assault or the fear of intimidation is moving  
7 dramatically in the right direction. You do not challenge  
8 me on the data.

9 Ms. Pearce: So, Senator, as I said, when I joined in  
10 1996, I prosecuted these cases. I worked as a defense  
11 counsel and a prosecutor with survivors of these crimes. I  
12 am deeply concerned that we need to focus ourselves more on  
13 this issue.

14 What I do not believe is that we need to change  
15 fundamentally the chain of command and the roles and  
16 relationships that an individual soldier has with his or her  
17 commander.

18 What I do think, however, is that it is time for a  
19 national conversation with colleagues and with stakeholders  
20 to address this issue from a prevention and an education  
21 perspective. We have undertaken within the Department, as  
22 you well know, since 2016 some of the most significant  
23 reforms in the military justice system, and I assure you it  
24 is far better than the system that I personally was involved  
25 with in 1996.

1           Senator Kaine: Let me ask Mr. Hardy a question as my  
2 time expires. I do think you need to be careful. Should  
3 you be confirmed, you do not want to be on the record in a  
4 way that would make people wonder could you be fair in a  
5 case before you. But you did testify in response to a  
6 question from Senator Reed that you think the UCMJ system is  
7 working well. Is that your opinion about the UCMJ as it  
8 applies to the way the military deals with sexual assault  
9 and sexual harassment claims?

10           Mr. Hardy: Well, Senator, I can tell you factually I  
11 know that the military has successfully been able to  
12 prosecute sexual harassment claims under article 92 and  
13 under article 93. That is both violation of a lawful order  
14 and maltreatment of a subordinate. And I understand that  
15 there are proposals to expand that authority to reach more  
16 situations. And so I think the situation is today there has  
17 been success.

18           Senator Kaine: Thank you.

19           Thank you, Mr. Chair.

20           Chairman Inhofe: Thank you, Senator Kaine.

21           Senator Hawley?

22           Senator Hawley: Thank you, Mr. Chairman.

23           Thanks to all the witnesses for being here today.

24           Dr. Whitley, if I could just begin with you. The  
25 Taiwan Defense Act, which I was proud to introduce and which

1 I am proud to say this committee unanimously included in our  
2 NDAA, states that the United States' ability to uphold a  
3 free and open Indo-Pacific would be severely compromised --  
4 I am quoting now -- if the Chinese Government were able to  
5 seize control of Taiwan.

6 Can I just ask you to give me a yes or a no as whether  
7 or not you agree with that assessment?

8 Dr. Whitley: Yes. Based on my understanding, yes.

9 Senator Hawley: And would you agree that if the United  
10 States lost its ability to maintain a free and open Indo-  
11 Pacific, then Beijing would increasingly be able to control  
12 our access to Asian trade routes and markets with  
13 potentially severe economic implications for this country?

14 Dr. Whitley: Generally, yes, sir. You are starting to  
15 ask questions that are outside of my area of expertise, but  
16 that certainly seems plausible and likely to me.

17 Senator Hawley: So is it fair to say that you share my  
18 assessment of what I think is, based on our votes and the  
19 assessment of much of this committee, that Taiwan's fate is  
20 crucially linked to the future of our own national security  
21 and also our own economic security and well-being. Is that  
22 fair to say?

23 Dr. Whitley: What I can say is certainly from an  
24 analytic perspective in the Department of Defense, we take  
25 that problem set very seriously, Senator.

1 Senator Hawley: Very good. Thank you for that.

2 Mr. Manasco, let me come to you. Whiteman Air Force  
3 Base in my home State is the proud home of the B-2, future  
4 proud home of the B-21. Can you give us a sense of how you  
5 see these aircraft contributing to deterrence against China  
6 not just from a nuclear standpoint but from a conventional  
7 one also?

8 Mr. Manasco: Yes, Senator. The B-21 is going to be an  
9 extraordinary weapon system with capabilities that span  
10 multiple mission sets. So that program today is progressing  
11 quite nicely. We have fully funded it from a cost  
12 perspective. And we are very much looking forward to having  
13 that aircraft in the inventory. And I have every confidence  
14 that, given its capabilities, it will send a strong message  
15 to our adversaries around what we can actually bring to  
16 bear.

17 Senator Hawley: Very good. We are looking forward to  
18 hosting the B-12 in Missouri.

19 You and I, Mr. Manasco, have already spoken about the  
20 need to operate in a more dispersed fashion in order to  
21 complicate Chinese targeting and deter Chinese aggression.

22 Can I just ask you with that in mind what is the future  
23 of the agile combat employment? And what are some of the  
24 key investments you think the Air Force needs to make to  
25 fully realize that concept's potential?

1           Mr. Manasco:  Senator, in every one of our war games,  
2  it is clear that we need to be able to shoot and move in  
3  addition to communicate.  And so with respect to agile  
4  combat employment, in this particular AOR, I think it is  
5  really important for us to begin to envelope our partners  
6  and our allies in ways that heretofore maybe we have not.  
7  So we are committed to being able to disperse if we need to,  
8  but also we are convinced that working with our allies and  
9  partners is the right way to go.

10           Senator Hawley:  Let me ask you this.  Along similar  
11  lines, last year's Air Force budget was heavily biased  
12  toward the extended range joint air-to-surface standoff  
13  missile over the long-range anti-ship missile.  I am just  
14  wondering, do you think that that right bias or is it time  
15  for the Air Force to start prioritizing ship killing?

16           Mr. Manasco:  Senator, make no mistake.  Especially  
17  with the Chinese and their growing fleet, we are going to  
18  have to take that threat more seriously than maybe we have  
19  in the past, and as we do that, I would anticipate we will  
20  have to look carefully at our munitions inventory to make  
21  sure that we can meet that threat in the invent that we need  
22  to.

23           Senator Hawley:  And finally, let me just ask, Mr.  
24  Manasco, you and Dr. Whitley both.  I have long advocated  
25  for creating a Pacific deterrence initiative.  The chairman

1 and the ranking member have led that effort in this  
2 committee. That is something that again this committee has  
3 written into the NDAA for this year. And the idea, of  
4 course, is that this will enable us to accelerate our shift  
5 to a more distributed and effective deterrence posture in  
6 INDOPACOM.

7 Can I have the commitment from both of you that you  
8 will fully implement a Pacific deterrence initiative as  
9 outlined in the NDAA? Go ahead, Dr. Whitley.

10 Dr. Whitley: Absolutely. If I was confirmed at CAPE,  
11 I would support the law as it is written.

12 Mr. Manasco: Similar, Senator. If I am confirmed, you  
13 will have my support.

14 Senator Hawley: Very good.

15 Thank you, Mr. Chairman.

16 Chairman Inhofe: Thank you, Senator Hawley.

17 And now via Webex, we will try Senator King.

18 Senator King: One of the things that we did in the  
19 past on this committee and through the National Defense Act  
20 is criminalize retaliation. To your knowledge, have there  
21 been any prosecutions anywhere in the military justice  
22 system of individuals for retaliating against those who have  
23 brought complaints for sexual harassment or sexual assault?  
24 Ms. Pearce?

25 Ms. Pearce: Good morning, Senator. I apologize for

1 the pause. I did not hear my name.

2 Senator King: I am sorry. The question is have there  
3 been any prosecutions for retaliation.

4 Ms. Pearce: Senator, I do not know the specific  
5 number, but I believe that is the case. There have been  
6 cases where disciplinary action has been taken to address  
7 retaliative efforts.

8 Senator King: Could you take that question for the  
9 record and respond to the committee on those numbers please?

10 Ms. Pearce: I am happy to do so.

11 Senator King: I have to say I want to associate myself  
12 with Senator Kaine's comments. I am one of those who joined  
13 the committee in 2013, voted against Senator Gillibrand's  
14 amendment three or four times, always saying let us give the  
15 reforms time to work.

16 The numbers just are not there. The improvement is not  
17 showing. It is 8 years, and I think we need to really talk  
18 about some more substantial change in the way the structure  
19 works. So I will look forward to your response on the  
20 retaliation question. But I really think we need to take a  
21 clear-eyed assessment of what has actually happened based  
22 upon the reforms the committee in good faith has passed, and  
23 if it is not bearing results, we are going to have to do  
24 something else.

25 Changing the subject. A question for Ms. Pearce and

1 Mr. Whitley.

2 One of our issues that comes up repeatedly before this  
3 committee is readiness, particularly readiness of equipment,  
4 whether it is a ship or an airplane or a mobile vehicle for  
5 the Army. In the modern technological age, one of the  
6 technologies that we have now is 3D printing. My question  
7 is, do you intend to, through the acquisition process,  
8 ensure that we are acquiring not only the piece of hardware  
9 but the intellectual property that underlays that hardware  
10 particularly the specifications and the software that will  
11 enable us to 3D print parts on a ship or in a hangar so that  
12 we do not have to wait for parts to come through in order to  
13 make sure our planes, ships, and mobile vehicles are ready  
14 for action?

15 Dr. Whitley: Yes, Senator. I do not know the details  
16 of the specific example you are using, but the general  
17 conversation that I have been part of and I support  
18 completely.

19 Senator King: So I am sorry. You support the idea of  
20 acquiring the intellectual property as well as the object.  
21 Is that correct?

22 Dr. Whitley: Yes, Senator. There might be instances  
23 that I am not familiar with where an exception would occur,  
24 but as a general rule, I agree with what you are saying,  
25 Senator.

1           Senator King: Ms. Pearce, can you assure us that you  
2 will look for those rights to intellectual property in  
3 contracts that are entered into by the Army in your case?

4           Ms. Pearce: Yes, Senator. In terms of my previous  
5 experience with F-35, intellectual property questions  
6 related to that airframe, I am absolutely committed to  
7 ensuring that the Department is a good steward of the  
8 American taxpayers' dollar, and I am absolutely committed to  
9 exploring how we can better acquire intellectual property  
10 rights on any contract that I would have the opportunity to  
11 review as the Army's chief legal officer.

12          Senator King: Thank you.

13          Mr. Manasco, I do not have really a question for you.  
14 I just want to thank you and the Secretary of the Air Force  
15 for your attention to the Arctic, a recently addressed  
16 Arctic strategy for the Air Force, a very important, very  
17 strategic area of interest for the United States. And I  
18 want to thank you for undertaking that.

19          A final question to Mr. Hardy. In the process of  
20 military justice, are you concerned at all about political  
21 interference that would tend to chill or taint the military  
22 justice process where you go through the process, you have a  
23 trial, you have a finding, and then there is a political  
24 deus ex machina that changes the outcome? Is this something  
25 that you feel any concern about, the possible taint to the

1 integrity of the military justice process?

2 Mr. Hardy: Senator, the unlawful influence of the  
3 command over the military justice system is something that  
4 the military has been acutely aware of since the UCMJ first  
5 was promulgated by Congress. And they take it very, very  
6 seriously and so do the military courts. They have  
7 described unlawful command influence as the mortal enemy of  
8 military justice. And so I assure you that the courts take  
9 it very seriously, and my experience has been that the  
10 Department of Defense takes it very seriously. And I do not  
11 think that there is a concern in the military courts about  
12 political or command influence determining the outcomes of  
13 cases.

14 Senator King: Thank you.

15 Thank you all and thank you for your service.

16 Thank you, Mr. Chairman.

17 Chairman Inhofe: Thank you, Senator King. And you are  
18 the first one to operate your Webex in a way that made  
19 sense.

20 [Laughter.]

21 Chairman Inhofe: Senator Manchin?

22 Senator Manchin: Thank you, Mr. Chairman.

23 I thank all of you for being here today.

24 Mr. Manasco, almost half of the Air Force airlift  
25 capability is provided by our Reserve component, including

1 the National Guard. The majority of the National Guard  
2 squadrons are still operating the legacy C-130H while  
3 waiting the fielding of the C-130J models. These aging  
4 platforms require avionic modernization, engine upgrades,  
5 and propeller replacements.

6 So my question would be, what are your plans and  
7 priorities to ensure that there are no gaps in readiness,  
8 maintenance, aircrew safety, mission accomplishment during  
9 modernization of the C-130H and fielding of the C-130J?

10 Mr. Manasco: Senator, let me first say the United  
11 States Air Force and Space Force could not do its missions  
12 without the expert men and women in the Guard and Reserve.  
13 And so you appropriately identified them, and their  
14 importance to this operation.

15 We are committed to modernization and committed to  
16 making sure that the airmen in this case that fly that  
17 platform has as modern equipment, as safe equipment so that  
18 they can carry out their duties. So you have my full  
19 commitment to continue to, if I were to be confirmed,  
20 support that. I spent a lot of time in the back of a C-130.

21 Senator Manchin: I have spent a lot of time also.

22 Additionally, I was very appreciative of Secretary  
23 Barrett's time last week to speak about the benefits of  
24 recapitalizing the fate of the C-130's located at the 130th  
25 airlift wing at McLaughlin Air National Guard Base in

1 Charleston, and I think if you check on the Charleston, West  
2 Virginia air base there, it has one of the highest readiness  
3 as far as being able to detain their aircraft and get them  
4 ready for any missions you ask for.

5 So we stand ready to accept full replacement of our H  
6 models for the newer J models with no additional cost to the  
7 Department of Defense. And I know that we are in the loop  
8 right now.

9 As the potential Under Secretary of the Air Force, I  
10 want to make sure that you were aware of this and are  
11 requesting our ability to do our job. Hopefully, you can do  
12 that.

13 Mr. Manasco: Sir, duly noted.

14 Senator Manchin: Mr. Whitley, your biography that was  
15 forwarded to the committee lists you as the current Deputy  
16 of the Chief Management Officer for the Department of  
17 Defense. In that position, you report directly to the CMO,  
18 a position which was created due to mine and late Secretary  
19 John McCain's Audit the Pentagon Act during -- being  
20 included in the fiscal year 2017 National Defense  
21 Authorization Act.

22 I am sure you are aware of the House and Senate  
23 versions of the NDAA called for the termination of that  
24 position and proposes to move the crucial task of  
25 identifying cost savings in our military to the Deputy

1 Secretary of Defense, who already has a pretty full plate.

2 Do you feel that there are significant opportunities  
3 for cost savings within the Pentagon? And without going  
4 into the issues surrounding the creation of the Defense  
5 Business Board report, this document claimed that the  
6 Department of Defense had not been transforming business  
7 reform in many decades. That is what my Audit the Pentagon  
8 bill sought to deliver. And the position of an actual chief  
9 management officer within the Department was instrumental in  
10 that and I think never had an opportunity to really function  
11 properly.

12 Dr. Whitley: To your specific question, Senator, about  
13 the opportunities for reform, I testified before this  
14 committee before on reform opportunities. So, yes, I think  
15 there are reform opportunities. I know Secretary Esper and  
16 Secretary Norquist --

17 Senator Manchin: Without a CMO, are you going to be  
18 able to have the staff? I mean, you got a lot on your plate  
19 right now. And if the CMO was ever allowed to do the job  
20 they were -- we are trying to get a 1-year extension on  
21 that. And hopefully, the NDAA will give us that to show the  
22 importance, if they have a direction of what their duties  
23 are.

24 Dr. Whitley: I mean, right now, I am sitting-in CMO.  
25 I was performing the duties of CAPE. I had a tremendous

1 relationship with CMO. If CMO continues and I were  
2 confirmed, I would continue to work very closely with them  
3 if the legislation is enacted. We could realign those  
4 functions. So, I mean, to me the most important thing, if I  
5 were confirmed, Senator, is that the functions exist  
6 somewhere and are being exercised.

7 Senator Manchin: I thank all of you, first of all, for  
8 your service. I think you have no trouble getting  
9 confirmed, all of you. Congratulations to you.

10 But with that being said, the CMO position we think is  
11 an extremely important position. They dedicate themselves  
12 for looking for cost savings within the Pentagon. It really  
13 is needed. Without that commitment -- you follow me -- then  
14 we are not going to get it done because there will be too  
15 much. Even Secretary Esper -- it is too much for one  
16 person. But we have to get direct flow into that to know  
17 exactly what you are expecting from the CMO and get a  
18 mission statement.

19 I am only asking if you will, after you are confirmed,  
20 give me an overview of what you think that CMO's position  
21 should be and how you would initiate a mission statement.

22 Dr. Whitley: Absolutely, Senator.

23 Senator Manchin: Thank you.

24 Thank you, Mr. Chairman.

25 Chairman Inhofe: Thank you, Senator Manchin.

1 Now via Webex, Senator Duckworth.

2 Senator Duckworth: Thank you, Mr. Chairman.

3 Secretary Manasco, if confirmed as Under Secretary of  
4 the Air Force, one of your responsibilities will be  
5 overseeing the readiness of the Department of the Air Force.  
6 An area here that I am very concerned about is logistics. I  
7 have said it before and I will say it again. I did not see  
8 sufficient investments being made in our logistics  
9 capabilities for a return to a more traditional warfighting  
10 tactic especially in a contested Indo-Pacific region.

11 A "Defense News" article published on June 11 of this  
12 year stated that the summary of the bill makes it clear that  
13 SASC is concerned that the Air Force [inaudible] aircraft  
14 for future capabilities could lead to a drop in near-term  
15 readiness, as well as a scenario where legacy aircraft are  
16 never actually replaced.

17 The Senate version of the fiscal year 2021 NDAA  
18 establishes a bottom limit of four, if you will, of 230  
19 tactical airlift platforms, but encourages the Air Force to  
20 strive for 286 tactical airlift platforms, which is already  
21 a decrease from 300 that have been required in past years.

22 Secretary Manasco, I have not gotten a straight answer  
23 out of the Air Force on what their plan is for tactical  
24 airlift platforms. If confirmed, what are your top three  
25 priorities for the Air Force, and where do you see logistics

1 tactical lift aircraft fitting into these priorities?

2 Mr. Manasco: Senator, first and foremost, I agree with  
3 your premise that we need to look critically at legacy  
4 platforms and make the difficult decisions to migrate to  
5 new. And we have a number of efforts underway to do just  
6 that.

7 As it turns out, these old airframes tend to be more  
8 costly to operate, and so that is something that we have to  
9 really stay focused on as a Department. And if confirmed,  
10 that is one area that I will continue to press and know that  
11 in order to make those hard decisions, we are going to need  
12 the help of Congress.

13 Senator Duckworth: If confirmed, will you commit to  
14 following up with me to brief me on your plan for tactical  
15 airlift platforms as soon as possible after confirmation,  
16 perhaps within the year?

17 Mr. Manasco: Senator, if confirmed, you will have my  
18 full cooperation on that request and any other.

19 Senator Duckworth: Thank you.

20 Switching topics now, Secretary Manasco, the senior  
21 military leadership of the Air Force has made some powerful  
22 statements about race following in the wake of George  
23 Floyd's death. Chief Master Sergeant of the Air Force  
24 Kaleth Wright was the first to speak out stating I am George  
25 Floyd. I am Philando Castile. I am Michael Brown. I am

1 Alton Sterling. I am Tamir Rice.

2         Several days later, General Charles Brown, now the  
3 Chief of Staff of the Air Force, was quoted as saying I am  
4 thinking about the equality expressed in our Declaration of  
5 Independence and the Constitution that I have sworn my adult  
6 life here to support and defend. I am thinking about a  
7 history of racial issues. In my own experience, that did  
8 not always seem of liberty and equality. The burden to  
9 fight for equality does not rest with just minorities. We  
10 all have to do our part to recognize these inequities and  
11 strive to understand the root causes and rid them from our  
12 institutions. Racial inequality is a plague that undermines  
13 our society. It undermines the cohesion and effectiveness  
14 of our military units. In an era of great power  
15 competition, we simply cannot afford to lose our edge, and  
16 anything that erodes that advantage, such as racism, needs  
17 to be eliminated.

18         Secretary Manasco, countless reports over the last  
19 several years have all pointed towards racial inequality in  
20 the Air Force. I am aware of the Air Force Inspector  
21 General's investigation into racial disparities and an  
22 independent review into the military justice system.

23         Other than studying this issue more, what tangible  
24 actions has the Air Force taken to address racial injustices  
25 within the Air Force and within Space Force?

1           And if confirmed, will you commit to fighting for an  
2 anti-racist Air Force and Space Force?

3           Mr. Manasco: Senator, I do not know that I can say  
4 this more emphatically, but racism of any form has no place  
5 in the Department of the Air Force. Period. And if  
6 confirmed, I will work diligently to make sure that it is  
7 eradicated from our ranks because this is a scourge on our  
8 society, and there is just simply no place for it. So you  
9 have my full commitment that I will work alongside the likes  
10 of great leaders like Kaleth Wright and C.Q. Brown to get  
11 after the things that we can do. So we have to listen and  
12 understand what the issues are. We have to own our  
13 mistakes, and we have to take action.

14           I am looking forward to the results of the IG  
15 investigation, and you have my full commitment that we will  
16 do what we need to do to put this Department in a better  
17 place than it is today.

18           Senator Duckworth: Thank you.

19           And I do want to just finalize by saying that I join my  
20 colleagues in expressing my grave concern about President  
21 Trump's disregard for the Senate confirmation process with  
22 regards to General Tata and his insertion of loyalists who  
23 would fail to get Senate confirmation into positions that  
24 they are not qualified for.

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

1 Chairman Inhofe: Thank you, Senator Duckworth.

2 Senator Jones?

3 Senator Jones: Thank you, Mr. Chairman.

4 And thank you all to our witnesses for your service and  
5 your willingness to serve.

6 I think it would be appropriate for me right now to  
7 follow up with what Senator Duckworth said.

8 And, Mr. Manasco, I really very, very much appreciated  
9 your comments about systematically trying to eliminate  
10 racism in the Air Force. It has been an issue that I have  
11 been concerned about not only with the Air Force, but really  
12 across the military. So I thank you for that.

13 And so I want to build on that, though, and go to you,  
14 Ms. Pearce. You are going to be the General Counsel for the  
15 Department of the Army, and the Army I do not believe is  
16 immune from the same allegations. We may have seen it more  
17 in other branches. But I would like to ask you generally  
18 the same questions. If you are confirmed here, how can we  
19 foster a climate of diversity and inclusiveness to eliminate  
20 bias in all aspects of the Army from recruiting to  
21 discipline to promotions, and will you seek to also do the  
22 same as Mr. Manasco just said, to try to do what you can to  
23 review the policies, procedures, do everything possible to  
24 eliminate any discriminatory effects that we have in our  
25 military, particularly within the Army?

1 Ms. Pearce: Senator, I am wholly committed, as my  
2 colleagues are in the United States Army, senior leaders  
3 from the Chief of Staff to the Secretary down to the lowest  
4 commanders and others on the leadership team. The United  
5 States Army is absolutely focused on this issue.

6 The Secretary recently announced the launch of Project  
7 Inclusion, which is an effort to understand how the Army as  
8 a whole is addressing racism in the ranks. We are  
9 conducting listening sessions across the force listening to  
10 soldiers on the ground. We want to hear their experiences.  
11 We want to let them know that this issue is important to us  
12 and we are wholly focused on it.

13 But more critically, Senator, what we are focused on  
14 and what we want to get from these listening sessions is  
15 ideas about how to go about eradicating both implicit and  
16 conscious and unconscious racism within the ranks. We know  
17 it is there, and we have to address it. We must do all we  
18 can to ensure that, as Senator Duckworth so rightly points  
19 out, a divided force is not a ready force. When there is  
20 division amongst soldiers, that squad, that unit cannot be  
21 as effective as we need it to be.

22 So I am wholly committed to this effort. I am looking  
23 forward to conducting additional listening sessions. I have  
24 conducted one listening session myself, and I learned a lot  
25 from the participants in that session. And I will be happy

1 to report back to you what the results of these listening  
2 sessions are and, most critically, what the Army intends to  
3 do with the data, once received, moving forward to eliminate  
4 this problem.

5 Senator Jones: Great. Well, thank you very much.  
6 Thank you both very much for your answers. I am very  
7 encouraged with all of that.

8 Mr. Whitley, let me move over to you real quick. I  
9 would like to discuss your perspectives on the ongoing  
10 transformation of the military health system, which is an  
11 issue I know you have testified to Congress in a few  
12 hearings already.

13 I will tell you that folks in my State have expressed  
14 some concern and opposition to some of the policies which  
15 allow only active duty service members to visit military  
16 treatment facilities.

17 So what do I tell those folks? What would you say to  
18 those families who are concerned about that? And also, as  
19 part of your answer, would you also maybe address whether or  
20 not we need to do any updates to the MHS transformation in  
21 light of the challenges and the lessons that we have learned  
22 from the coronavirus pandemic?

23 Dr. Whitley: Yes, Senator. So we have challenges with  
24 choice and access for our beneficiaries. I have testified  
25 to that point. So what I would say to you, Senator, is the

1 Department does have work to do on expanding choice and  
2 access to beneficiaries. Sometimes that is in an MTF.  
3 Sometimes that is in the civilian health care setting. So  
4 if I were confirmed, I would be committed to working with  
5 you, to understanding the challenges your folks, your  
6 constituent base, and then working through CAPE doing the  
7 analysis that would support senior leadership decision-  
8 making on reform. So it is an issue I am aware of. I think  
9 it is broader than just MTF access. It is MTF and purchase  
10 care access, and I think it is an area we need to improve  
11 on, Senator.

12 Senator Jones: Great. Have you got any suggestions  
13 about the coronavirus, any lessons --

14 Dr. Whitley: Oh, I am sorry.

15 So CAPE is involved in several ways on coronavirus.  
16 CAPE is looking at the changes in acquisition costs on  
17 systems. CAPE is looking at the force impacts. For  
18 example, where we slowed basic training, what would be the  
19 force management impacts over time. So if I were confirmed,  
20 I would be very involved in questions like that.

21 Are those the questions you are asking, Senator?

22 Senator Jones: Yes. And I look forward to try to  
23 getting that update at some later time when you can  
24 assimilate these as to what lessons we might learn and  
25 whether or not they will have any effect on the military

1 health transformation.

2 So thank you all very much. I look forward to  
3 supporting your nominations. Thank you. Congratulations.

4 Thank you, Mr. Chairman.

5 Chairman Inhofe: Thank you, Senator Jones.

6 That does exhaust our list of members. And so let me  
7 thank our four witnesses for your excellent testimony. And  
8 I will be looking forward to serving with all four of you in  
9 your new positions.

10 We are adjourned.

11 [Whereupon, at 11:00 a.m., the hearing was adjourned.]

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