

Stenographic Transcript
Before the

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

HEARING TO RECEIVE TESTIMONY ON
CIVILIAN CONTROL OF THE ARMED
FORCES

Tuesday, January 12, 2020

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SUITE 1050
WASHINGTON, D.C. 20005
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6 U.S. Senate
7 Committee on Armed Services
8 Washington, D.C.
9

10 The committee met, pursuant to notice, at 9:30 a.m. in Room
11 SD-106, Dirksen Senate Office Building, Hon. James M. Inhofe,
12 presiding.

13 Committee Members Present: Senators Inhofe, Wicker,
14 Fischer, Cotton, Rounds, Tillis, Sullivan, Cramer, Scott,
15 Blackburn, Hawley, Reed, Shaheen, Gillibrand, Blumenthal, Kaine,
16 King, Warren, Peters, Manchin, and Duckworth.

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

3 Senator Inhofe: All right. This is what we are going to
4 do. We are going to have Jack Reed chair the meeting. Now I am
5 going to be Chairman. I think it maybe not have gone to
6 everyone but it seems as if the Republican Party lost the
7 majority in the last election, and therefore I will cease to be,
8 in a couple of days, the Chairman of the meeting. So I am going
9 to have Jack Reed be the Chairman today so he can practice a
10 little bit, and he will be ready to take over the chairmanship.
11 Does that sound reasonable? No response. All right.

12 Well, good morning. The Committee meets today to receive
13 testimony on civilian control of the Armed Forces. I would like
14 to welcome our witnesses who are experts on the topic of
15 civilian military relations and the importance to implementing
16 effective national security. They are Dr. Lindsay Cohn,
17 currently Associate Professor at the United States Naval War
18 College, and Dr. Kathleen McInnis, Specialist in International
19 Security at the Congressional Research Service. We welcome both
20 of you as expert witnesses.

21 We had a very similar hearing before the Mattis nomination
22 as completed. The President-elect has announced his intention
23 to nominate Lloyd Austin to be the next Secretary of Defense.
24 This is similar to the situation that we encountered with
25 General Mattis, four years ago, and the plan is to follow the

1 same process that we used then. As we did in 2017, the first
2 step, which we are taking today, is an outside experts' hearing
3 on civilian control of the armed services. This will be
4 followed by a nomination hearing for General Austin, currently
5 planned for 19 January. And I add that I know that General
6 Austin very well and I think the world of him and I look forward
7 to working with him and I look forward to the two hearings we
8 are going to have.

9 After these two hearings are complete, the Committee will
10 vote on new legislation that would grant an exception to the
11 long-standing law that requires a candidate to have been retired
12 from active military service for seven years before being
13 appointed Secretary of Defense.

14 Confession is good for the soul. Let me just comment here
15 that I have never been a real believer in the seven-year thing
16 to start with, and so I am actually here learning, I suppose,
17 from our two experts, like others would be at this time.

18 So given his retirement in 2016, General Austin's
19 nomination will require Congress to pass legislation providing
20 an exception to the National Security Act of 1947, as amended,
21 which stipulates the seven-year requirement. This requirement
22 is intended to preserve civilian control of the Armed Forces, a
23 bedrock principle of American democracy. It has been waived
24 only twice in the last 70 years. As we did four years ago, when
25 we considered the waiver for General Mattis, we must understand

1 why this individual is uniquely qualified, at this point in
2 time, to lead the Department of Defense.

3 I want to make it clear that the concerns I highlight
4 regarding a waiver are not a reflection of the personal
5 attributes of General Austin. General Austin has a career of
6 distinguished service to our nation and I thank him for his
7 willingness to serve again.

8 In considering whether to provide a waiver, as we know, the
9 Secretary of Defense carries a broader set of responsibilities,
10 beyond authority over our men and women in uniform. The
11 Secretary must articulate, drive, and implement the nation's
12 defense policy while managing the world's largest and most
13 complex organization. A career in uniform certainly provides
14 important insight, but it does not necessarily prepare someone
15 for the interagency battles and engaging the American public in
16 congressional oversight.

17 On the nomination of James Mattis four years ago, Leon --
18 at my request it was, by the way -- Leon Panetta was the former
19 Secretary of Defense and he said, and I am quoting now, he said,
20 "The Secretary must exercise the ability to understand political
21 issues and deal with broader issues that involve your capability
22 to relate to the American people."

23 After 40 years of successful military service, it would be
24 natural and comfortable for Lloyd Austin to surround himself
25 with previous military colleagues who will likely make up the

1 bulk of his contacts, rather than selecting or recommending
2 strong civilian candidates for senior service and military
3 service.

4 Another fair question is that if both the Secretary of
5 Defense and the Chairman of the Joint Chiefs of Staff are from
6 the same service and had similar military experiences, would the
7 President get the necessary diversity of opinion and expertise
8 required to optimally address tough national security problems?
9 It is also reasonable to ask whether the appointment of two
10 generals to political positions in four years would increase the
11 politicization of the senior military officers corps. Over the
12 past few years, we have seen the involvement of retired generals
13 and flag officers in political matters, including endorsement of
14 political candidates, grow at an accelerated pace.

15 By possibly making it the rule, rather than the exception,
16 to grant a waiver, do we undermine the current norm of
17 apolitical senior military leadership that has served this
18 nation so well? Fundamentally, is this the decision involving
19 civilian control of the military alongside the President's
20 desire to nominate a Cabinet member in whom he places great
21 trust?

22 So we need to assess, number one, what makes General Austin
23 uniquely qualified to lead the Department of Defense; number
24 two, how will he assure that civilian leadership, and not the
25 uniformed military, controls policy; and three, what lessons

1 should be drawn from the tenures of former Secretaries Mattis
2 and Marshall?

3 As I have said many times, this book -- and I do not have
4 it with me right now, but the bipartisan National Defense
5 Strategy, by the way, it is a report that we have used as a
6 blueprint for quite some period of time. This report, the
7 National Defense Strategy, is put together by 12 individuals, 6
8 Republicans, 6 Democrats. All of them were highly qualified and
9 we have been using them as a guide to set our strategic
10 competitions, including strong views on the need for healthy
11 military-civilian balance. The commission's report cautions --
12 and this is quoting from the commission -- it says, quote,
13 "Decision-making is drifting away from civilian leaders on
14 issues of national importance," end quote. We need to consider
15 that warning as we take the next steps. For example, military
16 leaders must follow orders and win battles. The civilian
17 leaders must determine when and why to fight those battles, a
18 profoundly different question.

19 Let us be clear. The United States faces the most daunting
20 set of security challenges I can recall in my lifetime -- a
21 rising China, a belligerent Russia, and the continued threat
22 from rogue regimes and global terrorism. Confronting these
23 threats will require innovative approaches to modernize the
24 joint force, harness new technologies, and develop strategies to
25 compete across all domains of warfare.

1 We cannot afford to lose time. We are already falling
2 behind in critical capabilities like hypersonics, and our
3 adversaries are expanding their cyber and missile defense. And
4 I noticed that we have an expert that is going to be talking
5 about this issue that is on the panel here with us right now.

6 So, you know, I have been a little bit critical of the
7 previous administration. We actually, between the two years of
8 the five-year period between 2010 and 2015, we had occasion to
9 reduce our military by about 25 percent. At the same time,
10 China was increasing their military by 83 percent. So this is
11 something that is very much of a concern to me, and a concern to
12 several members of our Committee. So we need to determine, in
13 this case, whether what the President wants is also the best for
14 the nation. The stakes could not be higher.

15 So, Senator Reed, I am going to ask you to chair this
16 meeting, since you are the one there in Washington. And also
17 you need to practice since you are going to be the Chairman in
18 about one week. Okay? Senator Reed.

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

2 Senator Reed: Well, thank you very much, Mr. Chairman, and
3 I indeed do need to practice, so you have been gracious in
4 allowing me to do a little bit of practicing today. But let me
5 be very clear. Chairman Inhofe is the Chairman.

6 Let me welcome our distinguished guests, Dr. Lindsay Cohn
7 and Dr. Kathleen McInnis, and I look forward to their testimony
8 on the importance of civilian control of the armed services.

9 Civilian control of the military is enshrined in our
10 Constitution and in statute. Under current law, an individual
11 appointed to serve as the Secretary of Defense cannot be within
12 seven years of active duty as a commissioned officer in the
13 regular component of the armed services.

14 Four years ago I raised concerns that providing an
15 exception to General Jim Mattis to serve as the Secretary of
16 Defense could set a precedent for future waivers. Indeed, I
17 tried to dissuade future requests for waivers by declaring my
18 general opposition to them, even as I supported President
19 Trump's request. Nevertheless, President-elect Biden,
20 exercising his rights under the Constitution, has nominated
21 General Lloyd Austin. We now have a clearly qualified candidate
22 and a declaration by the President-elect that he needs General
23 Austin for the safety and security of the nation.

24 Civil-military relations are never static and must
25 constantly be attended to. During the four years since the

1 Committee last considered such a waiver, the status of the
2 military relations has eroded significantly under President
3 Trump, and the Department in Defense, in many cases, adrift.
4 This summer, emotions were high as demonstrations against police
5 brutality erupted across the country. Rather than calm the
6 situation, the President threatened to deploy military force
7 against civilian protesters under the Insurrection Act.

8 In addition, the removal of Secretary Esper in the waning
9 weeks of the administration was deeply troubling, as was the
10 repeated appointment of individuals to critical national
11 security positions within the Department based on the appearance
12 of loyalty to the President rather than the caliber of their
13 qualifications.

14 Compounding this problem, multiple senior-level officers in
15 the Department have gone unfilled, necessitating the installment
16 of career or mid-level officials into senior positions in an
17 acting capacity. Finally, the President undermined our military
18 justice system and chain of command by pardoning troops credibly
19 accused, including by their peers, of war crimes.

20 Moreover, we are facing extraordinary challenges. The
21 world is engulfed in a global pandemic that has sickened
22 millions of Americans, caused hundreds of thousands of deaths,
23 and produced severe economic damage. We are the victim of the
24 largest cyber breach on record, perpetrated by the Russians.
25 Last Wednesday, the Capitol was stormed by a mob whose intent

1 was prevent Congress from performing its constitutional duty to
2 certify the election. This attack was the greatest threat to
3 constitutional order in my lifetime, and it shocked our allies,
4 while giving comfort and confidence to our adversaries around
5 the globe.

6 When the Committee considers General Austin's nomination
7 next week, we will thoroughly review this nomination in the
8 historic context it is being presented and the impact it will
9 have on future generations. Therefore, as we discuss the
10 importance of civilian control of the Armed Forces this morning,
11 I hope our witnesses can speak to the following issues.

12 First, I would like your view on how to encourage diversity
13 of opinion within the Department of Defense when crafting policy
14 and making national security decisions, rather than tilting one
15 way, to the military, or completely the other way, to the
16 civilian.

17 Second, I would like our witnesses' thoughts on whether
18 providing a waiver will encourage senior military officers to be
19 more political and if they believe it could lead to a situation
20 where future Presidents will default to nominating retired
21 general officers to the position of Secretary of Defense in lieu
22 of qualified civilians.

23 Third, if Congress provides a waiver for General Austin, I
24 would like our witnesses to share their thoughts on the impact
25 this will have on the durability of the existing statute.

1 Finally, if General Austin is ultimately confirmed as the
2 Secretary of Defense, I would welcome any recommendations from
3 our witnesses on actions he could take to ensure his tenure
4 protects and promotes the principle of civilian control of the
5 military. Civilian control of the military, consistent with the
6 Constitution, begins and ends with the commander in chief. It
7 is the bedrock of our democracy and it is the principle that
8 President-elect Biden values and respects.

9 Serving on this Committee and providing oversight to the
10 Department of Defense is a great privilege and an enormous
11 responsibility, one that I take seriously. The events of the
12 past several months have thrown into sharp relief how perilously
13 close our nation has come to undermining the resiliency of our
14 democratic institutions. While not broken, these institutions
15 and principles have been repeatedly subject to extreme stress.
16 This dire situation calls for stability and a duly-confirmed
17 Secretary of Defense who has responded to Congress and the
18 confirmation process and will be responsive to Congress as well
19 as the President in the execution of his duties.

20 As we hear from our witnesses today and consider an
21 exception for General Austin to serve as the Secretary of
22 Defense, I expect the debate will be robust and spirited, but I
23 am also confident that it will be respectful, as every member of
24 this Committee cares deeply about our men and women in uniform,
25 their families, and the civilians and contractors who serve in

1 the Department of Defense.

2 Thank you very much, Mr. Chairman. And with the Chairman's
3 direction and permission, let me recognize our witnesses for
4 their testimony. Dr. Cohn, you may begin.

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1 STATEMENT OF LINDSAY P. COHN, ASSOCIATE PROFESSOR, U.S.
2 NAVAL WAR COLLEGE

3 Ms. Cohn: Good morning. Mr. Chairman, I ask that my
4 written testimony be made a part of the record.

5 Senator Reed: Without objection.

6 Ms. Cohn: Mr. Chairman, Mr. Ranking Member, Senators, I am
7 grateful for the opportunity to be here today. I would like to
8 note that I am speaking in my personal capacity, and my views do
9 not represent those of the U.S. Naval War College or of any
10 other organ of the U.S. Government.

11 There are important principles and values at stake here,
12 some of which weigh for granting Mr. Austin a waiver and some of
13 which weigh against it. I will do my best to lay out what I see
14 as the most important issues at stake so that you can make the
15 most informed decision possible.

16 On the pro side are the principles that the President
17 should generally be allowed to choose his or her own people
18 unless there is a good reason to deny them, and that it is
19 critical to break down the significant barriers faced by people
20 of color and other underrepresented groups in the national
21 security world and the world of governance, more broadly. On
22 these two points, Mr. Austin has a strong case.

23 On the con side are several concerns about principles of
24 civilian control of the military, civil-military relations, more
25 generally, and ultimately, democratic governance. This is where

1 I will focus my remarks, but I emphasize that systemic racism is
2 as much a danger to principles of democratic governance as
3 breakdowns in civilian control.

4 The first point to address is why this law exists at all,
5 as the Chairman asked, what the principle of civilian control
6 is, and why it is important. The law stems from a moment in
7 which the U.S. was creating a permanent national defense
8 establishment of unprecedented size, scope, and responsibility,
9 and Congress was motivated to ensure that this establishment
10 would be firmly under political rather than uniformed military
11 control.

12 Since then, the size and power of the Department of Defense
13 has arguably grown. It remains important, therefore, that this
14 enormous commitment of public resources and American lives be
15 subject and accountable to political authority and not solely to
16 its own internal judgment.

17 The principle of civilian control is about ensuring that
18 the military organization serves the purposes of the republic
19 rather than serving its own organizational judgment or purposes.
20 There are multiple mechanisms for achieving this, and the more
21 mechanisms there are in place, the more secure the principle is.
22 Some of these mechanisms are appropriate for a democratic
23 republic to use; others are not. Legitimate mechanisms include
24 having institutional structures that place politically appointed
25 or elected civilians in positions of authority over the highest

1 uniformed military officers; a legal system that holds military
2 personnel accountable to laws made by Congress; and a
3 professional military ethic of subordination to political
4 control.

5 Not legitimate for a democratic republic are mechanisms
6 like pervasive ideological surveillance and forcing loyalty to a
7 ruling ideology such as was seen in the Soviet military, and a
8 technique sometimes called ethnic stacking, which involves
9 making the officer corps consist largely of whatever demographic
10 group holds political power so that officers will identify with
11 and defend the interests of the group in power.

12 These are inappropriate for the fairly evident reason that
13 the military ought to serve the interests of the republic as a
14 whole, not of any particular political party or demographic
15 group within it. This is why there must be strong institutional
16 means of control in place, to avoid political attempts to
17 control the military through personal or ideological loyalty.

18 The "civilian" in civilian control can refer to several
19 elements, but the important one here is the logic that a person
20 applies to strategic planning and policy decision-making, a
21 political logic of achieving aimed specifically in the public or
22 national interest, or a military logic. For those within the
23 military, it is natural to want to approach a fight with
24 overwhelming resources, overwhelming force, and few limitations
25 on how they employ that force. This is how to win battles with

1 the smallest losses on your own side.

2 But this logic cannot be allowed to override the political
3 logic of why force is being used in the first place. In sum,
4 the principle of civilian or political control of the military
5 is central both to healthy democratic governance and to
6 effective use of force for political ends. One of the several
7 important mechanisms for exercising that control is civilian
8 political appointees exercising political rather than military
9 logic in positions of authority.

10 So those are the concerns relating to civilian control.
11 There are also concerns relating to issues of civil-military
12 relations and governance. The first is that granting this
13 waiver would weaken the principle that civilians should be in
14 control of the Defense Department and would very likely lead to
15 more appointments of recently retired officers. Should that
16 happen, there is the potential for further politicization of the
17 officer corps, by which I mean an undesirable increase in either
18 the reality or perception of military officers engaging in the
19 usually partisan struggle for political power within the
20 domestic system, something we have already noted as unhealthy.

21 Third is that this appointment is likely to strengthen a
22 general perception that military experience and expertise are
23 the same thing as security, defense, or foreign policy
24 expertise. They are not the same, and it is important that both
25 be well represented in defense and security policymaking. In

1 short, as Hamilton warned, if the people believe that only
2 professional military officers understand how to protect them,
3 it is a short step to the belief that only professional military
4 officers know how to govern them.

5 Fourth is the issue of public trust in the system and in
6 political institutions. Choosing a recently retired general
7 officer and arguing that he is uniquely qualified to meet the
8 current challenges furthers a narrative that military officers
9 are better at things and more reliable or trustworthy than civil
10 servants or other civilians. This is hugely problematic at a
11 time when one of the biggest challenges facing the country is
12 the need to restore trust and faith in the political system.
13 Implying that only a military officer can do this job at this
14 time as counterproductive to that goal.

15 There is also a danger that elected officials may use the
16 public's trust in the military to avoid difficult parts of
17 politics. Military personnel should not be used as shields for
18 political choices. In order to restore trust and confidence in
19 the system, elected officials must embrace the responsibility of
20 making the public case for difficult choices.

21 While I have argued that this nomination is troubling on
22 grounds of healthy governance and institutions, there are
23 several ways that these concerns could be mitigated, things that
24 both these chambers and Mr. Austin and the Biden administration
25 can do. I have outlined these in my written statement and I am

1 happy to elaborate.

2 There are ways in which granting this waiver and confirming
3 Mr. Austin will make efforts to restore trust in the political
4 system more difficult. Should this chamber choose that path, it
5 will be important to ensure that the administration is doing
6 what it can to rebuild civilian expertise and authority in the
7 Department of Defense, and the government, more broadly. In
8 other ways, Mr. Austin may be the right person for the job at
9 this moment. The President-elect will need his team to work
10 together smoothly and seamlessly to deal with the extreme
11 challenges they face, both domestically and abroad. Mr.
12 Austin's leadership could be a step in the right direction of
13 diversifying the upper levels of the national security
14 establishment.

15 Our country faces a difficult time, and the incoming
16 administration must balance a number of competing priorities,
17 central among them the need to restore the legitimacy of the
18 principles and institutions of democratic governance. Mr.
19 Austin's nomination will neither heal nor break American
20 democracy by itself, but it is a critical node in the web.

21 Thank you, and I look forward to your questions.

22 [The prepared statement of Ms. Cohn follows:]

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1 Senator Reed: Well, thank you very much, and let me now
2 recognize our other witness, Dr. McInnis. Thank you, Doctor,
3 and just a reminder, if you can stay close to the five minutes
4 we would appreciate it. Thank you.

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1 STATEMENT OF KATHLEEN J. McINNIS, SPECIALIST IN
2 INTERNATIONAL SECURITY, CONGRESSIONAL RESEARCH SERVICE

3 Ms. McInnis: Good morning, Mr. Chairman. I ask that my
4 written testimony may be made part of the record.

5 Senator Reed: Without objection.

6 Ms. McInnis: Thank you. Thank you, Mr. Chairman and Mr.
7 Ranking Member, for the opportunity to join you this morning to
8 discuss civilian control of the Armed Forces. It is an honor to
9 be here for this conversation on behalf of the Congressional
10 Research Service.

11 The Founding Fathers placed limits on the Armed Forces in
12 order to ensure that the military is both subordinate and
13 accountable to the political leadership of the United States.
14 Control of the Armed Forces is a shared responsibility of both
15 the Executive and Legislative branches. Tensions arise, of
16 course, but the fundamental subordination of the military to the
17 civilians that they serve has remained intact due to careful
18 oversight and daily management by both branches if the U.S.
19 Government.

20 One hundred fifty years after the founding, the experience
21 of World War II convinced many, including President Truman, of
22 the need for greater coordination of a larger standing military
23 in a single Defense Department. Yet concerns were raised that a
24 single individual serving as head of all the U.S. Armed Forces
25 might become too powerful, and even more so if that person had

1 previously served as a military officer. This concern led to
2 the provision commonly referred to as the cooling off period
3 between military service and SecDef appointment. At the time,
4 the period was ten years. In 2008, Congress reduced it to seven
5 years. There have been two exceptions to that waiting period,
6 for General Marshall in 1950 and for General Mattis in 2017.

7 Four years ago, this Committee heard testimony on the risks
8 that confirming a recently retired general officer into the
9 position of Secretary of Defense might introduce. It was
10 observed that tactical and operational leadership, especially
11 within a deeply hierarchical and nonpartisan institution like
12 the military, does not necessarily provide adequate preparation
13 for the complexity of a Secretary of Defense's inherently
14 political roles.

15 The position of Secretary of Defense is unique within the
16 U.S. Government. They serve as the principal advisor to the
17 President on defense matters. They are the only unelected
18 civilian leader in the military chain of command. They are
19 responsible for adjudicating budget disputes. They represent
20 DoD in interagency discussions. They serve as a key node for
21 Congress's oversight and civilian control of the military. They
22 manage one of the largest workforces in the world. They serve
23 as a point of communication between the Department of Defense
24 and the American public. And all the while they must constantly
25 and vigorously protect the military from politicization.

1 Those tasks are a tall order for anybody, so success
2 depends upon the health of the Department of Defense as an
3 institution, and in particular, the Office of the Secretary of
4 Defense, the ladder helps the Secretary provide routine civilian
5 oversight over the department.

6 A growing chorus of defense experts argue that those
7 civilian institutions are now at a low point. Some reasons for
8 this assessment include failures to nominate and confirm
9 experienced and effective political appointees, which has
10 allowed, if not encouraged, other institutions in DoD to
11 marginalize civilian leadership on matters such as planning; and
12 mandated headquarters personnel reductions, which have served to
13 increase the workload on shrinking staff in the face of an
14 increasingly dangerous strategic landscape.

15 According to this view, in order for the Secretary to
16 provide effective authority, direction, and control over the
17 Armed Forces, these institutions ought to be revitalized. Now
18 these issues existed when Secretary Mattis assumed the reins of
19 the Department of Defense, and for a variety of reasons they
20 have since accelerated. Observers argue that the net result has
21 been to create an inversion of the civil-military relations
22 dialogue with the military now more dominant on defense matters
23 on a day-to-day basis than their civilian counterparts.

24 This is why the bipartisan National Defense Strategy
25 Commission stated that they were struck by the imbalance of

1 civilian and military voices on critical issues of strategy
2 development and implementation.

3 Article 1, Section 8 of the Constitution grants Congress
4 the power to raise and supervise the military, and by extension,
5 the Pentagon. Many observers, therefore, contend that a top
6 priority for the Secretary of Defense, in partnership with
7 Congress, should be to revitalize and improve DoD civilian
8 institutions and workforce. Put a bit differently, considerable
9 time and attention is paid to the health of the military's
10 personnel, equipment, and so on, yet there is no comparable
11 metrics for civilian workforce health and readiness. Regardless
12 of who ultimately sits in the position of Secretary of Defense,
13 addressing this matter is an option Congress might want to
14 consider in order to revitalize civilian control of the military
15 and ensure our civilian institutions are robust enough to do
16 their work effectively.

17 In conclusion, Mr. Chairman, the American government wields
18 its power through the consent of the governors. The Founders
19 intended that this principle would apply unambiguously to the
20 military as well.

21 Thank you, and I await your questions.

22 [The prepared statement of Ms. McInnis follows:]

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1 Senator Reed: Thank you very much. And now on behalf of
2 Chairman Inhofe, let me recognize Chairman Inhofe for his
3 questions.

4 Senator Inhofe: Thank you, Senator Reed. I think it would
5 be a good idea, and since I mentioned it, I did not believe that
6 a waiting period was really necessary, so it would not be
7 necessary to waive it, although I have studied it a little bit
8 more, and the opening statements of both of our witnesses.

9 And so let me just do this. I am going to go ahead and
10 read that part of the Title 10 that is -- verbatim here. Quote
11 -- and I am quoting now -- "There is a Secretary of Defense who
12 is the head of the Department of Defense, appointed from
13 civilian life by the President, by and with the advice and sent
14 of the Senate. A person may not be afforded a Secretary of
15 Defense within seven years after relief from active duty as a
16 commissioned officer of a regular component of the Armed
17 Forces."

18 Now, Dr. Cohn, this is kind of arbitrary, I guess. Is
19 there a reason for seven years instead of four years or one
20 year, or in general, is this a threshold that we ought to keep,
21 or should change maybe be considered?

22 Ms. Cohn: Thank you, Mr. Chairman. You are correct. The
23 number seven is somewhat arbitrary. The original number, ten,
24 was also arbitrary, it was a nice round number, and seven was
25 the compromise between leaving it at ten and reducing it to

1 five, which was the debate that came up in 2007-2008. However,
2 I do think that seven years is actually a good period, because
3 as multiple people have pointed out, it allows a minimum of two
4 rotations for military deployments and assignments, which means
5 that that allows time for the command relationships and the
6 people in those command positions to change significantly from
7 the time that the recently retired officer was in a position of
8 commands.

9 That helps in a lot of ways to mitigate the problem that
10 both you and Mr. Ranking Member mentioned about Mr. Mattis
11 relying heavily on his network of military contacts.

12 [Audio interruption.]

13 Senator Inhofe: Well, we are suffering from some
14 interruptions right now, and I cannot tell. Senator Reed, can
15 you tell from where you are what is the cause of those, but --

16 Senator Reed: No, sir, but --

17 Voice: Some members need to put their microphones on mute.
18 Dick, you need to be on mute. Dick Blumenthal, you are not on
19 mute, so we are getting feedback from you. And anyone else who
20 is not on mute needs mute their screens. That is the background
21 sound.

22 Senator Inhofe: All right. That sounds good to me.

23 All right, we read that, but we also, in my opening
24 statement I talked about the NDS, the commission that was -- and
25 we are following that pretty closely. I am going to go ahead

1 what that commission said. Now this is the NDS. I do not have
2 that with me right now but I do have the quote from it. It says
3 -- the report states, "Civilian voices have been relatively
4 muted on issues at the center of the U.S. defense and national
5 security policy, undermining the concept of civilian control.
6 The implementation of the NDS must feature empowered civilians
7 fulfilling their statutory responsibilities, particularly
8 regarding the issues of force management."

9 So starting with Dr. Cohn and then Dr. McInnis, do you
10 agree with the assessment by the NDS commission that, quote,
11 "Civilian voices are relatively muted," and if so, why is this
12 such a big problem in our democracy? Dr. Cohn?

13 Ms. Cohn: Thank you, Mr. Chairman. I would say yes, I do
14 agree with that assessment. I think that the civilian side of
15 the Department of Defense has lost both influence and respect
16 over the last several years. And I think that is a problem for
17 the reasons outlined in my written testimony in terms of the
18 need for diverse experiences, and particularly the need for an
19 understanding of what I have called political logic, that is
20 people who are dedicated to thinking about defense and security
21 in policy terms and not just in what we might think of as
22 practical military terms.

23 I think that the military side is well represented in the
24 debates internal to the Department. What is happening now that
25 is the civilian side is less well represented and that creates

1 an imbalance, and I think produces worse policy. Thank you.

2 Senator Inhofe: And, Dr. McInnis, do you agree? I think
3 the key part there is "Civilian voices are relatively muted."
4 Do you think so?

5 Ms. McInnis: Senator, there is considerable evidence that
6 is part of the public record now that suggests that that is
7 indeed the case, that comports with the National Defense
8 Strategy Commission's assessment.

9 It is worth noting that the Office of the Secretary of
10 Defense, the civilian voices that are in this case being
11 relatively muted, is the practical eyes, arms, ears, legs of the
12 Secretary of the Defense. They are there to do the day-to-day
13 work of civilian oversight of the military. They work with
14 their counterparts overseas to understand political and military
15 dynamics that might impact the national security of the United
16 States. They go to war zones and help military commanders
17 really understand the Secretary's intent. They are the
18 practical, where the rubber meets the road of civil-military
19 relations.

20 The Office of the Secretary of Defense is where it happens,
21 and according to the National Defense Strategy Commission as
22 well as, again, a growing chorus of voices that I referred to in
23 my opening statement, those civilian voices are relatively muted
24 now.

25 A couple of reasons that are worth calling attention to

1 include, again, this question of appointment of political
2 appointees within the system, the failure to do so, and having
3 civil servants being in acting capacities has served to -- and
4 if there is nobody in the civilian side of the house to do the
5 work then the advice, the decisions on matters of national
6 strategy are going to migrate, inherently, to the institutions
7 that are appropriately staffed.

8 Why does this matter? I refer once again to the National
9 Defense Strategy and the National Defense Strategy Commission's
10 reports. The NDSC commission notes that China is engaged in a
11 whole-of-society strategy to accomplish its objectives, many of
12 which are counter to U.S. objectives. The political-military
13 nature of the security environment which we are operating in
14 requires political-military connections and connective tissue
15 between the military instrument and the broader political
16 objectives of this country, and the broader prerogatives of the
17 President himself. Without the civilian side of the house,
18 without that civilian pillar being able to do its job
19 effectively, we are missing a critical voice, a critical node,
20 the critical connective tissue in this discussion, if you agree
21 with the National Defense Strategy Commission's report on this
22 matter.

23 Senator Inhofe: Well, you know, we are going to be having
24 the hearing coming up, so if a waiver is granted, I would like
25 to ask each one of you, what types of questions should we ask to

1 mitigate some of the potential problems that might come with
2 having the waiver granted? Let's hear from both of, Dr. Cohn
3 and Dr. McInnis. What should we be pursuing in the hearing in
4 the event that this waiver is granted?

5 Ms. Cohn: Thank you, Mr. Chairman. I think a couple of
6 questions that you ought to ask Mr. Austin would include things
7 like how he plans to demonstrate his commitment to empowering
8 the civilian side of the Department of Defense, how he plans to
9 foster relationships of respect and trust between the civilian
10 staff and the uniformed staff. I think you should ask him how
11 he sees the differences between his role as a military
12 commanding officer and his role as the Secretary of Defense, and
13 you should want to know that he is committed to the idea of
14 being a political actor and no longer a military actor receiving
15 and obeying orders or simply giving military advice. That he
16 should be willing to engage with the press, willing to be
17 transparent with Congress, with this Committee and with the
18 House Armed Services Committee. And that he should generally
19 express an understanding of the different nature of the role
20 that he will be playing. Thank you.

21 Senator Inhofe: Okay. Thank you. Dr. McInnis, what do
22 you think?

23 Ms. McInnis: Thank you, Mr. Chairman. The question
24 invites us to consider that the Secretary of Defense is one
25 person that is put into an institutional role that is inherently

1 political, inherently multifaceted. As one scholar put it, it
2 is the impossible job within the Department, because there is so
3 much to it. And, therefore, the health of the institution of
4 the Department of Defense is critically important to ensuring
5 that the day-to-day business, any strengths, weaknesses,
6 whatever, are managed, and that the business of national
7 security can be advanced.

8 So in order to be effective the Secretary of Defense needs
9 to have the confidence of the President, the Congress, and the
10 military in the Department of Defense. So to that end, if you
11 are interested in teasing out whether those relationships will
12 be solid and comport with what you would like to see, some
13 suggestions might include, you know, whether or not the nominee
14 would be amenable to taking a close look at the health of the
15 civilian workforce. Also with respect to relations with the
16 Congress. You know, one proposal that was tabled last time when
17 the nomination of Secretary Mattis was considered was whether or
18 not the then-nominee Mattis would testify in front of the House
19 Armed Services Committee. That might be another option to
20 consider.

21 Senator Inhofe: Okay. That makes sense. Senator Reed.

22 Senator Reed: Well, thank you very much, Mr. Chairman.
23 Let me thank the witnesses again. I think the Chairman has
24 really focused in on some of the critical questions that we have
25 to address. But one point is my reflection on the context of

1 the National Strategy Commission is that the authors detected
2 this decline in civilian authority over several years. It was
3 not an abrupt change as a result of General Mattis or anyone
4 else. So this is a tendency that was happening even when we had
5 civilians as Secretaries of Defense. Is that accurate, in your
6 view?

7 Ms. McInnis: Yes, that is accurate.

8 Senator Reed: So we have, regardless of who the nominee
9 is, a challenge to restore a much stronger balance of civilian
10 control. And one factor, particularly if General Austin is
11 indeed confirmed, would be put robust civilians as quickly as
12 possible into critical roles like the Under Secretary or the
13 Deputy Secretary, the Policy Secretary. Is that a strong view
14 that you would share, Dr. Cohn?

15 Ms. Cohn: Yes, Senator. I think so, very much.

16 Senator Reed: Dr. McInnis?

17 Ms. McInnis: The analysis would suggest that, sir.

18 Senator Reed: Yeah. And, you know, I do think that the
19 Chairman's questions about the issue we should raise, your
20 responses were quite good, in fact, very good, which is
21 basically the understanding that General Austin would have a new
22 role, which is not similar to -- and I believe he is intelligent
23 enough to grasp this, but he has to demonstrate not only an
24 intellectual but also a sort of complete commitment to this,
25 which is to understand that he is in a political role,

1 bureaucratic politics, not electoral politics but bureaucratic
2 politics, and that he has to rely, frankly, if he is given this
3 opportunity, on the expertise of others that have much more of
4 that experience. And I think that is consistent with your
5 comments too.

6 The other aspect of this is that even though he is clearly
7 a professional, in fact a superb professional military officer,
8 many of his tasks, certainly as a CENTCOM commander, put him
9 face-to-face with the politic with very difficult political
10 judgments. So in that context, would you think he would have
11 some insights already into the political dynamics of national
12 security policy? Dr. Cohn?

13 Ms. Cohn: Thank you, Senator. Yes, of course. Anyone who
14 reaches the level of four stars has political experience of the
15 type involving diplomatic efforts, thinking about policy
16 significance. They have, of course, been asked to provide
17 advice to policymakers. So he certainly has some of this
18 experience. And no one is questioning either his competency or
19 his savvy in terms of understanding political implications.

20 I think the main differences that I would point out are,
21 first of all, his, let's say, default logic, when he comes to
22 dealing with problems and issues and whether the first thing
23 that he thinks of is how to achieve larger political goals using
24 a wide array of tools and mechanisms, or whether he thinks of it
25 from the perspective of an Army office. And the other thing,

1 again, is that there are multiple meanings of "political." What
2 you have described is political in the sense that it is dealing
3 with bargaining, and that is important, but there is also
4 political in the sense of the power dynamic, especially the
5 partisan power dynamic, within domestic politics and the
6 domestic system. And this is something that Mr. Austin will be
7 aware of but will never have had to personally play in. And
8 that, I think, is something. And we saw with Mr. Mattis that
9 that was something he was very uncomfortable doing, and that is
10 problematic given, as Dr. McInnis has described, the role of the
11 Secretary of Defense. Thank you.

12 Senator Reed: Dr. McInnis, brief comments. I only have
13 about 20 seconds.

14 Ms. McInnis: Sure. The question invites us to consider
15 the role of a combatant commander, a four-star general officer,
16 and the experiences that they have had. A four-star combatant
17 commander has had lots of experience with the pointy end of the
18 spear, and there is a lot of political-military dynamics
19 associated with that, as you point out. But spears have a huge
20 shaft as well. There is a whole lot that goes into making the
21 pointy end of the spear effective. And as a result, as applied
22 to the Department of Defense, there are Title 10
23 responsibilities, there is strategy, I mean, all kinds of
24 different things that the Secretary is responsible for.

25 So in consideration of this question of civil-military

1 relations, it invites us to consider the broader team and how
2 the broader team is going to be able to handle these
3 responsibilities on behalf of the nation. National security is
4 a team sport.

5 Senator Reed: Thank you very much, and I would ask my
6 colleagues to try to adhere as closely as possible to the five-
7 minute rule. And with that, on behalf of Chairman Inhofe, I
8 would like to recognize Senator Fischer.

9 Senator Fischer: Thank you, Senator Reed. I would like to
10 explore a little bit further the quote that Senator Inhofe used
11 in the 2018 report of the National Defense Strategy Commission,
12 where concern was expressed about the state of civil-military
13 relations at the time. Dr. McInnis and Dr. Cohn, what is your
14 assessment of the current state of civil-military relations, and
15 do you agree that this is a trend which is moving in the wrong
16 direction?

17 Ms. McInnis: Thank you, Senator. The evidence out there
18 does comport with the National Defense Strategy Commission's
19 assessment of civil-military relations, and it is up to this
20 Committee to determine whether you agree with this assessment.
21 But it does suggest that if the civilian pillar within the
22 Department of Defense is not up to optimum health -- and as you
23 rightly point out, these are long-standing trends -- furloughs,
24 headquarters reductions, political appointments, these are
25 issues that go back at least a decade, and have accumulated over

1 time. So if we do want to see healthy civil-military relations
2 being conducted on a day-to-day basis, it would argue for paying
3 attention to the health of the civilian workforce and the
4 political appointees, the team that is put in to support whoever
5 the Secretary of Defense will be.

6 Senator Fischer: What do you think is the most concerning
7 aspect of it? The example the commission uses is the
8 empowerment of the Joint Staff at the expense of civilian staff
9 within the Office of the Secretary. Are there other examples?
10 And, Dr. Cohn, please jump in as well.

11 Ms. McInnis: There are a variety of manifestations of this
12 issue, one being, again, the failure to have confirmed political
13 appointees within positions, which, you know, by commanders of
14 Joint Staff. When they look for civilian guidance and they are
15 confronted with an acting who does not have the authority for
16 the Department to make decisions in the way that somebody who
17 has been confirmed down, it is human nature. They just sort of
18 go around that. But then there are also procedure elements of
19 this as well. Dr. Mara Karlin notes that there are a number of
20 provisions in statute with respect to the Chairman of the Joint
21 Chiefs of Staff's statutory responsibilities that sort of
22 overlap with civilian dimensions of policymaking in the
23 Department.

24 And in procedure, there is just -- how a policy, how an
25 instruction is staffed out, and how war plans are staffed out,

1 and how the review process works, process matters in the
2 Pentagon, as you know. But looking at some of these
3 instructions, the routine, you know, halfway marks, waypoints,
4 checkpoints within the process seem to have not included
5 civilian voices in those -- in the procedures.

6 Senator Fischer: Okay. Dr. Cohn, if you would like to
7 speak to that, and also do you think that when we create
8 exemptions and allow recently retired officers to serve as
9 Secretary of Defense, does that influence this norm at all?

10 Ms. Cohn: Thank you, Senator. To answer your second
11 question first, yes, I think it does, of course, weaken the norm
12 or the principle, and I think that that should be an issue of
13 concern for you, as you make this decision. But, of course,
14 whether it undermines the norm completely is up to you in the
15 future. You will have the opportunity to make this decision
16 again, and you can change the direction of that norm.

17 In terms of the civil-military relationships, both within
18 the Department of Defense and more broadly in society, I think
19 what we have seen is a really troubling set of mutually
20 reinforcing trends, negative trends. As Dr. McInnis has
21 described, in the Department you have many, many years' worth of
22 hiring freezes, personnel cuts, difficulty filling positions
23 with Senate-confirmed members and using acting people or leaving
24 them vacant, and that is extremely troubling.

25 But this is reinforced by a larger situation in the

1 American public of a worrying trend of over-deference to
2 military expertise and military experience and a worrying trend
3 of less interest in active self-governance, and a sort of
4 willingness to turn over decision-making to the military. And I
5 think these trends are both troubling. They are mutually
6 reinforcing, and they should be something that this chamber
7 seriously considers as something that needs to be addressed
8 going forward.

9 Senator Fischer: Thank you. Thank you, Senator Reed.

10 Senator Reed: Thank you, Senator Fischer. And again, on
11 behalf of Chairman Inhofe, let me recognize Senator Shaheen.

12 Senator Shaheen: Well, thank you. I appreciate the
13 opportunity to participate in this hearing. And one of the
14 things that has come up several times in your responses, Dr.
15 Cohn and Dr. McInnis, has been operating within a partisan
16 environment, which we know is very much the case right now in
17 Washington and that the country is very divided.

18 And this is not exactly on point for the waiver but I think
19 it is another troubling trend within the military, and you
20 mentioned this, Dr. McInnis, in your June 2020 CRS report on the
21 military. You highlight the importance of civilian control but
22 you also reference that the nonpartisan culture of the military
23 is one of the reasons that it has enjoyed such a high regard in
24 the American public, and I think one of the more recent polls
25 had 73 percent of Americans who viewed the military with high

1 regard.

2 But one of the things that is troubling is that we are
3 seeing more and more partisanship within the military. And so I
4 wonder, as you are thinking about the waiver issue and about
5 what we need to ensure the division between civilian and
6 military control, if you can speak to whether this is an issue
7 that is going to be affected by granting another waiver and
8 having further military control of the Department of Defense.
9 And how should we handle that erosion of the nonpartisanship
10 within the military? Are there things that Congress and the
11 Executive branch should be doing to address that? We saw it
12 again in the insurrection at the Capitol on the 6th, that there
13 were a number of former military, and actually at least one
14 active military, participant in that, who has since resigned.

15 So as we think about the challenges, how should we be
16 thinking about that aspect of what is going on within the
17 military? Dr. McInnis, maybe you could begin.

18 Ms. McInnis: Actually, if it is okay I would like to turn
19 to Dr. Cohn, who has written extensively on this matter.

20 Senator Shaheen: Sure.

21 Ms. Cohn: Thank you very much, Senator, for these
22 questions. I would say there are -- I think your analysis is
23 correct. I would say there are a couple of things that can be
24 done to deal with this problem in some ways, and the two most
25 important ones that I can think of are that elected officials,

1 in general, both in the Executive and in the Legislative
2 branches, should work to protect the military from partisan
3 politics. Do not use them as props. Do not use them as
4 shields. Do not base your arguments for legislation on the
5 effect that they will have on members of the military and their
6 families and veterans. These are all, of course, very important
7 things -- members of the military and their families and
8 veterans have needs -- but they are not the only reason to pass
9 legislation, and it is important not to give that impression to
10 the American people that that is the only justification for many
11 things that need to be done for other reasons. So protect the
12 military from partisan politics.

13 In terms of what it has to do with this particular
14 nomination, I would say that the biggest mitigating factor would
15 be to encourage Mr. Austin to emphasize his new role and his
16 separation from his military role, and the fact that what he is
17 doing is a different kind of thing than what military officers
18 do. And I think that those two things should help.

19 In the end, however, partisan polarization is a broad
20 social phenomenon, and our military is, of course,
21 representative of our public, or at least we hope to keep it
22 that way, and any phenomena that show up in broader society will
23 affect the military. So in the end, we have to work on partisan
24 polarization as a larger problem in order to heal it within the
25 military. Thank you.

1 Senator Shaheen: Thank you. Dr. McInnis, do you have
2 anything you want to add to that?

3 Ms. McInnis: Yes. I was struck, as Dr. Cohn was speaking,
4 about some of the other broader trends that are factors in play
5 in this discussion, which is over the years the U.S. military
6 has seen the lion's share of resources allocated towards it, and
7 a lion's share of attention allocated towards it when it comes
8 to matters of national security, relative to institutions like
9 the State Department and USAID.

10 So there is a shift towards focusing on the Department of
11 Defense. Task missions are going over to the Department of
12 Defense as a result. And that sort of raises questions about
13 how we think about what the military does for national security,
14 what is its appropriate role, and have we gotten that right?

15 Senator Shaheen: Well, thank you. I appreciate that. I
16 think I am out of time, but it speaks to the need to rebalance
17 the role of our State Department and our Department of Defense.
18 Our State Department is doing the diplomacy that is required
19 before we would call in troops to address conflicts and other
20 issues. Thank you both very much. Thank you, Mr. Chairman.

21 Senator Reed: Thank you, Senator Shaheen. On behalf of
22 Chairman Inhofe let me recognize Senator Cotton.

23 Senator Cotton: Thank you, Senator Reed. I want to thank
24 both of our witnesses for appearing.

25 I want to make an observation up front. When we talk about

1 civilian control of the military and the implications for this
2 waiver, I do not think anyone believes that civilian control of
3 the military is seriously at risk from Lloyd Austin's
4 nomination. We all have immense respect for Lloyd Austin and
5 his service in uniform, and we have immense respect for General
6 Mark Milley, the Chairman of the Joint Chiefs, and the other
7 senior leaders of our Armed Forces and our combatant commands.

8 So the question we are really facing here is whether the
9 experiences and the skills and the relationships that career
10 military officers bring to the job, after being recently
11 retired, be right for that job.

12 So I want to speak first to our witnesses about some
13 perceptions. Ms. Cohn, you write the idea that we are going to
14 confirm recently retired flag officers to be Secretary of
15 Defense two administrations in a row could help create the
16 perception that the terminal point in one's military career is
17 not being a four-star officer but rather being Secretary of
18 Defense. Is there any way that we can avoid that perception,
19 given the fact that actions speak louder than words, if we move
20 forward with this waiver?

21 Ms. Cohn: Thank you, Senator. As I said, I do think that
22 granting two waivers in a row will seriously weaken the norm of
23 this being an exception rather than the rule. I do think that
24 it will seriously implicate, you know, this problem exactly the
25 way you describe it, that the combination of an officer's career

1 is not four star, but Secretary of Defense.

2 Can that be mitigated? That will be difficult. I think
3 the only way that this chamber can mitigate that is to be very,
4 very clear in the specific reasons that they think Mr. Austin is
5 the right person for this job at this time, and especially to
6 maintain the statute as it stands, not to simply think that,
7 well, we have granted two exceptions in a row and, therefore,
8 the statute is dead and does not really count as law anymore.
9 But to emphasize that this chamber really believes in the
10 principle and is making an exception to what they think is an
11 important rule. Thank you.

12 Senator Cotton: And also you point out a couple of other
13 perceptions, I won't dwell on. You say the perception of
14 expertise residing in military officers only, and you
15 distinguish, I think capably, between military expertise on the
16 one hand and security or foreign policy expertise on the other
17 hand, and then, of course, the perception of possible favoritism
18 or chauvinism for one service, for one regional combatant
19 command.

20 I want to move on next to the political nature of this job,
21 not the partisan nature but the inherently political nature,
22 when a Secretary of Defense has to engage in sometimes heated
23 political disputes within the Department of Defense, between
24 services, and between combatant commands and agencies, with
25 figures at the White House, within the Cabinet, over budgetary

1 priorities, with Congress over similar priorities. He has to
2 engage with the media as well.

3 I point out that in my lifetime I think four of the most
4 consequential and successful Secretaries of Defense all had
5 significant political experience. Three of them had partisan
6 experience even -- Cap Weinberger, Dick Cheney, Leon Panetta.
7 Bob Gates did not have partisan experience but I think he writes
8 in his memoirs he had a lot of political experience from his
9 career as a civilian official at the CIA, and then a lot of
10 political experience being a university president at Texas A&M
11 as well.

12 Dr. Cohn, does the skills and experiences that you have
13 gained in the military, which is inherently apolitical, and
14 designed to be so in our republic, prepare you for all of those
15 political disputes that you might have as Secretary of Defense?

16 Ms. Cohn: Senator, I think the short answer to that is no.
17 I think obviously the experience you gain as a four-star
18 military officer is immense. It is important. It is helpful to
19 understanding all of the things that need to be done in the --
20 well, to understanding many of the things that need to be done
21 in the Department of Defense. But as you point out, many of our
22 most successful Secretaries of Defense have not only extensive
23 interagency experience but sometimes also legislative
24 experience. And it is simply not the case that a military
25 officer who has spent his or her entire career -- again, four-

1 star officers, the higher you get in the military hierarchy the
2 more alike those officers are. And many of them come from
3 combat arms backgrounds, like yourself, and that is a certain
4 type of experience that is important and helpful, but I do not
5 think comprehensive in the way that you would want a Secretary
6 of Defense to have experience. Thank you.

7 Senator Cotton: All right. Thank you. One final
8 question. On page 10 of your testimony you assess the tenures
9 of Secretary Marshall and Secretary Mattis. I recommend
10 everyone to read those brief histories. Were those tenures,
11 after they had received these waivers, successes to be repeated
12 or cautionary tales about the wisdom of this seven-year cooling-
13 off period?

14 Ms. Cohn: Senator, I think, as Dr. McInnis has really ably
15 demonstrated, the job of Secretary of Defense is incredibly
16 difficult, and almost no one is ever really prepared for it.
17 However, I think that both the tenures of Secretary Marshall and
18 Secretary Mattis basically reinforced the concerns of the
19 Members of Congress who made that initial statute. They relied
20 very heavily on their military networks. They seemed to be
21 uncomfortable dealing with political issues, and in Marshall's
22 case, with protecting the President from an overambitious
23 regional operational commander.

24 So I do not think that these were shining examples of the
25 best that we can do with Secretaries of Defense.

1 Senator Cotton: Thank you.

2 Senator Reed: Thank you, Senator Cotton. And again, on
3 behalf of Chairman Inhofe, let me recognize Senator Gillibrand.

4 Senator Gillibrand: Thank you, Mr. Chairman. Four years
5 ago we had a hearing like this, and Dr. Kathleen Hicks, who is
6 now President-elect Biden's Deputy Secretary of Defense
7 designate, arguing before this Committee that those civilians
8 ought to almost always serve as Secretary of Defense. Mattis's
9 unique qualifications and checks in the system justified the
10 one-time exception to the rule. She added that she did not
11 think Mattis's appointment would set a, quote, "new precedent,"
12 and that she, quote, "would not imagine, in the next 20-plus
13 years, that we would see ourselves back in a hearing of this
14 nature," end of quote.

15 Okay. Well, we are here again. Dr. Cohn, in your written
16 testimony you say that Austin's waiver could be justified
17 because he is who the President-elect wants and because the
18 symbol of having a black man as Secretary is important. On the
19 other hand, you write Mattis got the waiver because many hoped
20 he would help hold Trump in check. Am I correct that these
21 waivers have been justified on two different rationales? Yes.

22 Dr. Cohn, if each time the President nominates a new
23 general to serve as Secretary of Defense Congress grants a
24 waiver based on a new rationale, aren't we just saying that the
25 President gets to choose his or her Secretary of Defense

1 regardless of their recent military experience?

2 Ms. Cohn: Yes, Senator, I think that is what you would be
3 saying if this chamber decided to consistently grant a waiver
4 every time one was asked for, and I do acknowledge that granting
5 two waivers in a row -- I argue that granting two waivers in a
6 row begins to lead down that path. I do not think that going
7 down that path is absolutely inevitable. Again, that really is
8 up to this chamber in how it describes its reasoning in whatever
9 decision it finally takes.

10 Senator Gillibrand: Dr. Cohn, four years ago, Dr. Hicks
11 said that our system of civil-military relations is, quote,
12 "strong enough to withstand any risk such a once-in-two-
13 generations exception, on its own, would pose," end quote. If
14 we are granting a twice-in-one-decade exception, for back-to-
15 back administrations, what kind of system are we actually
16 protecting?

17 Ms. Cohn: Again, Senator, I think you are absolutely
18 correct to point out that granting two waivers in a row is a
19 very different thing from granting one waiver under the
20 impression that you will not be asked to do this again any time
21 soon. I think that this chamber has a very difficult decision
22 in front of it, to decide whether the reasons that the
23 President-elect has given, and the reasons that you all can
24 think of yourselves, justify granting another waiver, because I
25 think it is a dangerous precedent to grant two in a row, yes.

1 Senator Gillibrand: So I want to highlight a few of the
2 added risks of normalizing the idea that a senior general could
3 become Secretary of Defense relatively quickly after he or she
4 retires. Dr. Cohn, a year into the Trump administration you
5 wrote that, quote, "reverence for the military has come to
6 distort and manipulate public discourse," end of quote, and that
7 scholars hope that Trump's use of generals in civilian
8 policymaking roles was, quote, "an exception to an important
9 rule, not the beginning of a new normal," end of quote. You
10 worried that ongoing veneration of military expertise would
11 have, quote, "devastating implication for U.S. policy, both
12 foreign and domestic." Do you believe that President-elect
13 Biden's choice of a retired general and not any one of a number
14 of well-qualified civilians dangerous inflates the perceived
15 value of military expertise in a way that weakens our
16 policymaking?

17 Ms. Cohn: Senator, in my personal opinion, yes, the answer
18 to that is yes. I am still concerned about these things. I
19 think the health of civil-military relations is under threat,
20 and I do think that this could lead to a larger problem, yes.

21 Senator Gillibrand: Okay. So I want to give you an
22 example of why this concerns me so much. In the wake of the
23 disappearance and murder of Specialist Vanessa Guillen, the Army
24 commissioned an independent review that investigated the command
25 climate, violent crime, and sexual assault and harassment at

1 Fort Hood. I ask because the military has commissioned a number
2 of reports and panels on sexual assault during the several years
3 I have been on this Committee, but this is the first report that
4 I have seen that was not written by DoD personnel, and it found
5 that Fort Hood has an ongoing crisis of violent crime, sexual
6 assault, harassment, and that soldiers do not trust leaders and
7 commanders up and down the ranks to fix because they helped to
8 create that climate.

9 Would you agree that the crisis in confidence facing Fort
10 Hood's commanders is alarming, and do you agree that it would be
11 reasonable to suspect that the trends described in the Fort Hood
12 report could very well exist, though perhaps to a lesser degree,
13 at other large operational bases? And do you believe that if
14 you were in uniform, if you were one of these young women at
15 Fort Hood who fears that she is going to be raped or murdered
16 when she is moving around the base at night, you would be
17 reticent to trust someone to solve these problems who so
18 recently wore the same uniform as the commanders who have failed
19 you?

20 Ms. Cohn: Senator, yes, the report about Fort Hood
21 certainly alarms me. Yes, I would imagine that those kinds of
22 problems exist elsewhere as well. Would I, therefore, not trust
23 someone who came out of that institution to fix these problems?
24 I think that would depend more on the individual. I would not
25 simply assume that anyone coming from the military institution

1 was unable to address these problems. We have multiple examples
2 of people within the military institution who take these
3 problems very seriously.

4 So I think that I absolutely agree that these problems are
5 very serious and they must be addressed, and if Mr. Austin is
6 confirmed I hope that he makes them a high priority. But I
7 would not think that he would be disqualified on that ground
8 alone. Thank you.

9 Senator Gillibrand: Thank you. Thank you, Mr. Chairman.

10 Senator Reed: Thank you, Senator Gillibrand. And on
11 behalf of Chairman Inhofe, let me recognize Senator Rounds.

12 Senator Rounds: Thank you, sir. Thank you. Let me just
13 walk my way through this a little bit. After listening to the
14 testimony here, I come from the camp that the President of the
15 United States should have the ability to choose the people that
16 he believes are best suited for the job at hand. As our
17 panelists have indicated, this is one of those impossible jobs.
18 At this time, we have a President who has nominated a very
19 qualified gentleman, in General Austin, with an impeccable
20 service record. At the same time, the President has basically
21 ignored what was a precedent that Congress has set from the past
22 which would require the seven-year waiting period, and there was
23 good reason for it.

24 What I have not seen yet is the President's logic, or his
25 full explanation, about why he has asked us to basically, once

1 again, step away from what was established law and what was the
2 overriding reason why this particular individual would be better
3 than other individuals who would qualify. And I think the
4 President still owes us that answer. And I do not think that is
5 something that General Austin should have to answer. I think
6 that is something which the President should share. But, once
7 again, I think a tie goes to the President in the end, and so I
8 am torn on this.

9 The other thing that I guess I would ask our panelists, I
10 think that, in many ways, one of the reasons why a general
11 officer is being nominated is because of the respect the
12 American people have for an individual in that position. The
13 fact that they are, in many ways, nonpartisan or apolitical,
14 that is something that many of us want to see within the
15 military. And so to have an individual that has that as part of
16 their background, it is, in my opinion, not a negative. And, in
17 fact, I think that tells people that this is not going to be a
18 politically charged position.

19 I would like the thoughts from our panelists about that and
20 whether or not that is an attribute that is something worth
21 considering in a case like this. I would like to begin with
22 that, and Dr. Cohn, would you like to begin and give me your
23 thoughts about whether or not that is an attribute in terms of
24 the expertise and the confidence the American people have,
25 whether or not that is something we should also value as well.

1 Ms. Cohn: Thank you for the question, Senator. Is it a
2 good thing that this indicates that the Secretary of Defense
3 position would not be politically charged, as you put it? I
4 understand your point and I think that that is certainly part of
5 -- I cannot speak for the President-elect but I think that is
6 part of his logic, that he is trying to signal to the public.
7 He has made it clear that he wants to signal to the public that
8 he wants to be a unifier, that he wants to try to bring people
9 together. And it is possible that he hopes that in nominating
10 someone from, as Dr. McInnis described, an apolitical
11 background, will help do that.

12 What I would argue is that, again, I might call that
13 political laziness. I do not want to accuse anyone of vices,
14 but the problem there is that if we have to rely on military
15 offices for their military officer status in order to regain
16 trust in the government, that is a problem. And it is certainly
17 the case that the American public respects the military a great
18 deal, and it is certainly the case that hopefully the American
19 public will look at Mr. Austin and think this is someone who has
20 not taken part in the ugly fighting that we have seen. But I do
21 not think it is good to encourage that trend.

22 Is it the end of the world if this happens this time? I do
23 not know. I do not think so. But I do not think it is good to
24 encourage the trend. Thank you.

25 Senator Rounds: Thank you. Dr. McInnis?

1 Ms. McInnis: Thank you, Senator. I think that it is a
2 complicated tension. The military is a nonpartisan institution,
3 but the Department of Defense, and particularly the Secretary of
4 Defense, is part of a political administration. And so, as a
5 result, there is a question that can arise, if we have military
6 officers transitioning into these inherently political roles
7 does that start creating questions in the American people's
8 minds as to whether or not the Department of Defense -- or what
9 are the roles and responsibilities? What is nonpartisanship?
10 Is the military truly nonpartisan? I think those are fair
11 questions to explore.

12 Senator Rounds: Thank you. Mr. Chairman, I suspect my
13 time is pretty close to being done. Thank you.

14 Senator Reed: Thank you very much, Senator Rounds. And
15 now, on behalf of Chairman Inhofe, let me recognize Senator
16 Blumenthal.

17 Senator Blumenthal: Thank you, Mr. Chairman, and I want to
18 thank you and Senator Inhofe for holding this very important
19 hearing. Civilian control of the military is a bedrock
20 principle of our democracy and it is the reason for this
21 statute, and it is also the reason why Congress, in passing the
22 statute, said specifically no additional appointment of military
23 men to that office shall be approved, in talking about then
24 General Marshall.

25 We are now in danger of setting a precedent after precedent

1 with a new norm, in effect, creating a danger that the exception
2 will swallow the rule. The reason for the principle of civilian
3 control is not only to protect our democracy against military
4 interference, it is to protect the military against excessive
5 interference -- political, partisan interference that may
6 jeopardize the professionalism and effectiveness of our
7 military.

8 I have immense respect and admiration for General Austin.
9 I told him so just yesterday when I met with him. For me, it is
10 a matter of principle. It is not personal. And, in fact, in
11 our very serious and substantive discussion, General Austin
12 indicated his profound and deep respect for that principle, and
13 he actually alluded to specific ways that the principle of
14 civilian control could be strengthened if he is confirmed, for
15 example, taking back some of the power that has devolved to
16 chiefs of staff, taking back the pen, essentially, from them in
17 certain key areas, and also greater transparency with the
18 Congress and the public, specifically with our Committee, more
19 regular reporting. And I am heartened and encouraged by his
20 suggestion that there are ways that civilian control can be
21 strengthened.

22 But what we have seen in recent years, as Senator Reed
23 indicated, is a tendency and trend toward, in effect, weak
24 civilian control, a change in the balance that is dangerous for
25 our democracy. The Trump administration left vacant a slew of

1 key civilian positions, in fact, 40 percent of them in the
2 Department of Defense. The President used, as he put it, "my
3 generals," in effect, to give himself credibility in areas where
4 he completely lacked it. Fortunately, President-elect Biden has
5 that credibility, and I have no doubt that he will not use the
6 military in the way that President Trump did. But clearly
7 President Trump has degraded the independence of the military
8 and ignored some of the dangerous tendencies of political
9 activity within the military. White supremacy, the involvement
10 of, perhaps, some of the active-duty Armed Forces or Reserves or
11 retired military in the mob assault last Wednesday, these kinds
12 of dangerous tendencies need to be effectively countered and
13 disciplined and investigated by the next Secretary of Defense as
14 a civilian, taking control of the military in ways that may
15 create some adversarial relationships. And the next Secretary
16 of Defense must be prepared to demonstrate that kind of
17 independence.

18 I think that what we have ahead is a very serious
19 challenge. I want to make sure that we avoid the perception of
20 Republican generals and Democratic generals, which, again, is
21 the perception that President Trump's misuse of the military may
22 have tended to create. And I believe strongly that it is a
23 matter of principle. Therefore, I will oppose the waiver in
24 this instance, as I did with General Mattis, whom I also deeply
25 respected and admired, and said so. I believe that I may be in

1 the minority, but I think it is a matter of very deeply
2 important principle. And I would ask our witnesses whether they
3 feel there are specific steps that we can ask of General Austin
4 to effectively, perhaps, counteract the dilution of the balance
5 that we think is so important to our nation and civilian control
6 over the military. I recognize that my time may have expired,
7 and so I would take those answers for the record, if the
8 Chairman wants to move to another Senator.

9 Senator Reed: Senator Blumenthal, I would accept your
10 suggestion that they be taken for the record so that we can
11 fairly allocate the time to all of our colleagues. Thank you,
12 Senator Blumenthal.

13 Now, on behalf of Chairman Inhofe, let me recognize Senator
14 Sullivan.

15 Senator Sullivan, are you --

16 Who is next? This is remarkable, because -- I am
17 impressed. This is the first technical glitch we have had, so
18 we are doing pretty well.

19 Voice: Cramer.

20 Senator Reed: We will try to connect with Senator
21 Sullivan. Let me now recognize Senator Cramer, on behalf of
22 Senator Inhofe.

23 Senator Cramer: Thank you, Mr. Chairmen, Chairman Reed and
24 Chairman Inhofe, both of you, and thanks to the witnesses. I
25 think for me to ask a question at this point would be redundant,

1 quite honestly, because we have done a pretty good job of
2 exhausting, I think, the topic. However, I will just make a
3 couple of comments.

4 First of all, thank you to the two witnesses. You have
5 been absolutely fantastic. You have helped me think this
6 through in more ways, with more viewpoints, and I am no closer
7 to a final decision, but I think that is instructive, quite
8 honestly.

9 The one thing I would just wrap up with, Chairmen, is I
10 think after all of this, whether there is a Secretary Austin or
11 not a Secretary Austin, it might be a good time, apart from a
12 decision on a waiver, to have an even deeper discussion about
13 this point so that we can avoid the issues that Dr. Cohn has
14 brought up, and that is how the public views all of this,
15 restoring the confidence they have in us as decision-makers on
16 all matters -- all matters, but especially matters of our
17 national defense. So at the very least we can restore their
18 confidence.

19 But also I just think that, to lay down a record that this
20 is not going to be the norm, even if there are two in a row,
21 that we can help both ourselves and our constituents have a
22 clear commitment that this is not going to be the norm.

23 So with that, again, just thank you to all of you, and I
24 look forward to further discussion. I am certainly looking
25 forward to my meeting with -- I almost said General; I shouldn't

1 call him General, perhaps, anymore -- with Mr. Austin. And with
2 that I will yield.

3 Senator Reed: Well, thank you very much, Senator Cramer.
4 And on behalf of the Chairman, let me recognize Senator Kaine
5 and thank him for joining me here in D.C.

6 Senator Kaine: Thank you to our Chair and Ranking, and
7 thank you to the witnesses. Let me just first begin
8 acknowledging this is the first Senate hearing since the events
9 of last Wednesday, and I just want to make a comment about it.
10 People have sort of tried to describe what happened. Is it a
11 riot? Is it a protest? Is it First Amendment activities? Is
12 it sedition?

13 I think the Constitution that we swear to uphold and defend
14 gives us an answer. The 14th Amendment of the Constitution has
15 a Section 3 that talks about insurrection or rebellion against
16 the Constitution of the United States, and that clause has some
17 significant consequences for those who either engage in that or
18 who give aid and comfort to those who do.

19 What happened was not just a random attack on Congress, as
20 an institution. It was an attack that was specifically
21 designed, and then fomented, and then deployed at a particular
22 moment, to obstruct Congress from carrying out the Constitution.
23 Congress was meeting on that day for a purpose, to carry out
24 constitutional and statutory duties to accept certified
25 electoral results from 50 states and the District of Columbia,

1 to supervise the count of those electoral votes, and then
2 declare a winner in the 2020 presidential election. That was
3 what the attack was about. It was an attack on the Constitution
4 of the United States.

5 We came together after an attack on the Capitol in 2001, as
6 a Congress in a bipartisan way, to ensure that there were
7 consequences, and it is my hope that we can, as a bipartisan
8 Congress, do so again.

9 I also was reminded of a powerful moment in Senate history
10 when a Senator took the floor during a debate and said, "God
11 forbid that the day should ever come when to be true to my
12 constituents is to be hostile to the Union." That was a comment
13 made during the debate about the Compromise of 1850, by then-
14 Senator Jefferson Davis, who, a number of years later, chose to
15 violate his oath to the Constitution and the nation to choose
16 his interests in his constituents, or at least the narrow
17 segment of his constituents who were allowed to vote at the time
18 he chose to elevate their concerns over those of the nation and
19 constitution.

20 Now, on to this issue. This is such an easy case and such
21 a hard one. It is an easy one because General Austin is so very
22 qualified, and it is important to note not just qualified as a
23 military leader. He has now been out of the military and he has
24 engaged in significant leadership roles in the private sector
25 and in philanthropic institutions. This is not a person who is

1 just a tunnel-vision military guy. It is just that he has not
2 been out long enough. So it is easy in one sense -- his
3 qualifications are so notable -- and it is incredibly hard in
4 the other sense because this is a very important principle.

5 Dr. Cohn, I am struck by the similarity of your name to Dr.
6 Cohen, who testified before us four years ago. Eliot Cohen was
7 one of the witnesses arguing for the Mattis waiver, and he has
8 argued strongly that the circumstances that compelled him to be
9 here before us supporting the waiver four years ago do not apply
10 right now. And he has written a piece in The Atlantic to
11 suggest that we should not do it. So this is a really, really
12 hard thing.

13 Let me ask you just this, and I wish I had researched it.
14 Is this bar of somebody having come through military leadership
15 serving as Secretary of Defense, is there an analogy? Are
16 military leaders barred from being HUD secretaries or CIA
17 directors, by law right now? I do not think so. Do you?

18 Ms. Cohn: No, Senator, there is no analogy. Recently
19 retired military officers are not barred from holding other
20 positions nor are recently retired foreign service officers
21 barred from --

22 Senator Kaine: From State Department -- if you worked at
23 HUD your whole career you are not barred from being the HUD
24 secretary. This is a very unique limitation and waiver.

25 My colleagues have done a great job of talking about their

1 concerns. Here is mine. I was the governor of Virginia and I
2 had Cabinet secretaries, and those who had significant
3 experience with the agencies they were overseeing were often
4 unwilling to be changemakers. They were more loyal to the
5 agencies they had come up through than they were to the
6 governor, saying we need to make some change in that agency or
7 that cabinet secretariat. And I am not sure that your testimony
8 really goes to those concerns, but is that a fair concern?

9 Ms. Cohn: Yes, Senator. Absolutely, that is a fair
10 concern, and I think it gets back to Senator Gillibrand's
11 questions as well, not whether the individual has the integrity
12 to try to do the right thing but whether the individual is so
13 embedded in the culture and norms of their own institution that
14 they have difficulty thinking about change in certain ways.

15 Senator Kaine: Thank you. Thank you, Mr. Chair.

16 Senator Reed: Thank you, Senator Kaine. And now, on
17 behalf of Chairman Inhofe, let me recognize Senator Sullivan.

18 Senator Sullivan: Thank you, Mr. Chairman, and thank you
19 to the witnesses for holding this important hearing. A lot to
20 consider here.

21 The first question that I had is Senator Cotton made a
22 statement that I just want the witnesses to touch on. He said
23 he does not believe civilian control for the military is at
24 risk. I would agree with that. But can you talk a little bit
25 about that issue? I mean, that is a big statement to say it is

1 at risk. Do you believe it is at risk, and how would you have
2 us analyze that important issue?

3 Ms. Cohn: Thank you, Senator. I think it is important to
4 understand that civilian control is not an on-off switch. It is
5 not either there or not there. It is a web of institutions and
6 norms and practices and understandings, and it can be weakened
7 or strengthened. I think that Senator Cotton's point was well
8 taken. No one that I am aware of thinks that the confirmation
9 or the waiver for Mr. Austin would break the back of either
10 civilian control or American democracy. No one is worried about
11 that. What we are worried about is its role in weakening these
12 norms and institutions and their importance.

13 So I would say, again, there are some ways that this would
14 weaken those norms, and those norms are in danger. We have
15 plenty of research indicating that, again, as I mentioned
16 before, the American public is fairly comfortable turning over
17 its own freedom and self-governance to institutions like the
18 military, because they trust them.

19 This is a trend that must be actively worked against. And
20 so if you choose to confirm Mr. Austin and grant him a waiver, I
21 do not think that is the end of civilian control, by any means,
22 but it does put us all in a position where we must work extra
23 hard to restore those norms and those institutions.

24 Ms. McInnis: To dovetail on Dr. Cohn's remarks, the
25 legislative history, the recent legislative history of this

1 provision and associated things also speaks to the way the norm
2 is being extended across the Department. So in 2008, the
3 Congress decided to revise the statutory provision, the cooling-
4 off period, as we know it, from ten years to seven years.
5 Representative Walter Jones, at the time, said that he wanted to
6 broaden the candidate pool available to the President for the
7 selection of Secretary of Defense. And as you have noted during
8 this Committee's session four years ago, there was a lot of
9 discussion about to what extent confirming then-nominee
10 Secretary Mattis might erode that norm of having civilian
11 control and direction at the top of the Department.

12 But it is also worth noting, as a counterpoint to this
13 discussion, that Congress has also strengthened the norm in
14 other ways, in particular by, in recent years, extending the
15 statutory cooling-off period to key civilian appointments within
16 the Department of Defense. So the Congress appears to have
17 started to look at civilian control of the military and its
18 expression in these appointments more holistically across the
19 Department and across these different positions.

20 Senator Sullivan: Let me ask another, just a comment, and
21 then another follow-up question. You know, you mentioned the
22 politics and the partisan nature, not partisan politics but just
23 politics and all instruments of power of being the CENTCOM
24 commander. So I do think that there is a lot of learning but
25 also experience a CENTCOM commander would bring.

1 I know that the conventional wisdom starting about General
2 Mattis's tenure is what you two had mentioned. I am not so sure
3 I fully agree with that. The National Defense Strategy that
4 Secretary Mattis put forward I think is a really important
5 development, a positive development, bipartisan development, in
6 our national security that most Senators agreed with, and it was
7 an important element of the work done by Secretary Mattis.

8 Let me ask another question, a little bit of a
9 counterpoint. Right now, as far as I can tell, the incoming
10 Biden administration will have one Cabinet official with
11 military experience. That will be, if he is confirmed, the
12 Secretary of Transportation, Mayor Buttigieg, who was a
13 Reservist. You mentioned that the Secretary of Defense, one of
14 his roles would be to fight for budgets and other things that
15 relate to the military. Does it make sense to also potentially
16 make the case that having Cabinet officials, particularly on the
17 national security team, with significant military experience
18 actually helps in this regard? I would like you to just comment
19 on that. And that is my final question, Mr. Chairman. Thank
20 you.

21 Ms. Cohn: Senator, thank you for the question. In my
22 personal opinion, there are -- I mean, we have the Chairman of
23 the Joint Chiefs of Staff whose statutory role is the military
24 advisor to the President and who is there to help other Cabinet
25 members understand, and members of the National Security Council

1 understand the issues at stake.

2 It is always helpful for there to be people in these roles
3 that have broad experience, if it is a few years in the military
4 or a few years in the State Department or a few years in a state
5 government, for example. So it is never bad for people to have
6 different kinds of experience. I think the problem is when we
7 start thinking that only people with extensive military
8 experience and backgrounds really understand the issues at
9 stake. I do not agree that that is the case, and, therefore, I
10 am not concerned when we have a Secretary of Defense who does
11 not have extensive military experience. I think that there are
12 already institutional ways in which the Department of Defense,
13 as Dr. McInnis mentioned, is already privileged against most of
14 the other Executive departments. I do not think that we need to
15 worry about the military not having a sufficient voice at the
16 table. Thank you.

17 Senator Reed: Thank you very much, Senator Sullivan. And
18 on behalf of the Chairman let me recognize Senator Manchin.

19 Senator Manchin: Thank you, Senator Reed. I appreciate
20 it, and I want to thank our presenters today and both of them
21 for their service to our country and they job they do in such a
22 professional way.

23 Let me ask this question, if I may. I think everyone that
24 knows General Austin has met General Austin or worked with him.
25 We have had him before the Committee. I have been there for

1 almost 11 years now, so we have had many times to have General
2 Austin and his most professional applications, his common-sense
3 approach. So I have been very appreciative of that.

4 What I would like to ask is, do you all have concerns?
5 First of all, I understand that General Austin did not position
6 himself to where he was aggressively seeking this opportunity or
7 this job. So that was the President's decision, I understand,
8 that basically selected him. He did not advocate for it. And
9 on top of that, I understand that -- I have been very
10 deferential to the President putting their staff together who
11 they believe is the right person with the right skill sets at
12 the right time. And I understand that is General Austin, which
13 I believe also.

14 But with that I was concerned about those down the food
15 chain, below him. Can you tell me, has General Austin asked, or
16 are you concerned that General Austin would try to, the people
17 that basically have that separation between military service and
18 civilian, is there any other person asking for waivers, or have
19 we given waivers to anybody else besides the Secretary
20 themselves, or considered it? Either one of you all, or both of
21 you can answer this.

22 Ms. McInnis: Senator, my understanding is that no, that
23 has not been. The waiver, the statutory waiver has been
24 provided twice, for Secretary Mattis and then-Secretary
25 Marshall. The extension of the cooling-off requirement was done

1 in recent years. I think it was 2016 and 2017. So to my
2 knowledge that has not been applied since it has been extended.

3 Senator Manchin: Let me ask this question here. Did you
4 all see any? Was there a movement that General Mattis wanted to
5 get this waiver for other people, so he would have more military
6 presence or people with military services that had been out in a
7 very short period of time? I did not see the concern. I do not
8 know if you all have seen something that I have not. And are
9 you concerned that General Austin would ask for waivers for
10 other people?

11 Ms. McInnis: Senator, I did not see any such requests from
12 Secretary Mattis, although the White House liaison office and
13 the process of political appointments is a bit of a black box,
14 to say the least, so I would not have seen that.

15 It does speak to, however, the point that you are making,
16 which is the broader national security team, and does the
17 broader team bring the experience, insights, and building savvy
18 to the Department and its management? The failure to appoint
19 political appointees in the Office of the Secretary of Defense,
20 particularly over the past four years, did have an arguably
21 degrading effect on the effectiveness of the Office of the
22 Secretary of Defense. A civil servant serving in an acting
23 capacity does not have the authority to make key decisions on
24 matters of national security strategy and policy, because,
25 frankly, another boss could come in the next day and reverse

1 everything that they decided. It is a tenuous position to put
2 our civil service in, and unfortunately they have been put in
3 that position frequently recently.

4 Ms. Cohn: Senator, I would just say no, Mr. Mattis,
5 Secretary Mattis did not seem to ask for waivers for any of the
6 appointed or Senate-confirmed positions under him. It is my
7 impression that both Mr. Trump and Mr. Biden had, or intended to
8 have, a fair amount of personal influence and control over those
9 appointments and not delegate that entirely to their
10 secretaries.

11 And so what we saw under Mr. Mattis, under Secretary
12 Mattis, was a tendency to sidestep the civilians, not a tendency
13 to try to put his own people in those positions. In other
14 words, a tendency to rely more on the Joint Staff because of the
15 kind of personnel vacancy and turmoil that Dr. McInnis has
16 described.

17 So far, with Mr. Austin and Mr. Biden, we have not seen --
18 in fact, the Biden team has announced a large number of people
19 that they intend to nominate, all of whom are extremely good,
20 qualified civilian choices. So I do not see a situation here
21 where Mr. Austin is looking to install a number of his military
22 counterparts.

23 Senator Manchin: So you are not concerned about that then,
24 as far as the threat of that, basically having a mindset of
25 military control. Also, President-elect Biden has already

1 nominated Kathleen Hicks as Deputy Secretary of Defense and
2 Colin Kahl as Under Secretary of Defense, and both of those have
3 a proven record of civil service and national security.

4 So my question is, should General Austin be confirmed, what
5 other senior leadership positions at the Department of Defense
6 would you suggest he fill with civilians?

7 Ms. Cohn: All of them.

8 Senator Manchin: All of them.

9 Ms. Cohn: I mean, again, the danger here --

10 Senator Manchin: You agree that people should have
11 knowledge of how the Department of Defense is supposed to
12 operate, right?

13 Ms. Cohn: Yes, of course, Senator. I do not mean that
14 just any civilian is good enough. All of the people who are
15 nominated should have the right experience and expertise to deal
16 appropriately with the extremely complex organization that the
17 Department of Defense is. It simply does not necessarily -- and
18 it is perfectly good to nominate people who have some military
19 experience. The difference is whether you take people directly
20 out of military service and put them into civilian positions or
21 whether you sideline the civilians and rely entirely on the
22 Joint Staff.

23 But you are correct. I do not see this necessarily being a
24 big problem. I think that this chamber should certainly
25 maintain a sharp eye on the administration, however. Thank you.

1 Senator Manchin: Let me ask both of you this one. Has
2 there ever been any incident in General Austin's history, any
3 incident whatsoever in his history, that would lead you to
4 second-guess his integrity towards professionalism and those
5 command relationships, should he reenter the building as
6 Secretary of Defense and be confirmed? Do you have any concerns
7 whatsoever in his ability and anything in his past that would
8 give you concern?

9 Ms. McInnis: Senator, the overwhelming consensus is that
10 Mr. Austin served his nation with distinction and is very well
11 qualified. Four years ago, when this Committee considered the
12 question of civilian control of the Armed Forces, the
13 conversation was very much about the person of the Secretary of
14 Defense and the Secretary of Defense position as an institution
15 in and of itself.

16 Today, the conversation is more about the overall health of
17 civilian-military relations within our society as well as the
18 overall health of our civilian institutions within our
19 government. So considering Mr. Austin, considering the broader
20 team, is arguably quite important, if you take the view that
21 civilian voices have been muted.

22 Ms. Cohn: Senator, I do not know enough about Mr. Austin's
23 personal history to be able to answer that question, but I have
24 no reason to doubt his integrity.

25 Senator Reed: We have reached the time limit, Senator

1 Manchin.

2 Senator Manchin: Thank you, Mr. Chairman. I appreciate
3 it.

4 Senator Reed: Thank you very much, Senator Manchin. Now I
5 am going to call on Senator Blackburn, on behalf of the
6 Chairman. There might be some technical difficulties but let's
7 see if we can recognize Senator Blackburn.

8 Senator Blackburn: Thank you, Mr. Chairman, and I am not
9 going to turn my video on because I think part of the
10 transmission problem is with the video. And I want to thank our
11 witnesses for a very thoughtful discussion as we look at this
12 and look at the civilian control of the military.

13 And one question that I have is how does it affect our
14 international security advantages that we enjoy? Look around
15 the globe, and look at the Philippines, and where you have got a
16 President who has essentially militarized his domestic police
17 force. Look at Burma, where there is a democratic transition
18 away from military rule, and the precarious situation there, or
19 to Thailand, or to Sri Lanka, or to Indonesia.

20 So my one question, and I will go ahead and mute myself,
21 just a quick response on what you see is the effect that it has
22 on our international security, if there is, and you may feel
23 that there is not.

24 Ms. Cohn: Thank you, Senator. I think that this is a good
25 question. I really think the only concern that we would have is

1 that there are many states out there whose officials prefer to
2 interact with military officers because they, in some cases,
3 feel that that validates their own form of government, in some
4 cases feel that the military is where the power lies.

5 I think, again, we might look at that and say, oh, this is
6 a good reason to nominate someone who was recently retired as a
7 four-star and that may be your view of the matter. My personal
8 view is that the United States should lead by example in having
9 civilians carry the political power and be the ones making the
10 decisions. And again, of course, Mr. Austin is a civilian at
11 this point. I am not arguing that he is going to go to around
12 wearing his uniform. But again, this is a more subtle issue of
13 perception, tendency for officials of other countries to refer
14 to him still as general, and Mr. Austin can mitigate these
15 problems.

16 But I think you are making a very good point that how other
17 countries see us and see our form of government is one of the
18 things at stake here. Thank you.

19 Ms. McInnis: Senator, just to again dovetail onto Dr.
20 Cohn's point, it is a reminder of the relative imbalance that we
21 have seen build over the past, arguably, 20 years, between the
22 Department of Defense and the other agencies of national power.
23 The common argument that is expressed is that when foreign
24 governments interact with the United States Government, do they
25 look to the ambassador in the country or do they look to the

1 combatant commander? And given that the combatant commander has
2 his own plane, and he has got this massive staff, and he has got
3 all the trappings of power in our system, there is a perception
4 that exists that they have more relative power within our system
5 than the civilians that are leaders of our system.

6 So there is a broader set of trends to consider when
7 looking at this particular question of Secretary's role and
8 standing as viewed internationally.

9 Senator Reed: Senator Blackburn, do you have contact with
10 us?

11 Senator Blackburn: I do not know if you can hear me or
12 not. That is all of my questions. Thank you.

13 Senator Reed: Thank you very much, Senator Blackburn. And
14 on behalf of Chairman Inhofe, let me recognize Senator King.
15 Senator King, do you have --

16 Senator King: Yes, I am here. I am here. Thank you.
17 Before I begin, it is commonplace in our world to compliment and
18 thank one another, but I want to go beyond that and compliment
19 and thank and express my deep appreciation to Chairman Inhofe
20 and Senator Reed for your leadership in the passage of the
21 National Defense Bill at the end of the year. That was an
22 extraordinary moment, a very important one for the country. It
23 took courage, perseverance, and all the attributes of
24 leadership. So I really sincerely want to convey that, since
25 this is the first time we have gotten together since that

1 session.

2 This is very deep and difficult issue. There are a couple
3 of principles involved. One is the President gets to choose
4 their own people. That is a good idea and I have always
5 supported it. And the same part of it is that General Austin is
6 well qualified. I am impressed. I met with him recently and
7 was very impressed by his breadth of knowledge and experience.

8 But on the other hand, the whole idea of the military and a
9 separation from civilian and military [audio interruption] a
10 fundamental part of who we are. The framers recognized it
11 explicitly. They dealt with [audio interruption] and they were
12 very concerned about the idea of a standing army. And we have
13 crossed that Rubicon. We have a standing army.

14 And to me, this statute makes sense. It made sense in
15 2017, and it makes sense today. And if we provide two-way
16 [audio interruption]. And I do not know why that statute was
17 passed.

18 Now let me turn to a question. Chairman Inhofe, in his
19 introductory remarks, used a word that I have not heard since,
20 and that is, is there a unique set of qualifications that
21 General Austin brings to this position that would necessitate us
22 waiving the statutory provision, and I think essentially gutting
23 it. So can either of the witnesses talk about the word
24 "unique," and whether General Austin has unique qualities that
25 could not be found anywhere else in order to fill this position

1 in the incoming administration?

2 Ms. McInnis: Senator, thank you. It is a question for
3 this Congress and for the President to determine the uniqueness
4 of the qualities of the proposed nominee and whether or not they
5 satisfy your criteria of the uniqueness. It, again, begs this
6 broader question of the overall system of the Department of
7 Defense. Again, the position of Secretary of Defense is
8 extremely difficult. There are so many different challenges,
9 and as Secretary of Defense Robert Gates noted, we have a pretty
10 near perfect track record of predicting the next conflict. We
11 have gotten it right zero percent of the time.

12 As a result, is this nominee the person that can, and the
13 team, more broadly, be prepared to both look at current
14 challenges and also be able to address the longer-term health,
15 capability, developments, and so on and so forth, for the
16 future? It is an incredibly difficult job, and it really does
17 require a great team to support them. If the civilian side of
18 the Department of Defense is not capable, because, you know, for
19 all sorts of human resources kinds of reasons, to be able to
20 provide that support, then I think that begs a bigger question
21 of what to do.

22 Senator King: Perhaps I framed the question improperly.
23 Dr. Cohn, do you believe that the word "unique" has some value
24 here, and is that a standard that we should apply? I am trying
25 to get some help on how to make this decision, and is a guide to

1 the decision yes, you should provide the waiver if the
2 individual brings unique qualities to the table at this
3 particular moment in time. Is that a valid basis that we should
4 refer in making our decision?

5 Ms. Cohn: Senator, I would not presume to tell this
6 chamber its business. And with all due respect to Senator
7 Inhofe, I do think that the use of the word "unique" is maybe
8 setting the bar a little bit too high. As Dr. McInnis has
9 pointed out, this is a very difficult job, and it is almost
10 impossible to find someone who is uniquely qualified for it in
11 some way or has unique characteristics that make them the only
12 appropriate person for it.

13 So I think maybe the word "unique" is a bit too exclusive.
14 If you were simply asking me my personal opinion I would say
15 that this chamber could think about its decision more in terms
16 of whether the person involved can convince them that the
17 concerns that we have raised and that have been raised by
18 members of this Committee can be sufficiently mitigated that the
19 damage will not be greater than the value of that person being
20 in office and all of the things that they bring to that office.

21 If this chamber decides that Mr. Austin is ready and
22 capable to strengthen civilian control, as I believe Senator
23 Rounds pointed out, if this chamber believes that Mr. Austin is
24 going to handle things extremely well, then this chamber could,
25 I think, very legitimately, come to the conclusion that on

1 balance it is better to give him a waiver and confirm him.

2 On the other hand, as you point out, the question here is,
3 was this the only possible choice? No. Clearly it was not the
4 only possible choice, but it is the choice that the President-
5 elect has made, and that has put you in the position of
6 determining whether the balance is good or bad, and I do not
7 envy you.

8 Senator King: Thank you, Mr. Chairman.

9 Senator Reed: Thank you, Senator King. Now, on behalf of
10 Chairman Inhofe, let me recognize Senator Warren.

11 Senator Warren: Thank you. Thank you very much. Since
12 civilian control of the military is not just about who leads the
13 Department of Defense, it is about how decisions throughout the
14 Department get made, who is at the table, whose voice gets
15 listened to. The last time Congress changed Federal law to let
16 a general run DoD was in 2017, and the November 2018 National
17 Defense Strategy Commission report, published a month before
18 Secretary Mattis stepped down, highlighted the consequences of
19 this move.

20 I want to read from their report. They said, "Civilian
21 voices have been relatively muted on issues at the center of
22 U.S. defense and national security policy, undermining the
23 concept of civilian control. The implementation of the national
24 defense strategy must feature empowered civilians fulfilling
25 their statutory responsibilities, particularly regarding issues

1 of force management. It is critical that DoD and Congress
2 reverse the unhealthy trend in which decision-making is drifting
3 away from civilian leaders on issues of national importance."

4 Dr. Cohn, do you agree with that characterization and do
5 you think it remains true today, at the end of the Trump
6 administration?

7 Ms. Cohn: Yes, Senator, I do agree with the
8 characterization and I do think it remains true today.

9 Senator Warren: Thank you. Dr. McInnis, regardless of who
10 is the next Secretary of Defense, what does that individual need
11 to do to restore the balance between OSD and the Joint Staff?

12 Ms. McInnis: Thank you, Senator. If you agree that the
13 civilian pillar within the Department of Defense ought to be
14 strengthened, because, or as it follows from civilian voices
15 being muted, then there are some simple sort of human resources
16 fixes that can be applied to addressing this. Thinking about
17 the workforce health of the national security civil service and
18 within the Office of the Secretary of Defense in particular.
19 Thinking about things like the implications of furloughs. You
20 know, OSD civilians are furloughed when there are shutdowns.
21 Their Joint Staff counterparts are not. Thinking through things
22 like to what extent civilian voices are included in process and
23 planning review and war plan reviews. Is that adequate?

24 It is such a multifaceted set of issues that one could
25 easily see not only the next Secretary of Defense paying

1 considerable attention to but also there are a number of
2 congressional tools that might be applied to this, including
3 perhaps commission or in doing hearings, and so on and so forth.

4 Senator Warren: All right. Good. Thank you. I
5 appreciate that.

6 You know, one of my Republican colleagues -- I do not know
7 who because it was done anonymously -- but one of my Republican
8 colleagues gave a quote to a New York Times reporter expressing
9 regret over their vote to grant Secretary Mattis a waiver,
10 saying that Secretary Mattis ran the Department, quote, "more
11 like a super-sized combatant commander."

12 Dr. Cohn, balance in civil-military relations sounds bad,
13 but what I really want to understand is what does it mean in
14 practice? Why is it a problem, if the military decision-makers
15 on the Joint Chiefs of Staff are, in fact, running the show?

16 Ms. Cohn: Thank you, Senator. The way I would
17 characterize this is basically as a difference in logic. In the
18 military -- and I am not saying that every person in the
19 military has this mindset exclusively, but it is normal and
20 natural for the military to want overwhelming resources,
21 overwhelming force, to be allowed to use that force in as
22 unrestrained a manner as possible, because that is how you win
23 battles with the fewest losses on your own side. And if you
24 spend all of your time thinking about and planning for certain
25 types of contingencies, that are the types of solutions that you

1 are most likely to reach for when new and unexpected situations
2 come up.

3 The difference between that kind of mentality or what I
4 would call logic, and what I would call a political logic, is
5 thinking about how to use force, the threat of force, the
6 information gained through the use of force as part of a larger
7 bargaining action, as part of a larger political goal or a
8 political aim or a political strategy that seeks to accomplish
9 things that are in the national interest, more broadly, rather
10 than in the narrow interest of, say, winning battles or winning
11 wars.

12 Senator Warren: Thank you.

13 Ms. Cohn: Wars and battles are only useful if they
14 accomplish some kind of political end, and that requires
15 somebody there who understands how the use of force can be used
16 in bargaining. Thank you.

17 Senator Warren: Thank you. That is actually very helpful.
18 Thank you.

19 You know, civilian control of the military is a bedrock
20 principle in our country since its founded, and since 1947, we
21 have put that into practice by choosing Secretaries of Defense
22 from civilian life. And I believe in this principle deeply and
23 that is why I voted against rewriting Federal law for Jim
24 Mattis, and it is why I will do the same for Lloyd Austin.

25 If Congress grants Mr. Austin a waiver, I will consider his

1 nomination independently on the merits, and regardless who the
2 next Secretary of Defense is, it is clear that a lot of work
3 must be done to restore civilian voices to their proper balance
4 in the decision-making process at the Defense Department. So I
5 stand ready to work with anyone to help make sure that happens.

6 Thank you, Mr. Chairman.

7 Senator Reed: Thank you, Senator Warren. And on behalf of
8 Senator Inhofe let me recognize Senator Peters.

9 Senator Peters: Thank you, Mr. Chairman, and to our
10 witnesses today for your testimony.

11 I know I heard from Dr. Cohn and others about the seven-
12 year timeline, and I think you mentioned in your testimony it is
13 somewhat arbitrary, although you could take a look at the fact
14 that it is a couple of tours of duty, which there is some
15 separation with that. You have also been asked about what sort
16 of characteristics or uniqueness that a nominee may have that
17 would warrant this. I know that is all very kind of difficult
18 to answer.

19 But as we try to sort this through, I would ask both of
20 you, are there any kind of activities in a post-military career
21 of a servicemember that might demonstrate that they have created
22 some of the separation between their current civilian
23 perspective and their previous military one, so it is not just
24 an individual saying, "Well, of course, I will do this," but is
25 there some sort of -- my question is, is there some sort of

1 objective look at the type of activities that they have been
2 engaged in or perhaps some of their personal characteristics
3 that they may have that would help us better understand whether
4 or not that separation exists?

5 And I guess I will start with you, Dr. Cohn.

6 Ms. Cohn: Thank you, Senator. Yes, you are pointing to a
7 really important issue, which is how does one tell when someone
8 has become civilian enough. And I would say, just off the top
9 of my head, somebody who has gone to work in another agency,
10 another government agency, or someone who has worked in maybe a
11 non-governmental organization, that kind of experience, again,
12 sort of policy experience and the experience of having to try to
13 wrangle multiple competing concerns. Not the people in the
14 military have no experience with that, but just outside of their
15 familiar sphere, so to speak.

16 And in terms of personal characteristics -- oh, also, of
17 course, executive experience at a firm or a company would also
18 help. In terms of their personal characteristics, I think some
19 of the things that have already been mentioned today, in terms
20 of, you know, a willingness to embrace the political nature of
21 the position, a willingness to come forward and do the kinds of
22 things that would have been very unusual and abnormal for that
23 person in their previous position, an ability to sort of see
24 things from other perspectives, and a commitment, and a clear
25 commitment, to the idea that there must be mutual respect for

1 different kinds of experience and expertise. In other words,
2 someone who does not look around them and think the only people
3 here that I can trust to know what they are doing are other
4 military officers. The person must demonstrate a respect for,
5 and a belief in, other kinds of expertise.

6 Senator Peters: Thank you. Dr. McInnis, is that a pretty
7 comprehensive list or would you concur with that, or add
8 anything, or would that be sufficient?

9 Ms. McInnis: Once again, I am just reminded that the
10 consideration of the management and leadership team of the
11 Department of Defense is as a team. It is not just the person
12 of the Secretary of Defense and the particular qualities that
13 they bring to the game. It is also who are the service
14 secretaries, who are the undersecretaries. Do they have,
15 together, as a team, the set of skills that you feel, this
16 chamber feels, is necessary to accomplish the national security
17 business of the United States.

18 Senator Peters: In the remaining time I am going to ask a
19 big question, so you can be brief. I think it will be helpful.
20 We have already granted two waivers that we have already
21 discussed here during this hearing. What would each of you
22 consider the major lesson that we have learned from those
23 waivers that we should be conscious of, either positive or
24 negative, and how would you compare that to the present
25 situation?

1 Ms. Cohn: Senator, to be brief, I think the main lesson
2 that we have learned from those two experiences is that there is
3 a danger of over-deference on the part of such a Secretary,
4 over-deference to the military voice, to the military position,
5 and to their military friends and colleagues. So that is the
6 main lesson that I would draw and be concerned about.

7 Ms. McInnis: I would just add on that one of the major
8 concerns expressed is how that actually manifests down the
9 chain, how does that manifest in terms of planning, oversight,
10 and the day-to-day business of civilian-military relations.

11 Senator Peters: Thank you both for your answers. I
12 appreciate it. Thank you, Mr. Chairman.

13 Senator Reed: Thank you, Senator Peters. And now let me
14 recognize, on behalf of the Chairman, Senator Duckworth. I
15 understand there might be some technical issues. Senator
16 Duckworth?

17 Senator Duckworth: Yes. Thank you, Mr. Chairmen, both
18 Chairman Reed and Chairman Inhofe. Again, I second our
19 colleague, Angus King's compliments to you both for successfully
20 shepherding another NDAA through the process.

21 I do not have video on. That is the technical issue we
22 have. However, I do have a statement, and I would like to just
23 start by saying that I want to open by acknowledging that I did
24 not vote for an exception to statute for Secretary Mattis to
25 serve as Secretary of Defense, and I have publicly stated that I

1 do not support an exception for General Austin.

2 I believe very strongly that there needs to be civilian
3 oversight of the military. And while it is true that Lloyd
4 Austin is no longer wearing the uniform, he retired from active
5 service just four years ago. The waiver that Congress is
6 considering would address the statutory requirement that
7 military retirees wait seven years from leaving regular service
8 in the Armed Forces before they serve as SecDef.

9 I believe this waiting period is very important, as has
10 already been discussed today, and I think the length of time
11 matters. In fact, I do not think seven years is long enough.
12 The original ten-year waiting period wisely intended to prevent
13 the type of conflicts that arise when recently retired military
14 commanders oversee leaders in the ranks that they have personal
15 relationships with. I remain disappointed that the legal
16 requirements enshrined in this principle were reduced in 2007,
17 without any congressional debate.

18 The military is a much smaller community than it may seem
19 to people who have not served, especially as servicemembers work
20 their way up through the ranks and that pyramid gets steeper and
21 steeper. Four-star generals have spent decades in this
22 community and likely know the combatant commanders and service
23 chiefs very well. Oftentimes they have grown up together for
24 the majority of their professional lives, and in some cases they
25 have shared enormous hardship and harrowing experiences in

1 combat.

2 I trust that most of our general officers are professionals
3 and know that they have spent their careers making hard choices,
4 but a Secretary of Defense having personal relationships with
5 the majority of the highest-ranking uniformed leaders still puts
6 them in a difficult situation. It also means that the top
7 supposedly civilian leader and the top military leaders have
8 very similar professional backgrounds and have spent their
9 entire adult lives in the same military culture. And I do not
10 think that is healthy, because I appreciate the diversity of
11 experience and perspective brought by a Secretary who has a
12 different resume and professional trajectory than the generals
13 that they lead.

14 I have serious reservations about the erosion of civilian
15 leadership over our military, one of the foundational principles
16 of our country, and one that I personally risked my own life to
17 defend. I value the service and experience of our military
18 officers, and I value our leaders who spend their careers in
19 civilian service as well. These different populations are
20 supposed to complement each other and act as checks and balances
21 on each other when necessary. This is healthy for democracy.

22 I do not want a military career to become a prerequisite
23 for an appointment to the Cabinet. We saw this impulse at the
24 beginning of the Trump administration when Trump showed a brief
25 but troubling fascination with bragging about his, and I quote,

1 "generals." The Senate confirmed those appointments out of fear
2 and a desire to surround Trump with adults in the room. As much
3 as I did not trust Trump, I thought approving an exception to
4 statute for Jim Mattis was unwise then, and I certainly think
5 granting another exception is unwise now. Now is the time to
6 shore up our democratic principles, not to continue to tear them
7 down.

8 That being said, I think it is important to acknowledge,
9 especially now, in light of the violent insurrection at our
10 Capitol last week, that I respect the majority rule of my
11 colleagues. I will not vote for an exception to statute to
12 allow someone with just seven years of relief from active
13 service to be appointed -- I am sorry. Let me say that again.
14 I will not vote for an exception to statute to allow someone who
15 is still within the seven years of relief from active service to
16 be appointed as Secretary of Defense. However, if my colleagues
17 choose to do so, I will accept their decision and consider Lloyd
18 Austin's nomination fairly and on its merits.

19 I would like to close by acknowledging retired General
20 Lloyd Austin, President-elect Biden's nominee to be Secretary of
21 Defense, is an excellent nominee. While I cannot vote for the
22 exception to statute that would allow him to serve as our next
23 Secretary of Defense, my objection has everything to do with the
24 issues I have just outlined and nothing to do with the man
25 himself. Lloyd Austin served honorably and faithfully for more

1 than 40 years. He broke barriers the entire way and commanded
2 troops, often in combat, with integrity and compassion. I hold
3 Lloyd Austin in the highest esteem and thank him for all that he
4 has done for our country.

5 If Congress passes legislation waiving the requirement for
6 a seven-year waiting period and confirms Lloyd Austin, I have no
7 doubt that he will bring his trademark dedication and steady
8 leadership to the role of Secretary of Defense. However, I
9 stand firm in my conviction that the principle of civilian
10 control of the military is bigger than any one person or his
11 personal experiences or resume.

12 Thank you, Mr. Chairman. I yield the rest of my time.

13 Senator Reed: Well, thank you very much, Senator
14 Duckworth. I believe that is complete, all of our colleagues
15 who wish to participate. On behalf of Chairman Inhofe, let me
16 thank the witnesses for your superb testimony, your insights.
17 You have informed us extraordinarily well, and we leave this
18 hearing much better informed on this very critical topic.

19 With that --

20 Senator Inhofe: Senator Reed?

21 Senator Reed: Yes.

22 Senator Inhofe: Let me make just one comment here.

23 Senator Reed: Absolutely.

24 Senator Inhofe: First of all, I do appreciate Angus King's
25 comments about the NDAA. It was difficult and everyone

1 performed well. I look back and see that -- I looked up the
2 vote that took place with Mattis and it was 81 to 17 to grant
3 the waiver at that time. I am not suggesting that that would
4 set any precedent for what we are considering now.

5 And I also want to mention, since we have some comments and
6 questions from members of the Committee, that we do not know,
7 Senator Reed and I, because of the unusual circumstances, do not
8 know yet when we are going to actually have a nomination hearing
9 or how this vote is going to take place. There is some notion
10 that it might have been on the 19th or it might be on the 21st,
11 and just to state the obvious, I would be transferring the
12 chairmanship on the 20th, so that would mean either one of us
13 would be the Chairman at that time, which really does not make
14 any difference.

15 So we cannot answer the obvious question as to when this
16 vote would take place, and then how long afterwards there would
17 be a nomination hearing. I have talked to both John Bonsell and
18 Liz King, and we are considering this right now, and Senator
19 Reed and I will be taking to work through the next steps, and we
20 will advise the members of the Committee as soon as we do that?
21 Okay?

22 And again, I want to thank the witnesses, Drs. Cohn and
23 McInnis. This has been very helpful to me. One of the things
24 about being a chairman, you do not come and go. You just stay
25 for the entire hearing, and this was one that was really very

1 beneficial to me. And I want to thank Senator Reed. I want to
2 thank you for chairing this hearing.

3 Senator Reed: Thank you, Mr. Chairman, and I think you
4 should gavel out. You are the Chairman.

5 Senator Inhofe: Oh. All right. We are now adjourned.

6 Senator Reed: Thank you, Mr. Chairman. Thank you all.

7 [Whereupon, at 11:50 a.m., the hearing was adjourned.]

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