



**Statement Before the
Senate Armed Services Committee**

“Civilian Control of the Armed Forces”

A Testimony by:

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Chairman McCain, Ranking Member Reed, and distinguished members of the Committee, thank you for the invitation to appear before you today. I am grateful that you are taking the time to consider civilian control of the Armed Forces as it pertains to the nomination of General James N. Mattis, USMC (ret.) as Secretary of Defense. The issue before you today regarding a possible exception to the limitation against appointment of persons within seven years of relief from active duty as a regular commissioned officer is one that has caused significant reflection, discussion, and debate within the national security community. In the United States, we are blessed with a history of strong civil-military relations. Tensions do exist, however, and we should never take for granted that civilian control of the military, nor healthy civil-military relations more generally, are a foregone conclusion in our Republic.

The principle of civilian control of the military is at the core of the American civil-military dynamic. It is firmly grounded in our Constitution and cemented in hundreds of years of supporting statute, regulation, military education, training, and culture, and senior civilian practice. At the outset of the Republic, when concern was high over the threat that a standing military could pose, maintaining fairly limited federal forces helped ameliorate (though did not eliminate) those concerns. Two world wars and the emerging Cold War environment convinced Americans in the twentieth century that a more substantial standing armed forces was appropriate to secure U.S. interests. Yet many were wary that such a standing force could tempt militarization and the resulting despotism experienced in Germany and Japan. These competing imperatives created what Samuel Huntington called a “new conservatism” that attempted to balance civilian control with improved military readiness.

Congress’s passage of the limitation on previously commissioned officers serving as Secretary of Defense within ten years of the cessation of their service (subsequently amended to seven years) has been one of the means employed to maintain civilian control despite the presence of a sizable standing force. Three years after enacting this measure, Congress created an exception to allow for the service of George C. Marshall as Secretary of Defense. No other such exception has been sought or granted until now.

The Defense Secretary position is unique in our system. Other than the President acting as commander in chief, the Secretary of Defense is the only civilian official in the operational chain of command to the armed forces. Unlike the President, however, he or she is not an elected official.

It is my view that there is a sound and enduring rationale for the principle of excluding recently retired commissioned officers from serving as the Secretary of Defense. It is not a limitation on these individuals’ service in civilian positions in government, in national security, or even in the Department of Defense more generally. Indeed, veteran’s preferences rightly help promote the federal service of former members of the armed forces. Rather, it is a narrowly targeted

restriction for the one nonelected civilian position in the operational chain of command. As such, it is a prudent contribution to maintaining the constitutionally-grounded principle of civilian control, both symbolically and in practice, in the presence of a sizable and highly capable 21st century military.

A permanent elimination or modification to this statute would be detrimental to the health of our civil-military relations and our national security. So, too, would be substantially populating the upper ranks of our national security structures with recently retired senior military personnel, or active duty personnel well beyond those positions already designated in statute. I come to this conclusion based on a number of factors.

First, a regular reliance on former commissioned officers to serve as the Secretary of Defense, or to widely populate the national security establishment's senior cadre, would undermine the international security advantages that accrue to modeling strong civilian control of the military. What we do in this area matters in the world. Others watch our behavior closely. They note that our leadership typically communicates through civilian channels, that our policy makers appear in civilian attire, and that our military demonstrates respect and deference to civilian leaders. However, the burden of our model does not fall solely on the military. It is also important our citizens and those around the world witness a model in which senior *civilians* manifest appropriate approaches to civil-military relations, demonstrated in their respect for the professionalism, sacrifice, and expertise of military personnel and in their knowledge of issues important to the profession of arms. These outward actions by our military and civilian officials support U.S. efforts to promote the embrace of freedom and democracy in the world, which reduces the instability, external aggression, and internal repression typically associated with military governments.

Second, were recently retired or active duty military officers routinely selected for Secretary of Defense, or to widely populate senior civilian positions in government, it would risk furthering incentives for active duty officers to politicize their speech and/or actions and for civilians to seek to ascertain the political viewpoints of officers as part of the recruitment and hiring process for political positions. The civil-military dynamic at the highest levels of government is already challenging, where the professional military ethos to provide "best military advice" must be exercised in the inherently politicized and civilianized universe of foreign and security policy decision-making. The lines between civilian and military roles can be blurry in the policy world; furthering such tensions is unhelpful for threading the needle that our civil-military compact requires.

This leads to a third concern. A coterie of individuals with like-background typically accompanies a senior appointee into government. Academics know a lot of academics, economists know many economists, and former military personnel have an extensive military

network. This is natural, and all officials must take pains to ensure they develop well-rounded teams. What is unique to the national security world, however, is the imperative for healthy civil-military relations. This requires guarding against an over-reliance on military viewpoints, just as it relies on ensuring those coming from civilian backgrounds act as respectful and knowledgeable counterparts, with expertise and responsibilities typically distinct from those of their military colleagues and subordinates.

Fourth, the United States has an interest in developing knowledge and expertise about the armed forces among those who have not served, especially in those who have not served at the senior-most levels. Motivating civilians to invest in careers in the defense sector requires having positions of meaning to which they can aspire. More generally, it requires validation that such career pathways are legitimate—that civilians can bring valued perspectives to the defense enterprise.

Fifth, a recently retired senior officer at the helm of DoD risks some prejudice with regard to service interests. Most of our secretaries of defense have had prior service backgrounds, and some amount of predisposition or at least disproportionate familiarity with one service over the others is not unusual. Nevertheless, a very senior, recently retired officer is far more likely to have had an important role in shaping that service's policies and budgets. Resources are always more constrained than one would like, so competition for dollars and mission-space among the Military Departments is a constant reality. A Secretary of Defense who is closely associated with a particular service may find it difficult to be perceived as unbiased on important questions regarding service roles, combatant command missions, and resource shares. Overcompensation on such issues is also a possibility against which to guard.

These reasons undergird the Congress's general prudence with regard to the limitation on commissioned officers recently relieved from active duty from assuming the position of Secretary of Defense, and for this Committee to remain vigilant to the possible negative effects of a broad representation of former senior officers in the national security cadre. I do not foresee imminent militarization of our national security architecture, but the concerns about civilian control that motivated our Founders and the architects of the post-World War Two security architecture, have continued validity. We should not risk a failure of imagination.

Despite all of these considerations, concerns, and cautions, however, it is my personal conclusion that it is appropriate to create a specific exception to the statute for the Senate to consider the confirmation of General James N. Mattis, USMC (ret.). I reach this assessment based on two primary factors: the qualities of the specific nominee and the safeguards in place to protect civilian control of the military in the presence of such an exception.

Based on my professional interactions with General Mattis and a review of available material, I believe General Mattis's recent retirement from military service should not be disqualifying to his consideration by this Committee and the United States Senate to be confirmed as the nation's next Secretary of Defense. I am persuaded not only by his expert grasp of the most important security issues our nation faces but also by his clear commitment to and embodiment of the principles of civilian control of the military. That commitment was evident in every interaction I had with General Mattis when I served as a senior civilian defense official, an experience shared by all such officials with whom I have spoken. His recently published work on civil-military relations reinforces my personal impressions. As he and co-author Kori Shake rightly stated in their 2016 work on this topic:

“The president is elected to determine the amount of effort to direct toward a war and has the right to disregard the military's counsel. Military leaders lack the public mandate to make necessary trade-offs between, for example, security and civil liberties.”

And

“Our military...understands better than do civilians that its high stature with the American public depends on respecting the prohibition on activism beyond the military sphere.”¹

The second reason I believe it is acceptable to make an exception to the limitation on recently separated officers in order to consider the President-elect's preferred nominee is that I assess the state of U.S. civil-military relations to be strong enough to withstand any risk such a once-in-two-generations exception, on its own, could pose. The United States Congress, the nation's statutes and courts, the professionalism of our armed forces, and the will of the people are critical safeguards against any perceived attempts to fundamentally alter the quality of civilian control of the military in this country. Should an exemption be made in this case, and General Mattis be confirmed as Secretary of Defense, oversight by this and other committees will play a critical role in reassuring domestic and foreign audiences that civilian control of the military is alive and well in the United States of America. As I stated earlier, I believe General Mattis's own behavior will reinforce that message. If it does not, this Congress and the courts of the United States should hold him accountable.

I would like to close with an important caveat to my endorsement for this exemption. I have grave concerns about the issuance of any exemption to Section 103(a) of Title 10 being portrayed or perceived as the result of the United States Senate agreeing with the President-elect that it is “time for a general” to serve as Secretary of Defense.² It should never be considered “time for a general” to fill the senior-most nonelected civilian position in the operational chain of

¹ Kori Schake and Jim Mattis, “Ensuring a Civil-Military Connection,” in Kori Schake and Jim Mattis, eds., *Warriors and Citizens: American Views of our Military* (Stanford: Hoover Institution Press, Stanford, CA, 2016), 299.

² Donald J. Trump, transcript of interview with the *New York Times*, November 23, 2016. Accessed at: <http://www.nytimes.com/2016/11/23/us/politics/trump-new-york-times-interview-transcript.html?smid=tw-nytimes&smtyp=cur&r=0>.

command. Rather, this exemption is about a particular individual who is well qualified for the position to which the President-elect has nominated him, the anticipation that the exemption will be a rare, generational one, and that it comes at a time of healthy appreciation of the principle for civilian control of the military. Although I would likely not agree with a Secretary Mattis on every major defense issue of the day, I am convinced that he passes the standard set forth during consideration of George Marshall's exemption for this position, whom the Washington Post referred to as "a truly authentic American in his respect for and devotion to our American system of government."³

Thank you for the opportunity to testify today on this important issue, and I look forward to your questions.

³ "Marshall as Secretary," *Washington Post*, 14 September 1950, 10.