

STATEMENT OF  
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ON  
Department of Defense Civilian Personnel Reform

*The views expressed in this testimony are my own and do not reflect those of the National Defense University or the Department of Defense.*

Chairman Tillis and Ranking Member Gillibrand, thank you for allowing me the opportunity to talk about a workforce for which I have the deepest respect. I've spent the majority of the last two decades analyzing military readiness, and in the course of those analyses I've learned that the quality of our people is the single greatest determinant of the readiness of our force. We know that this finding extends to Department of Defense (DOD) civilian personnel as well; these folks are the artisans at our maintenance depots, the medical professionals that care for the physical and mental well-being of our 9 million beneficiaries, the intelligence analysts and cyber security experts that keep us safe, and the scientists and engineers that are solving tangible operational problems today and developing new capabilities for tomorrow. Attracting and maintaining a high-quality, high-functioning federal workforce is a critical enabler of DOD's mission, yet those that have worked in this personnel system are well acquainted with its challenges. I am honored to share with you my observations as a member and senior manager of this workforce. I will close with my thoughts on evolving the federal workforce in ways that benefit both the employees and their mission.

**OBSERVATIONS**

I've observed the typical DOD civilian to be a dedicated professional who takes the mission of the Department very seriously. Contrary to stereotypes, over the course of my career the vast majority of my colleagues have been high performers, if not overachievers, even in the midst of furloughs and perennial pay freezes. The typical federal civilian has marketable

professional or technical skills and is not employed in the Washington, DC area. The average worker is about 47 years old with 12 years of service. <sup>1</sup>

Our civil service system today is based on the same merit principles on which it was founded in 1883; and there's a lot of goodness in those principles. For example, we should:

- Recruit, select, and advance our people on the basis of merit, after fair and open competition
- Treat employees and applicants fairly and equitably
- Provide equal pay for work of equal value and reward excellent performance
- Retain or separate employees on the basis of their performance
- Protect employees from reprisal for lawful disclosures (whistleblower rights)
- Create an environment that encourages the development of new talent and ideas

However the way that we have “operationalized” those principles ends up being extremely restrictive and that's detrimental to our mission and to our workforce. Most of the frustration I've observed is not with DOD employees themselves. It's been with the inflexibility of the human resources system that governs them. In fact, we're not talking about only one system; DOD has more than 66 different pay systems, and each has its own set of laws, regulations, and policies.

***It is hard to hire employees especially if you require particular skills for a position.***

According to my colleagues in the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD P&R), it takes between 80 and 150 days to hire someone in DOD, and that is when things go smoothly. In 2014, I attempted to hire an experienced, Title V General Service (GS)-14 readiness analyst. I was looking for an excellent writer, with demonstrated analytic skills and experience in some facet of readiness management. I gave up after nearly a year of frustration. Here's what I learned. First, in order to hire someone, you have to have an authority. We have at least 34 hiring authorities; that means a different set of regulations and processes for each authority. We have so many authorities, that in many cases, we don't know the rules for using them, or when we do know the rules, they are applied differently depending on where you work.

For example, an excellent pathway to bring in new, skilled talent to the federal workforce is through the National Security Education Program Boren (NSEP) Scholars and Fellows program, which provides federal funding to bright undergraduate and graduate students to study the languages and cultures most critical to national security. However, to date, not enough federal human resources professionals know that Congress has provided direct hiring authority for this talented group of students. More simply, we give these students funding to fill a critical security need, require them to pay that funding back with federal service, and then struggle to find them positions in which to serve. Similarly, we typically only use a small percentage of the Department's authorized allotment of Highly Qualified

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<sup>1</sup> From the Defense Civilian Personnel Advisory Service FY2017 DOD Appropriated Fund Population Summary.

Experts (HQEs). The Department has recently streamlined this process, but the true demand for HQEs is still likely more than the amount we are bringing on board. Again, many federal human resources professionals are probably unclear about the myriad of hiring options.

The second thing that I learned as I attempted to hire a readiness analyst is that describing the required skills or performance standards for a job is surprisingly centralized. These standards also factor into how much we can pay an employee. Clearly, setting accurate and current performance standards is a critical element of hiring and managing employee performance. Under one of our pay systems, the General Schedule, jobs are “classified” based on a set of standards; in many cases, these standards are outdated or irrelevant. For example, the standard for “computer science” was developed in 1988. The standard for telecommunications was developed in 1990. It can take years to update or develop a new standard. Information Technology (IT) standards were updated in 2011 after three years of work. Given changes in IT, they are likely out of date again.

***It is extraordinarily difficult to adapt the inventory of federal civilians even when the work goes away or substantively changes.***

Consider my experience on Secretary Gates’s efficiency task force in 2010. Faced with 3 years of \$1 trillion federal budget deficits, two demanding wars, increasing concerns about China, and a growing realization that the economy was disintegrating into a national security concern, Secretary Gates wanted to shift the Department’s resources from overhead activities to those activities that directly contributed to warfighting capabilities. Rather than repeating the mistakes of past blind percentage-based reductions, he preferred a painstaking approach of identifying and then eliminating low-priority lines of work and the staff that was associated with them. His initial focus was on his own organization, the Office of the Secretary of Defense (OSD). His own hand-picked team worked with the OSD staff to identify these low-priority production lines, inventory the associated personnel and funding, and ultimately eliminate them in the next budget submission. We underestimated how difficult this was going to be. Without a reduction in force (RIF), the people that were associated with these billets remained a part of OSD, despite the fact that their work went away. Now the Department had the responsibility to find them other jobs. Many were placed in positions for which they were well matched. But many were placed more out of a need to find them “any” position rather than whether they were well qualified for a particular position. There were others that literally drifted without a billet for years. We had written into our procedures for addressing these personnel a provision that kept them from turning down more than one offer; we had not considered the prospect that some—many of them senior executives—would not receive an offer, even after repeated interviews. While the number of individuals in this category was very small, it does illustrate some of the challenges with the traditional Title 5 system.

There are also few options for adapting a traditional Title 5 organization to changes in the nature of work, such as those that arise because the work becomes more technical or

requires new sets of advanced skills. Consider the Defense Language Institute (DLI), an organization primarily composed of Title 10 instructors, each of whom is a native language speaker hired on a term basis. At DLI, the organization's demand signal is defined as the number of students for each language. As you can imagine, this demand signal changes significantly over time as different areas of the world become concerning. In the Cold War, for example, proficient Russian speakers were in high demand. As the wars in Iraq and Afghanistan evolved, different Middle Eastern languages became more critical. Now, DLI is likely seeing another swing in student requirements as Russia and the Balkans become increasingly concerning again. Because these are Title 10 instructors, DLI could always adjust the workforce accordingly, thus avoiding the need to figure out how to get Japanese or Spanish instructors to teach Farsi, or more recently, how to get Farsi instructors to teach Russian.

***It is surprisingly difficult to hold employees accountable for poor performance or violating clearly established departmental or federal policies.***

Resolving cases of low performers or employees who engage in misconduct is a sensitive issue, and it should be. Let me begin with two clarifying points. First, I've only ever experienced a handful of these cases in all of the years that I've been employed by or associated with DOD. Second, although this problem is small, it matters a lot. The harm done by not resolving these cases is often born by employees across the whole of the affected organization. Again, this is a population that takes enormous pride in their mission and, when faced with a peer that is not holding up their part of the work, they often attempt to make up for that loss. In the case of an employee who engages in malfeasance, the peers often bear the brunt of the issue. Supervisors are duty-bound to protect their organizations from these effects, and most recognize that. Few follow through though. Based on my experiences, here's why I think that is.

First, it takes years of copious record keeping and evidence gathering to even begin holding an employee accountable. In my experience, even documented evidence from 3<sup>rd</sup> parties (e.g., inappropriate activity on federal computers, time card fraud, and inappropriate contract management) or disconcerting results from repeated formal climate surveys were insufficient to overcome the reticence of senior leaders, labor management relations personnel, and attorneys, to move forward with action against an employee in excess of a minor counseling session. This is based on the fear of retaliatory complaints and law-suits from the poorly performing personnel. Employees must be protected from unsubstantiated or spurious accusations from their leaders; there is no question about that. But I found that even with clear and convincing evidence of misconduct or poor performance, there is almost no support for imposing meaningful penalties, much less undertaking the termination of an employee.

Complicating matters, I've observed supervisors' tendencies to over-rate average or even poorly performing employees. This is likely true for three reasons:

- It is simply easier for supervisors to give a satisfactory rating. There is little justification required and it preserves peace in the organization.
- If it's a Title 5 employee, that employee will likely stay in that position for many more years, even if their performance is rated below average. Put slightly differently, there is little short-term gain from a low assessment, and the potential for a great deal of loss, especially if the employee files a formal complaint as a result of the appraisal.
- There is a credible fear of the employee filing a retaliatory formal complaint against a supervisor. It typically takes a year or longer for most of these complaints to resolve, leaving both the employee and the supervisor in a very difficult position.

## **REFORM THOUGHTS**

I've argued that the civilian workforce is a critical enabler of DOD's mission, but there are real challenges in how we manage this workforce that constrain its extraordinary potential. What follows are my thoughts for how to address these challenges.

### ***Publically recognize the talent and significance of our civilian workforce.***

This workforce has been plagued by furloughs, pay freezes, and worst yet, systematic rhetoric that our civilian employees detract from DOD's mission, rather than serving as a critical enabler. It is hard to believe that we will continue to attract top talent with this as a background vocal. There is a body of research that suggests that mastering a skill and making a contribution are even more powerful personnel motivators than fiscal rewards.<sup>2</sup> The converse is also true; the effects of careless disparagement of individuals that *have* mastered their craft and *are* contributing in meaningful ways is harmful and unnecessary.<sup>3</sup>

### ***Find the right balance among the federal civilian, military and contract labor forces.***

Although Secretary Gates's efforts to reduce overhead spending were much harder to accomplish than any of us realized, his objection to blind, "salami slice" cuts was well founded. Reducing any aspect of this workforce without reducing the actual work that goes with it will exacerbate existing inefficiencies and performance problems and jeopardize the mission. Such cuts are also likely to result in an eventual resurgence of some aspect of the workforce that has been "eliminated", despite the best attempts to prohibit that. There are pros and cons to utilizing each of the broad labor categories: civilian, military, and contractor, and when the work is allocated based on these attributes, we can and should expect to achieve a more effective and efficient workforce. That said, such an outcome

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<sup>2</sup> A summary of this research is in Daniel H. Pink, *Drive: The Surprising Truth About What Motivates Us* (New York: Riverhead Books, 2009).

<sup>3</sup> Bob Hale, the former Comptroller and Chief Financial Officer in DOD, made the same point in his recent publication. Robert F. Hale, "Business Reform in the Department of Defense: An Agenda for the Next Administration" in *Defense Strategies and Assessments* (Washington, D.C.: Center for a New American Security, November 2016).

requires policy and legislative tools to adapt the federal workforce; I will discuss those below.

As a means of finding real workforce efficiencies, consider the potential benefits from modernizing the human resources IT systems that we use to track and manage civilian and military personnel. Both are in tremendous need of updating. Upgrades offer the very real potential of saving significant labor while providing a significantly better product. For example, the military personnel management system remains as paper-intensive as it was in the 1950s. Even today, retiring personnel are told to make copies of their personnel records; typically hundreds of pages. We've invested in a very expensive electronic health record, but the very first medical form is the scan of a piece of paper from a Military Entrance Processing Station. On the civilian side, the myriad of human resources systems are equally inefficient, often inaccurate and incomplete, and lack the ability to "talk to" one another. Again, a modern system would certainly reduce labor and error costs as well as increase productivity.

***Evolve toward simpler, flexible hiring authorities.***

The single biggest challenge that I've experienced in managing the civilian workforce is the inability to shape that workforce. That includes moving people with specific skills into jobs that require those specific skills and removing those that are either not performing well or those whose skills are no longer needed. I've found that Title 10 offers a great deal of flexibility, while maintaining incentives that will attract a quality workforce. I have managed Title 10 workforces and am currently occupying a Title 10 position.

I've already described the critical workforce shaping advantages this authority provides to DLI. I am currently employed at the National Defense University (NDU) where 80 percent of teaching and research faculty are Title 10. There is no evidence that this causes a problem attracting and retaining a talented workforce. In fact, my peers and I—each of whom has been hired for a particular and finite term of years—don't mind being held to challenging but fair performance standards, even at the risk of not being renewed for another term. This is an overachieving workforce that gains a lot of satisfaction from being recognized as authorities in their fields. The organizational risk of having such high performing employees is that they are extremely marketable and can be lured away at any moment. Retention has to be explicitly managed. At NDU, we do this with academic freedom, retention incentives, and publication support.

I understand the concerns of many that moving toward a Title 10 civilian workforce would appear to forsake the tenets of a merit-based civil service system, potentially increasing the potential for unscrupulous managers to mistreat or mismanage applicants for vacant positions and subordinates. This risk can be minimized. NDU employs a governing Talent Management Review Board to ensure that our personnel are treated fairly and with respect. The typical term for an NDU employee is three years; this term can be renewed

indefinitely, but each time, a decision to renew (or not) is made deliberately, based on an employee's performance and the University's requirements. NDU requires that every term employee be notified about whether they will be renewed at least a year before the end of their term. Each of these decisions is proposed by the employee's supervisor, but must be approved by the board. More specifically, an employee's supervisor, two years prior to the end of the term, recommends whether that employee is on target for renewal. If the issue is performance, the employee will have another year to improve before a final decision is rendered on his or her renewal. If the issue is a change in the University's requirement—meaning that the individual's skills are no longer needed—the employee's term is simply not renewed.

A Title 10 workforce means that there will be more employee turnover than we see with Title 5 employees. That means new people will join organizations and bring with them new skills and perspectives. This ensures that the demand and supply for labor remains in sync. Both of these are great attributes that contribute to a highly effective organization. It also means that some people will have to leave the organization before they are ready to do so, and that can be hard. That is unavoidable, but it is a reality that millions of people in both the public and private sectors manage successfully throughout their careers. We owe employees a fair and predictable system and we can do that even, while at the same time affording both DOD and our employees greater flexibility.

Not every organization would benefit from a Title 10 workforce. But Title 10 does seem to fit organizations with the following characteristics:

- The potential for the nature of the work to change significantly over time
- Work associated with technical/professional skills that require currency

Furthermore, organizations should be delegated decisions over the critical elements of implementing a Title 10 workforce. These include:

- Term length (e.g., 2 to 5 years)
- Establishment of clear performance metrics
- Renewability (limits on the number of terms authorized or indefinite)
- Competitive salaries
- Other perks, such as education and training support, telework agreements, sabbaticals, or IPA-type<sup>4</sup> experiences within and outside of government to retain highly performing employees

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<sup>4</sup> IPA stands for Intergovernmental Personnel Act. This is a program sponsored by the Office of Personnel Management that allows for the "temporary assignment of personnel between the Federal Government and state and local governments, colleges and universities, Indian tribal governments, federally funded research and development centers, and other eligible organizations". These assignments are for a finite term; usually one or two years with the potential to renew the term once. From <[opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act](http://opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act)>.

***Hold supervisors responsible for the performance of their subordinates and support their validated employee assessments.***

The most basic reform must address the failure to identify current, job-specific performance standards and to hold employees to those standards. Moving to a Title 10 authority will not be useful if supervisors don't know what good performance looks like or are unwilling to hold employees accountable for that performance. This begins with decentralizing position descriptions and performance standards to reflect current requirements of individual vacancies. Supervisors are responsible for accurately assessing each individual's ability to meet those requirements. Holding supervisors personally accountable for the work of their subordinates is essential. Each supervisor should have in one of his or her performance objectives an element that addresses how well their employees perform individually and as an organization. For example, if an employee fails on a project, the supervisor's rating should reflect whether the supervisor actively addressed that failure. Conversely, supervisors should be rewarded when individuals and the collective improve. There is no way to avoid the supervisor's fear of retaliatory charges associated with low performance ratings or holding employees accountable for major policy violations. Employees must have the means to signal unfair or unethical supervisor treatment. However, we can and should expect all charges to be reconciled within six months. Faster resolution would benefit everyone.

In closing, I am proud to serve as a DOD civilian and humbled by the talent and dedication of my colleagues. We can provide a more rewarding work experience and a better mission outcome by simplifying our hiring authorities, decentralizing their implementation, tailoring performance standards and position descriptions to the specific requirements of each job, and definitively recognizing both good and bad performance.