

Senate Armed Services Committee
Advance Policy Questions for Mr. Robert P. Storch
Nominee to be Inspector General of the Department of Defense

Duties and Qualifications

1. What is your understanding of the duties and responsibilities of the Inspector General of the Department of Defense (DOD IG)?

As detailed in the Inspector General Act of 1978, as amended (the IG Act), the DoD IG is responsible for conducting independent and objective oversight over the programs and operations of the DoD and the conduct of its personnel. The IG Act, in Section 2, lays out the core purposes of the OIGs as, in substance, (1) conducting and supervising audits and investigations of the programs and operations of the establishments for which they have responsibility; (2) providing leadership and recommending policies to promote the economy, efficiency, and effectiveness of those programs and operations, and to prevent and detect fraud and abuse in them, and (3) to keep the head of the establishment and the Congress fully and currently informed about the issues uncovered in the OIG's work and the need for corrective action to address those issues.

Section 8 of the IG Act lays out additional provisions that apply specifically to the DoD IG in carrying out these core functions, and Section 8L contains special provisions concerning overseas contingency operations that apply to DoD OIG and others engaged in oversight of those activities. DoD Directive 5106.01, "Inspector General of the Department of Defense (IG DoD)," details the structure, functions, and responsibilities of the DoD IG within the DoD. Per the DoD OIG's public reporting, the DoD IG is responsible for leading a team of more than 1,800 personnel posted across the world in conducting these critical oversight functions, all of which, in one way or another, promote positive change throughout the DoD.

Section 3 of the *Inspector General Act of 1978* provides that Inspectors General shall be appointed solely on the basis of their "integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations."

2. What background, experience, and "demonstrated ability" do you possess in the domains of: accounting, auditing, financial analysis, law, management analysis, public administration, or investigations?

At both the National Security Agency (NSA) IG and, before that, as the Deputy IG and in other leadership positions at the Department of Justice (DOJ) OIG, I have drawn heavily on my background as an attorney and some two dozen years' experience as a federal prosecutor that preceded my joining the IG community.

I am an attorney, having graduated as a Harlan Fiske Stone Scholar from Columbia University School of Law in 1985. After graduation, I worked as a law clerk for United States District Judge William D. Keller in Los Angeles, Central District of California, and then in general litigation at the law firm of Covington and Burling in Washington, D.C., before beginning my career as a federal prosecutor at the U.S. Attorney's Office (USAO) for the Middle District of Florida in my hometown of Jacksonville, Florida. I handled a variety of cases as an Assistant U.S. Attorney (AUSA) in Jacksonville, including working on a multi-agency Public Corruption Task Force. In the course of those prosecutions, I consulted with the Public Integrity Section of the Criminal Division of the DOJ in Washington, and accepted an offer to become a Trial Attorney there, where I worked on a variety of federal public corruption prosecutions across the country.

Thereafter, I moved with my family to upstate New York, where I worked in general litigation at the law firm of Bond, Schoeneck and King in Albany before returning to public service at the USAO. Over the next 17 years, I served as an AUSA in the Northern District of New York (NDNY), handling primarily white collar and public corruption prosecutions, as well as federal civil rights, bankruptcy fraud, and other cases. I also served in a number of supervisory and other positions, including as the NDNY's first Anti-Terrorism Coordinator in the wake of September 11 and, later, as the District's Appellate Chief and Senior Litigation Counsel. I was selected for and served for approximately 11 years as a Legal Evaluator on the DOJ Evaluation and Review Staff, joining with other experienced prosecutors in conducting evaluations to improve the operations of USAOs across the country. I also participated as an instructor in numerous training programs, including on multiple occasions at the DOJ National Advocacy Institute and at other DOJ and FBI anti-corruption and other programs, both domestically and internationally.

I served on detail for two years as a DOJ Resident Legal Advisor on an anti-corruption program sponsored by the U.S. Millennium Challenge Corporation and administered by the U.S. Agency for International Development in Ukraine, where we provided technical assistance in the development of measures to address official corruption (including with regard to the establishment of internal investigations units with functions similar to OIGs in a number of ministries and agencies). At the request of the U.S. Government (USG), I returned to Ukraine in 2014 to provide technical assistance in the development of what became the anti-corruption package of legislation, and I returned at the request of the USG on a number of occasions to provide technical assistance regarding its implementation. At all three prosecutor's offices where I worked, I handled cases from a wide range of investigative agencies, including a number of OIGs and Military Criminal Investigative Organizations (MCIOs).

In 2012, I returned to Washington and accepted a position in the Front Office of the Department of Justice Office of the Inspector General, serving in several leadership positions and, for my last several years there, as Deputy Inspector General, working directly with and for IG Michael Horowitz in leading the varied operations of that

important office. I am currently in my fifth year serving as the first Presidentially appointed Senate-confirmed (PAS) Inspector General at the NSA, where I am honored to lead an outstanding team of auditors, evaluators, inspectors, and investigators in carrying out the full range of independent oversight activities called for under the IG Act, drawing heavily on my background as an attorney and prosecutor in much of what I do.

3. What leadership and management experience do you possess that you would apply to your service as DOD IG, if confirmed?

As indicated above, I am honored to serve currently as one of approximately three dozen PAS Inspectors General under the IG Act, leading the team at NSA OIG in conducting impactful independent oversight at a critically important agency. As a result of this work, and my prior experience working with and for a truly outstanding IG at the DOJ OIG, I believe that I have a good understanding of the duties and responsibilities of an IG under the IG Act. Moreover, as an IG at an agency within the DoD, I work every day to carry out those duties and responsibilities within the structure and under the policies and procedures applicable across the DoD, and at a place where the integration of military and civilian personnel is of great importance. As an IG within the DoD community, I also am a member of the Defense Council on Integrity and Efficiency (DCIE) that is chaired by the DoD IG, and my team and I interact regularly with the DoD OIG and its staff and others across the defense oversight community in carrying out our oversight functions.

In addition to these leadership and management experiences as an IG within the defense enterprise, I also am active in the Council of the Inspectors General on Integrity and Efficiency (CIGIE), from which I have gained a great deal of knowledge and perspective on how IGs across the oversight community carry out their responsibilities. I have been honored to be selected for a number of leadership positions within CIGIE, serving for the past several years as Vice Chair of the Technology Committee and Chair of the Emerging Technology Committee, both of which I believe deal with areas essential to the conduct of effective oversight now and into the future. I also was selected in mid-2020 to serve as one of four IGs on the CIGIE Integrity Committee, which has the important responsibility under the IG Act of considering and supervising investigations regarding allegations of misconduct made against IGs or other senior OIG personnel, and most recently, in February 2022, I was named as Vice Chair of this Committee. Consideration of the matters that come to the Integrity Committee requires a high level of understanding of the leadership and management functions that are critical to the functioning of an OIG, and I believe that, in addition to providing an important service to the larger IG community, the insights I have gained through this work would be of great assistance to me should I be confirmed to lead the office of the DoD IG.

Additionally, when I first joined the IG community, I was asked by IG Horowitz to develop the Whistleblower Ombudsperson Program at DOJ OIG, and I founded and led the CIGIE working group that has focused on these critical issues, which I have

continued to prioritize at NSA and within the Intelligence Community. And, both at DOJ and at NSA OIGs, I have emphasized the importance of diversity, equity, inclusion, and accessibility, being twice recognized for my work in the area at DOJ OIG, and continuing to prioritize it through the establishment of and support for our outstanding Diversity and Engagement Committee at NSA OIG.

During my time as a federal prosecutor, I also have had a number of important positions that have given me valuable leadership experiences, including as mentioned above, coordinating my District's efforts in response to the events of September 11, which involved bringing together representatives from a wide range of federal, state, and local law enforcement and intelligence entities to address that important area. Later, I was selected by the U.S. Attorney to lead our District's appellate practice, which involved not only representing the USAO before the Court of Appeals for the Second Circuit, but working to develop and train other prosecutors in writing appellate briefs and conducting oral arguments, skills that I believe have served me well in working collaboratively with my colleagues to enhance the quality of our work product at DOJ and NSA OIGs. At the USAO, I also served as Deputy Criminal Chief, supervising prosecutions out of the Albany and Binghamton USAOs, and for a time as Acting Criminal Chief, supervising them across the District, and as Counsel to the U.S. Attorney—positions that required the exercise of judgment and discretion on a range of legal and management issues.

In all these positions, and those I have held at DOJ OIG and now NSA OIG, I have followed the basic belief that it is one of my most important responsibilities as a leader to provide the best possible environment for my team to learn, grow, and develop, which enables them to do their best work and is the right thing to do for our people. If I am confirmed as the DoD IG, I would hope to bring that same approach to the leadership of that critically important office.

4. In your view, are there any steps you need to take to enhance your ability to perform the duties and responsibilities of the DOD IG?

One of the things that I have found to be very valuable during my time as the IG at NSA is that I established from the outset that I would have regular and open communications with Agency leadership. We agreed upon a schedule for regular meetings with the Director and Deputy Director, and engage on a regular and ongoing basis at other times as issues have warranted. Additionally, I have found it very valuable to engage on a regular basis with leaders across the extended enterprise, to inform them of our activities and, perhaps more importantly, to hear from them regarding the operations within their purview and their interactions with the OIG.

And I believe it is important to interact broadly with my colleagues throughout the office so as to learn about their activities and the challenges they perceive in achieving the office's joint mission.

I also have been gratified by the opportunities I have had leading up to my confirmation hearing to meet with the Members and staff of the SASC and, if I am confirmed, I hope to engage in robust communications with the Committee on an ongoing basis to hear from its Members and staff regarding the most critical issues that they believe are faced by the Department. I am firmly committed to the dual reporting lines reflected in the IG Act's direction that IGs keep both the head of the establish and the Congress fully and currently informed regarding their findings and the need for corrective action to address them. At NSA OIG, I have worked with my team to foster communications with the Congress, and as with Agency leadership, I think it is essential that I and my team understand the perspectives and concerns of the Congress with regard to our efforts and the establishment that we oversee.

5. If confirmed, what duties and responsibilities would you assign to the Principal Deputy Inspector General of the Department of Defense?

With any entity as large and complex as the DoD OIG, I would anticipate that the Principal Deputy Inspector General (PDIG) would play a critical role in helping to lead and direct the operations of the office. Having served as a Deputy IG myself, I understand the importance of that role in helping to ensure the successful operations of the office, as well as acting to carry on the smooth continuation of such operations in the absence of the IG. If I am confirmed, I would intend to rely heavily on the experience and advice of the PDIG and other senior leadership of the OIG, and to work with them to ensure that the leadership structure of the office is well positioned to conduct impactful independent oversight across the defense enterprise.

6. If confirmed, what duties and responsibilities would you assign to the Assistant Inspector General of the Department of Defense required by section 554 of the FY21 NDAA, as amended, charged with duties relating to oversight of DOD policies, programs, systems and processes related to diversity and inclusion, and supremacist, extremist and criminal gang activity? What will be your role with respect to these issues?

I believe that the issues of diversity and inclusion, and supremacist, extremist, and criminal gang activity within the DoD are of great importance. I have had the opportunity to hear presentations from the Deputy IG for Diversity and Inclusion and Extremism in the Military and, if confirmed, I would intend to engage with her and her team to make sure that the OIG is doing everything it can to maximize its impact in these areas of critical importance for the DoD's military and civilian workforces.

7. Are there any additional authorities or resources that, in your view, would enhance your ability to perform the duties and functions of the DOD IG, if confirmed?

I am not currently in a position to address whether there are authorities or resources that would enhance my ability to perform the duties and functions of the DoD IG. If confirmed, I would intend to consult with the team at DoD OIG to ascertain whether

such gaps exist and then would welcome the opportunity to engage with the Department and the Congress to find the best path forward to address them.

Major Challenges and Priorities

8. What do you consider to be the most significant challenges you would face if confirmed as the DOD IG?

I believe that people are everything, and OIGs, like the rest of government, face a significant challenge in attracting and retaining the diverse and talented workforce that is essential to doing our best work. Based on my experience at both the NSA and DOJ OIGs, I also believe that oversight of complex, multifaceted entities is inherently challenging, and conducting comprehensive and impactful oversight of a Department of the size and complexity of the DoD would be particularly so as it has both an overarching national security mission and, because of the size and diversity of the Department, it performs virtually every function of government in order to achieve it. As IGs reflect the departments and agencies they oversee, this gives the DoD OIG the task of conducting effective, independent oversight over all of those myriad, extensive, and critical programs and operations, and the military, civilian, and contractor personnel who conduct them throughout the United States and around the world.

9. If confirmed, what plans do you have for addressing each of the challenges you identified, and on what timeline?

If confirmed, I would intend to meet with the human resources team at DoD OIG to learn about the efforts to recruit and retain a diverse and talented workforce and to discuss with them how we can optimize our efforts in that critical area. I also would meet early and often with the leadership team and others at the OIG headquarters, and at its offices across the enterprise, to gather their perspectives and discuss how we can ensure that we are conducting the most impactful audits, evaluations, investigations, and reviews. In that regard, while it takes time away from the office, I always found that traveling as the Deputy IG with the IG to our field offices at DOJ OIG, and more recently with my senior leaders at NSA OIG, was remarkably worthwhile in gaining insights that helped in establishing the direction and focus of our office's oversight efforts.

Civilian Control

In its report, *Providing for the Common Defense*, the National Defense Strategy Commission cautioned, “there is an imbalance in civil-military relations on critical issues of strategy development and implementation. Civilian voices appear relatively muted on issues at the center of U.S. defense and national security policy.”

10. What is your view of the essential role of the DOD IG in promoting civilian control over the military?

Civilian control of the military is, of course, a central principle going back to the founding of our democracy, and its vitality is critically important to our system of government. Section 8(a) of the IG Act itself provides that no member of the Armed Forces, active or reserve, shall be appointed as the IG at the DoD, which I believe is consonant with the more general tenant of civilian control over the military and critically important for establishing the role of the OIG in promoting the same. Through the conduct of independent and objective audits, evaluations, and investigations, I believe that the DoD OIG furthers this fundamental principle, including through investigations of misconduct by senior officials, oversight over the activities and investigations conducted by the Service IGs and the MCIOs, and the conduct of audits and evaluations that examine the activities of, and make recommendations to improve the economy, efficiency, and effectiveness of military programs and operations across the defense enterprise.

11. How do the military department and other component Inspectors General, many of whom are senior military officers, fit into the framework of civilian control, in your view?

It is my understanding that the Military Department and other component IGs report to their Secretaries, who are required to be civilians, and that those individuals, in turn, report to the Secretary of Defense, who is also required to be a civilian.

12. If confirmed, specifically what would you do to ensure that your tenure as DOD IG epitomizes the fundamental requirement for civilian control of the Armed Forces embedded in the U.S. Constitution and law?

If I am confirmed as the IG at the DoD, I will work with my team to ensure that we conduct objective independent oversight over the programs and operations of the DoD that fully upholds the core principle of civilian control of the Armed Forces, including the investigative and other oversight activities describe above. As I do as the IG at the NSA, I would regularly emphasize the independent and nonpartisan nature of our work and, should we receive any allegation or evidence that implicates the core principle of civilian oversight over military activities, I will ensure that we take prompt action to address and report on same as appropriate.

Relationships with Component Inspectors General

13. What is your understanding of the duties and responsibilities of the component Inspectors General, including the Inspectors General of the military departments?

It is my understanding and belief that the component IGs, including the IGs of the Military Departments, perform an important role in the oversight of the entities over which they have purview, and in serving as essential force multipliers for the DoD IG's oversight over the larger defense enterprise. The duties and responsibilities of the DoD component IGs are detailed in DoD Directive 5106.04. These include, in substance, providing advice to their commander or director on all IG matters; reporting on the state of the command; performing investigations, inspections, assistance, audit, and teaching and training functions; recommending actions to correct deficiencies and monitoring progress toward addressing them; promptly reporting to the DoD IG allegations made against senior officials; and conducting inquiries that are referred to them by the DoD Hotline.

It is my understanding that the Military Department IGs draw their responsibilities from various laws related to the branches they oversee, including functions such as, in the case of the Army IG, inquiring into and reporting on the discipline, efficiency, and economy of the Army; periodically proposing programs of inspection and recommending additional inspections and investigations as appears appropriate; performing other duties as prescribed by the Secretary or Chief of Staff, and cooperating fully with the DoD IG in the performance of the its duties and functions.

14. If confirmed, what specific actions would you take to build and sustain a collaborative and cooperative relationship with these Inspectors General?

I believe strongly in the importance of a collaborative and cooperative relationship between Inspectors General in a manner that promotes the economy, efficiency, and effectiveness of our own oversight activities. As the NSA IG, I have worked to further what I think of as the “three Cs” – communication, coordination, and cooperation – with our counterparts within the defense enterprise and beyond. That same principle has been a key motivator in my involvement in the broader IG community through CIGIE.

If I am confirmed as the IG at DoD, I would look forward to learning more from my team at the OIG regarding the relationship that the office has with each of the component and military IGs, to meeting with those individuals, and to working together with them to ensure that we have a good working relationship that ensures the proper operations of our offices and that the various reporting mechanisms and channels of communication are operating properly. I also would hope to work through the DCIE and otherwise to ensure robust communication, coordination, and cooperation across the defense enterprise.

In one example of what I have been able to do in my current position, I was pleased to be able to partner with the Acting DoD IG to enable the members of the DCIE, including the component and Military Department IGs, to participate in the CIGIE Emerging Technology Subcommittee's 2021 symposium on emerging technology, as I believe it is important to collaborate and share information and best practices for the

benefit of the larger oversight community. If confirmed, I would hope to help lead the DoD OIG to foster such sharing and collaboration across the defense oversight community.

15. What are your views on the component Inspectors General’s ability to maintain their independence in conducting administrative investigations?

As indicated above, it is my understanding that, as is the case at NSA OIG, all allegations of misconduct made against senior officials received by the component IGs have to be promptly reported to the DoD IG, and that the DoD IG then decides whether it is appropriate to retain such investigation or to refer it back to the component IG for investigation. It is further my understanding that, where a matter is referred back to the component IG, the DoD IG retains oversight responsibility over the matter. I am not personally aware of instances where this approach has been insufficient to ensure the appropriate independence of the investigation but, if confirmed, I would consult with the team at DoD OIG and ensure that such matters are addressed promptly and appropriately.

16. What is your understanding of the value of the “teach and train” mission undertaken by the military department Inspectors General?

It is my understanding that “teach and train” refers to the process whereby IGs within the military conduct inspections and other oversight activities that result in recommendations, which in turn result in actions to address the identified deficiencies. This process – independently and objectively identifying issues, making recommendations for corrective action, and ensuring that actions are taken sufficient to meet the intent of those recommendations – is a core function of all IGs. On inspections at NSA OIG, our teams often partner with appropriate counterparts from the Military Department IGs to ensure that these functions take place efficiently and effectively, and that the resulting benefits for the programs and operations of the facilities are achieved.

17. If confirmed, what would be your plan for working with and overseeing the component Inspectors General and their internal audit, investigation, and inspection units, with a view to avoiding duplication of effort in inspector general operations and activities?

As indicated above, I believe strongly in the importance of communication, coordination, and cooperation to ensure the economy, efficiency, and effectiveness of oversight activities. If I am confirmed, I would consult with the team at DoD IG as to how we can best ensure that we are engaging in a robust fashion with the component IGs, including ensuring appropriate coordination of our oversight plans and activities to avoid duplicative or inconsistent oversight activities, which can waste taxpayer dollars and detract from the impact of our work in improving the programs and operations of the entities within our areas of responsibility. I also believe that the

DCIE can play an important role in institutionalizing such efforts across the defense oversight community.

18. What is your understanding of the relationship between the DOD IG and the IGs of the Defense intelligence agencies – the National Security Agency, the National Reconnaissance Office, the National Geospatial Intelligence Agency, and the Defense Intelligence Agency?

Under the IG Act, each of the four listed defense intelligence agencies has its own IG, who is responsible for conducting oversight over the programs and operations of their agency and the conduct of agency personnel. Each of these agencies is part of the larger DoD, which has its own larger IG who is responsible for conducting objective and independent oversight of programs and operations and the conduct of personnel across the entire Department.

As the NSA IG, I helped to lead the development with the then Acting DoD IG and the other defense intelligence IGs of a memorandum of understanding (MOU), as called for in the Senate Armed Services Committee's Report to accompany the NDAA for FY 2015 (Report Number 113-176, 2 June 2014), which details our respective responsibilities and authorities under the IG Act and DoD policy. This MOU also reflects the importance of communication and coordination in carrying out those oversight functions so as to avoid duplicative or inconsistent oversight. The defense intelligence agency IGs have reporting requirements to DoD IG, such as that for allegations of senior official misconduct referenced above. As the NSA IG, I have worked to foster collaborative efforts between our various offices where those make sense – for instance, my office currently is conducting a publicly announced joint evaluation with the DoD OIG assessing the NSA's integration of artificial intelligence into signals intelligence activities in accordance with DoD and Intelligence Community (IC) guidance. If I am confirmed as the DoD IG, I will continue in that role to promote communication, coordination, and collaboration to ensure that oversight activities are conducted economically, efficiently, and effectively across the defense enterprise. In furtherance of that, all of the defense intelligence agency IGs are participants in the DCIE, which, under the leadership of the DoD IG, has an important coordinating function.

19. What is your understanding of the relationship between the DOD IG and the Intelligence Community IG with respect to the DOD intelligence agencies?

The IC IG has important coordinating functions across the intelligence community, including with regard to the defense intelligence agencies and the other departments and agencies that comprise the Intelligence Community, including the DoD. The IC IG also has jurisdiction to conduct oversight over the exercise of intelligence activities that are conducted under the authority of the Director of National Intelligence, which it generally has exercised collaboratively with the IGs of other Intelligence Community department and agencies. I do not have firsthand knowledge regarding the relationship between the DoD IG and the IC IG, but I and my office at

NSA OIG have an excellent working relationship with the IC IG and, if I am confirmed as the DoD IG, I will work the team at DoD OIG to ensure that we have an excellent relationship with the IC IG as well.

20. What is your understanding of the roles of inspectors general assigned to the personal staffs of commanders and civilian leaders in headquarters and field commands across the DOD, and if confirmed, what would be your relationship with these inspectors general?

It is my understanding that the roles of these inspectors general are similar to those described above with regard to advising their commands and conducting activities that promote their programs and operations. As indicated above, I believe that the DoD IG has an important role in leading the defense oversight community, and in conducting oversight over the work of other IGs as necessary and appropriate to ensure the quality and consistency of such work. If confirmed, I would work with these IGs through the DCIE and otherwise to ensure that we are coordinating effectively to meet this essential requirement.

21. In your view, how can the DOD IG and the military department Inspectors General work in unity of effort with military department audit agencies, criminal investigative organizations, internal review offices, and other functional staffs, to fulfill their oversight obligations?

As indicated above, I am a proponent of communication, coordination, and cooperation. If I am confirmed as the DoD IG, I will engage with the team at the OIG to assess our relationships with all of these other oversight entities, and to develop and implement any necessary measures to ensure that we are leading the defense oversight community to operate with the economy, efficiency, and effectiveness that the entities we oversee demand and deserve.

Section 1611 of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011 provides that the DOD IG, as well as the Inspectors General of the military departments “shall treat the sexual assault prevention and response program as an item of special interest when conducting inspections of organizations and activities with responsibilities regarding the prevention and response to sexual assault,” and that the inspection teams comprised for these purposes must “include at least one member with expertise and knowledge of sexual assault prevention and response policies related to a specific armed force.”

22. What is your understanding of the designation of the sexual assault prevention and response program as an “item of special interest”?

I have been informed that this designation requires that there be focused management attention on the program, including requiring the OIG to collect and report on relevant data related to it.

23. How does the DOD IG exercise appropriate oversight of the actions of the military department Inspectors General in this regard?

It is my understanding that the investigation of allegations of sexual assault are generally conducted by the MCIOs, and that the DoD IG exercises oversight jurisdiction over those important matters. I also understand that the DoD OIG has, in the past, conducted an evaluation of the MCIOs' handling of these matters, and the DoD OIG's FY 2022 Oversight Plan reflects that another such evaluation currently is ongoing. I further understand that the collection of information regarding the handling of sexual assault and misconduct allegations is also within the purview of the newly established Deputy IG for Diversity and Inclusion, and Extremism in the Military. If I am confirmed, I would intend to work with the team at the DoD OIG to ensure that we are conducting oversight jurisdiction these important matters appropriately. Separately, it is my understanding that the DoD OIG itself conducts investigations regarding allegations of reprisal against whistleblowers in sexual assault cases.

24. What role should the DOD IG play in consolidating for review, analysis, and dissemination, best practices and trend data derived from inspections of the sexual assault prevention and response programs of the military departments?

I believe that the DoD IG can play an important role in the review, analysis, and dissemination of best practices and trend data from inspections of the sexual assault prevention and response programs of the Military Departments. In my own experience, my office at NSA OIG recently released a trends report examining issues identified on inspections over the prior six-year period. I believe that this sort of compilation and analysis can provide very useful lessons and enhance the impact of individual oversight activities. Additionally, I am aware that the DoD OIG has a robust data analytics effort that I believe would be of great assistance in such work. If confirmed, I would look forward to working with various involved parts of the DoD OIG and the other IGs within the defense establishment to determine how we can best develop and provide this important information.

Section 2784 of title 10, U.S. Code, charges the DOD IG and the Inspectors General of the military departments to perform periodic audits to identify potentially fraudulent, improper, and abusive uses of DOD government purchase cards.

25. If confirmed, what would you do to ensure that misuses of DOD government purchase cards are identified and brought to the attention of senior DOD leaders?

Detecting and deterring the misuse of government purchase cards is a focus of OIGs across the community. I have had experience with these sorts of audits and, if confirmed, would meet with the team at the DoD OIG to discuss the office's handling of them and how best to ensure that the results of such audits are brought to the attention of senior DoD leaders and acted upon in a timely manner. I also would

explore with the communications personnel at the OIG how to most effectively disseminate messaging across the defense enterprise regarding this topic.

26. If confirmed, what programmatic improvements would you recommend to prevent the misuse and abuse of the DOD government purchase card program?

I am not currently in a position to know what programmatic improvements I would recommend in this area. If confirmed, I would review the prior work conducted by the OIG and consult with the team on how to make the maximum impact in addressing this issue. As on many other topics, I would welcome the opportunity to hear from the Committee regarding any particular concerns it might have in this area as well.

27. If confirmed, what actions would you recommend to ensure that service member and DOD civilian employee cardholders who misuse their government purchase cards are held appropriately accountable?

Again, I do not have the information necessary to identify specific actions that I would recommend if confirmed to ensure appropriate accountability in this area. However, I certainly understand and believe that accountability is essential, and I have worked first as a prosecutor and, more recently, within the IG community to ensure that personnel who engage in misconduct are, in fact, held appropriately accountable. In fact, at NSA OIG, the first underlying report for which we released an unclassified version was on our Audit of the Agency's Travel Card Program, in which we indicated that we had referred a number of instances of potential card misuse to the NSA OIG Investigations Division. If investigations are to act as an effective deterrent, there also need to be consequences for substantiated misconduct and, if confirmed, I would work with the team at the DoD OIG to understand the situation there and take appropriate action.

Executive Privilege

28. In your view, would an assertion of executive privilege from the White House with regard to a matter relating to the Department of Defense prevent the DOD IG from accessing information that has been shielded from Congress?

Under the IG Act, IGs operate within and are a part of the departments and agencies that we oversee. As a result, I do not believe that an assertion of executive privilege from the White House with regard to a matter relating to the Department of Defense would prevent the DoD OIG from accessing information to which it would otherwise be entitled under the Act, even if that information has been shielded from Congress.

DOD Business Practice Performance and Affordability Reform

The DOD Reform Management Group (RMG) was established in 2017 as a governance body to manage and oversee reform efforts across nine lines of business.

However, in January 2021, the Deputy Secretary of Defense issued a memorandum stating, among other things, that the Reform Management Group would be disbanded and its related ongoing actions transferred to the Defense Business Council. DOD claimed a total of \$37 billion in savings from fiscal year 2017 through fiscal year 2021 from its reform efforts in its annual budget materials and other reports.

29. What role should DOD IG have to audit or otherwise validate the savings claimed?

The DoD IG has jurisdiction to conduct oversight over all programs and activities of the Department. If I am confirmed, I will examine this issue with the team at the DoD OIG to determine our purview in this area and what oversight may be appropriate. I also would welcome the opportunity to engage with the Committee regarding any concerns it may have in this area.

30. If confirmed to be the DOD IG, what efforts would you undertake to assess the continued effectiveness of DOD reform initiatives?

A basic function of OIGs is to conduct audits, evaluations, and other reviews that assess the economy, efficiency, and effectiveness of Department programs and operations. If confirmed, I would welcome the opportunity to engage with the Congress to understand any concerns it may have, and would consult with the team at the OIG to determine where and how we might most effectively conduct oversight regarding DoD reform initiatives in this area.

31. In your view, are there business process reforms that the DOD IG could undertake internally that would contribute to the Department's achievement of its savings goals?

As with the establishments we oversee, all OIG activities are conducted with taxpayer funds, and I believe that we have an obligation to ensure that we meet the standards to which we hold the departments and agencies we oversee, and that our own activities are conducted economically, efficiently, and effectively. I am not in a position to ascertain whether there are business process reforms that the DoD OIG could undertake internally that would contribute to the Department's achievement of its savings goals but, if confirmed, I would meet with the team at the DoD OIG to gain greater understanding as to the office's internal operations and any reforms that might contribute to the Department's achievement of its savings goals and, more generally, ensure that we are operating economically, efficiently, and effectively with the taxpayer's dollars.

Independence and Objectivity

One of the primary purposes of the *Inspector General Act of 1978* was to create independent and objective units to conduct and supervise audits and investigations in DOD.

32. If confirmed, what specific actions would you take to maintain the independence and objectivity of the Office of the DOD IG?

The independence and objectivity of OIGs are the cornerstone of our work – without it, our reports would not be authoritative or credible at the establishments we oversee, with the Congress, or with the public. I believe that maintaining independence and objectivity can be particularly difficult but is particularly important at places like those where I have worked and, if confirmed, where I will work, where the department or agency in question carries out a particularly compelling mission. Fortunately, as the Deputy IG at the Department of Justice, I had the opportunity to observe daily how a truly outstanding IG conducted himself and led the office to maintain unquestioned independence and objectivity, all while handling some of the most sensitive matters within the government. I tried to learn from IG Horowitz every day, and am very pleased that I and my office have a good, but appropriately independent and objective relationship with the leadership at the NSA. Maintaining the right balance – being close enough that your work is valued and that leadership is valued and others within the establishment seek out your office’s independent assessment and credit its results, but not so close that you jeopardize the reality or the appearance of independent objectivity – can be one of the most difficult things for an OIG. One thing that I have done at NSA, and would anticipate continuing if I am confirmed as the IG at DoD, is to engage in constant and consistent reinforcement of these key principles – including that the IG is independent of the Department’s leadership structure, that we have dual obligations to keep the Department leadership and the Congress fully and currently informed, and that we are resolutely nonpartisan. At NSA OIG, I worked to revise our office’s governing policy and many of our procedures to ensure that they fully reflected our office’s independence and, if confirmed as the DoD IG, I would work with the team at the OIG to review the office’s policies and procedures and make any necessary adjustments to ensure same.

In this area, I believe that communications with establishment leadership are key and, at NSA, I changed the interactions with Agency leadership from the practice of prior IGs, who attended staff meetings, to establish separate meetings with the Deputy Director and the Director. While, as discussed earlier, I believe that interactions and positive working relationships with others in Department leadership are very important, there can be no question as to the level at which the IG reports as an essential component of the office’s independence. More recently, I was pleased last spring to have the Director issue a message to the entire workforce supporting the independence of the IG, and encouraging people to report wrongdoing to us.

And, ultimately, it comes down to the work. I always tell my team that the NSA has compelling missions – both signals intelligence and cybersecurity – but those are not our missions as an OIG. In my view, the mission of an OIG ultimately is to conduct objective, impactful oversight over the Agency’s conduct of its mission and its personnel that promotes positive change. If I am confirmed, I will communicate the

expectation of such independence and objectivity throughout the OIG and work with the team to carry it out.

33. Under what circumstances, if any, do you believe it would be appropriate for the DOD IG to consult with DOD officials outside of the Office of the Inspector General before issuing an audit, investigation, or inspection report, regarding the findings and recommendations set forth in that report?

With regard to audits and inspection, pursuant to applicable standards such as the Government Auditing Standards (known as the “Yellow Book”) for audits and the CIGIE Quality Standards for Inspection and Evaluation (known as the “Blue Book”), as well as common practice in the IG community, it is standard and appropriate to provide advance drafts of reports of audits, inspections, and evaluations to appropriate Department officials for the purpose of factual accuracy review and to provide the Department’s response to recommendations made in the report, which response is reflected in the report along with any OIG analysis of the same. Having reviewed and been responsible for many reports over my time in the IG community, I believe that these interactions with department or agency officials are entirely appropriate and, in fact, increase both the accuracy of the work and the acceptance of it within the entity being overseen, which, in turn, helps to prompt timely efforts to take actions to address the issues identified in the report.

For administrative investigations, it similarly is common practice and, I believe, entirely appropriate to provide the subject against whom the OIG intends to substantiate wrongdoing an opportunity to review at least the tentative conclusions and an opportunity to respond, which generally should be documented and, as warranted, addressed in the report of investigation. All of this, of course, is entirely distinct from any effort by Department officials from outside the OIG to have undue influence on the findings or recommendations of a report, which, if confirmed, I would never countenance.

34. To the extent you believe it appropriate, how would you conduct such consultation so as to maintain the independence and objectivity of the DOD IG, and to ensure perceptions of IG independence and objectivity are not compromised?

While I am not familiar with the specific procedures at the DoD OIG, I believe that all IGs have procedures for carrying out and documenting the consultations referenced above to ensure that they are appropriate. If confirmed, I would familiarize myself with DoD OIG’s procedures and discuss any areas for possible improvement with the team and, as appropriate, Department leadership. I have found at NSA, and I would anticipate at DoD, that there is a good understanding from senior leadership that OIG oversight is most valuable when its objectivity and independence is respected and preserved, and I would engage as necessary to ensure that occurs in all instances.

35. Under what circumstances, if any, do you believe it would be appropriate for a senior official to request that the DOD IG not audit, investigate, inspect, or review a particular matter?

As an independent oversight entity, it is up to the OIG to determine its oversight plan, and what matters it will or will not audit, investigate, inspect, or evaluate. I believe that OIGs are well served by consulting with the leadership of the establishments they oversee, as well as with the Congress as discussed above, regarding areas of particular concern that may merit audits, inspections, or evaluations, and it is not uncommon for agency or department leadership to turn to the OIG for an independent review of a particular matter. This is appropriate so long as it is understood and respected that, absent a statute requiring particular action, it is the OIG, and ultimately the IG, who has the independent authority and responsibility for deciding what oversight projects the office will or will not undertake.

OIGs typically carry out this task utilizing a methodology to assess relative risks across various priority areas, with the acknowledgement that all work plans are living documents and circumstances may arise that warrant taking or deferring action in a particular area. Ultimately, only the Secretary of Defense has the authority under Section 8(b) of the IG Act to prohibit the IG from initiating, carrying out, or completing any audit, investigation, inspection, or review, based on a determination that such prohibition is necessary to preserve the national security interests of the United States. It is my understanding that this authority has never been exercised but, if it were, I would report to Congress as provided for in the Act.

36. Under what circumstances, if any, do you believe it would be appropriate for a senior official to request that the DOD IG not issue a report on a particular matter?

Apart from a determination by the Secretary of Defense in an extraordinary circumstance as described above, I cannot think of any circumstances where it would be appropriate for a senior official to request that an IG not issue a report on a matter we have reviewed, or in which we would honor such a request.

37. Under what circumstances, if any, do you believe it would be appropriate for a senior official to request that the DOD IG alter findings, recommendations, or other pertinent material in a report on a particular matter?

As discussed above, it is appropriate and common for management to review and provide comments on draft OIG reports, which may include requests to alter findings, recommendations, or other material believed by the department or agency to be inaccurate. Such requests should be appropriately documented and their disposition is solely that of the OIG. It never would be appropriate for a senior official or anyone else to request that an OIG report be changed because it is embarrassing for the Department. Additionally, subjects of administrative investigations are typically and

appropriately provided an opportunity to provide comment and response on tentative conclusions of misconduct; again, those inputs should be documented and their disposition is solely up to the OIG.

38. If confirmed, what action would you take if a senior official sought to prevent you from “initiating, carrying out, or completing” any audit, investigation, or inspection within the jurisdiction of the Office of the DOD IG?

As detailed above, only the Secretary of Defense has authority for the reasons and under the procedures outlined in Section 8(b) of the IG Act to prevent the IG from initiating, carrying out, or completing any audit, investigation, or inspection within the jurisdiction of the DoD OIG. If anyone else tried to do so, I would report that to Department leadership and, as appropriate, the Congress. Depending on the nature of the action, I also would confer within the OIG to determine whether such action constituted obstruction or an attempted obstruction that would warrant administrative, or even potentially criminal, investigation.

Supervision by the Secretary of Defense

Section 3 of the *Inspector General Act of 1978* provides that the head of an agency, shall exercise “general supervision” over the agency’s Inspector General, but shall not “prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.”

39. If confirmed, what would be your relationship with the Secretary of Defense?

I would make every effort to have a good, working relationship with the Secretary of Defense that respects our relative roles and the independence of the OIG in conducting its oversight functions. I have had the great advantage of witnessing how that relationship was conducted during my time as the Deputy IG at the DOJ OIG, and am pleased to have a similar good, independent working relationship with the Director at the NSA.

40. What would be your relationship with the Deputy Secretary of Defense and how would it differ from your relationship with the Secretary?

The IG Act provides in Section 3(a) that the IG shall be under the general supervision of the head of the establishment, which can be delegated to the officer next in rank, but it cannot be delegated further. If I am confirmed, I would intend to consult with both the Secretary and the Deputy Secretary on what they believe would be the most productive schedule for our regular interactions. Based on my experience at NSA OIG and, before that, at DOJ OIG, I would anticipate that might include regular meetings with the Deputy Secretary to inform her about some of the key findings in our work and to discuss operational matters relating to our office and its relationship with the larger enterprise, as well as periodic meetings with the Secretary to discuss

the most significant findings and issues. Whatever the periodicity of such regular meetings, it is critical that the IG have direct and prompt access to the head of the establishment when necessary for any purpose pertaining to the performance and functions of the OIG as provided for in Section 6(a)(6) of the IG Act.

41. What is your understanding of the general supervisory authority of the Secretary of Defense over the DOD IG, in view of the language provided by sections 2 and 3 of the *Inspector General Act*?

Section 2 of the Inspector General Act sets forth the general purposes of the OIG as discussed earlier, and Section 3 provides for the general supervision of the IG by the head or next in rank at DoD, the Secretary and Deputy Secretary. However, it is fundamentally important that Section 3 then goes on to make explicit that neither the head nor the next in rank shall prevent or prohibit the IG from initiating, carrying out, or completing any work, or issuing any subpoena, with the only ability to do so vested in the Secretary based upon the finding and with the notification set forth in Section 8(b). In practice within the IG community, this effectively means that establishment leadership does not have the authority to direct or interfere in the oversight work of the OIG, though the office remains part of the department or agency for some other purposes.

Section 8 of the *Inspector General Act of 1978* provides that the DOD IG shall “be under the authority, direction, and control of the Secretary of Defense” with respect to certain audits or investigations which require access to information concerning sensitive operational plans, intelligence matters, counterintelligence matters, ongoing criminal investigations by other administrative units of the Department of Defense related to national security, or other matters, the disclosure of which, would constitute a serious threat to national security.

42. What is your understanding of the procedures in place to effectuate the authority and control of the Secretary of Defense over the matters delineated in section 8 of the *Act*?

Section 8(a)(3) of the IG Act provides that, if the Secretary of Defense exercises the authorities outlined in Sections 8(a)(1) or (2) as described above, the IG shall submit a statement concerning such exercise within thirty days to the designated congressional committees.

43. What is your understanding of the extent to which the DOD IG has, as a matter of practice, initiated, conducted, and reported on audits or investigations covered by section 8 differently from other audits or investigations?

I am not aware of any differences in the way that the DoD IG has, as a matter of practice, initiated or conducted, and reported on audits or investigations covered by Section 8 as compared to other audits or investigations. While this is not within my direct knowledge, based on my experience as the NSA IG, I assume that the manner

in which such matters are reported might well differ to the extent they involve classified or sensitive information, and this is something on which, if confirmed, I would consult with the team at the DoD OIG to ensure we are proceeding appropriately and as transparently as possible.

44. What changes, if any, do you believe are needed in the practices of the DOD IG for initiating, conducting, and reporting on audits or investigations covered by section 8?

I am not in a position to assess what, if any, changes are necessary in the practices of the DoD OIG in this area. If confirmed, I will discuss this with the team at the DoD OIG and implement any changes that may be warranted.

Sections 4 and 8 of the *Inspector General Act of 1978* set forth various duties and responsibilities of Inspectors General in addition to the conduct of audits and investigations.

45. What is your understanding of the supervisory authority exercised by the Secretary of Defense with regard to these additional duties and responsibilities?

In addition to its functions with regard to the conduct of audits and investigations, the OIG has responsibility under Section 4(a) of the IG Act to review existing and proposed legislation and regulations and to make recommendations on the same in our semiannual reports (SARs); to recommend policies and activities to promote economy and efficiency and to prevent and detect fraud and abuse in DoD operations; and to recommend policies regarding the relationship between the DoD and other governmental entities. Similarly, Section 8(c) provides, *inter alia*, that the DoD IG shall be “the principal advisor to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department.”

I do not have any direct knowledge as to the extent to which the Secretary of Defense has exercised supervisory authorities over these functions – as a general matter, to the extent they involve recommendations to the Secretary, I would think that the OIG would make them independently and it would then be the province of the Secretary as to whether or how to address them. If confirmed, this is a matter that I would review with the team at the OIG and ensure that we are proceeding appropriately.

Keeping Congress Informed and Responsiveness to Congressional Requests

Section 2(3) of the *Inspector General Act of 1978* provides that one of the purposes of establishing the DOD IG was to keep the Secretary of Defense and Congress “fully and currently informed” of problems and deficiencies in the administration of DOD programs and operations and the “necessity for, and progress of corrective action.”

46. If confirmed, specifically what steps would you take to ensure that the Armed Services Committees of the Senate and the House of Representatives are “fully and currently informed” of problems and deficiencies in DOD programs and operations?

I am, as reflected above, firmly committed to the importance of the dual reporting lines as set forth in the IG Act. I believe that this is of central importance in ensuring the independence of our offices, and that it also enables us to provide valuable information to inform and assist the Congress in both its legislative and oversight capacities. As the NSA IG, I have worked to enhance our reporting to Congress, both through the content and accessibility of our SARs and underlying reports and through our interactions with Members and staff. If confirmed, I would meet with the team at the DoD OIG to review our reporting, discuss our interactions with the SASC and HASC, and identify any areas for improvement. To inform those discussions, I would look forward to engaging directly with Members and staff to hear from their perspective how we might enhance our reporting consistent with the IG Act. I would make myself available for hearings as requested, and myself and my team for briefings on oversight work that the office has conducted consistent with the IG Act and applicable policies and procedures.

Congressional Committees and individual Members of Congress frequently request that the Office of the DOD IG audit, investigate, or review matters of public interest.

47. What is your understanding of the manner in which the Office of the DOD IG addresses such requests?

Requests from Congress to audit, investigate, or review matters of public interest are common and appropriate across the IG community. I do not have direct knowledge regarding the procedures in place at the DoD OIG for handling such requests, but I assume that they are reviewed and considered consistent with the independence and nonpartisan nature of the office.

48. If confirmed, what changes, if any, would you make in the current policies and practices of the Office of the DOD IG for responding to congressional requests?

If confirmed, I will meet with the team to review the procedures at the OIG with regard to such requests, informed by my own experiences in the IG community, and identify any areas for improvement. In doing so, I would welcome input from the Congress, though of course, all such procedures must be carried out consistent with the independent and nonpartisan nature of the OIG.

49. If confirmed, what steps would you take to ensure the timeliness of Office of the DOD IG responses to congressional requests?

If confirmed, I would meet with the team at the OIG to ensure that we have procedures in place to ensure timely and appropriate responses to congressional requests.

50. Under what circumstances, if any, do you believe it would be appropriate for the Office of the DOD IG to redact certain information contained in a report it provides to a congressional committee or individual Member of Congress?

As a general matter, OIGs provide their reports to the head of the establishments they oversee and to the Congress. As far as I am aware, redactions in a report provided to a congressional committee or Member would only be made when legally required. If confirmed, I would consult with the Counsel to the IG and others within the OIG to ensure that we handle such matters appropriately.

51. In your view, does the independence of the DOD IG, as guaranteed in the *Inspector General Act of 1978*, include independence from Congress?

OIGs are established under the IG Act as “independent and objective units” – in carrying out our oversight responsibilities, it is important that we conduct our oversight responsibilities independently both of the establishments we oversee and of Congress, which I believe is a critical factor in the authoritativeness and credibility of our work. If confirmed, I would hope to have a robust relationship with the committees of jurisdiction that respect and benefit from the OIG’s statutory independence.

52. Are there certain categories of audits, investigations, or other inquiries that, in your view, are better conducted by the Government Accountability Office in its role as a component of the legislative branch? Please explain your answer.

GAO performs a wide range of important oversight activities across the federal government. Both of the OIGs at which I have worked have enjoyed an excellent working relationship with GAO, and I would make every effort to ensure that continues should I be confirmed as the IG at DoD. Because its jurisdiction is not defined by any one establishment, I believe that GAO plays a particularly important role in informing Congress with regard to cross-cutting issues. Additionally, inherent in its nature, it has been my experience that GAO sometimes may be able to be more directly responsive in responding to immediate legislative needs and requests than OIGs, which, as discussed above, must independently develop their oversight plans based on a variety of factors, including their independent risk assessments and the availability of staffing and resources, to conduct a wide range of important oversight activities.

Directorate of Investigative Oversight and Special Investigations and Reviews (IOSIR)

53. What is your understanding of the function of the IOSIR?

I have been informed that the IOSIR within the DoD OIG develops investigative policy and conducts oversight over the MCIOs, including the office's prior review of the tragic shootings in Texas and the pending evaluation of the MCIOs' handling of sexual assault allegations.

54. If confirmed, how will you utilize the IOSIR? Will you modify its current responsibilities? If so, how and why?

If confirmed, I will examine the use of the IOSIR and develop and implement any necessary modifications. In doing so, I would intend to consult with the team at the OIG and would welcome any input from the Congress regarding any particular concerns.

Senior Official Investigations

The Office of the DOD IG plays a key role in the investigation of allegations of misconduct by senior military officers and civilian employees of the DOD. The Senate Committee on Armed Services has a particular interest in investigations concerning senior officials who are subject to Senate confirmation, and relies upon the Office of the DOD IG to ensure that these investigations are accurate, complete, and accomplished in a timely manner.

55. What is your understanding of the definition of "DOD senior official" for purposes of the DOD IG?

Pursuant to DoD Directive 5505.06, "Investigation of Allegations Against Senior DoD Officials," a DoD senior official is defined as an active duty, retired, Reserve, or National Guard military officer in grades O-7 and above, and an officer selected for promotion to O-7 whose name is on the O-7 promotion board report forwarded to the Military Department Secretary; a current or former member of the Senior Executive Service (SES); a current or former DoD civilian employee whose position is deemed equivalent to that of a member of the SES; or a current or former Presidential appointee.

56. What is your understanding of the circumstances in which a suspicion or allegation against a DOD senior official must be reported to the DOD IG?

Pursuant to DoD Directive 5505.06, all allegations of misconduct against a DoD senior official must be reported to the DoD IG.

57. If confirmed, what factors would you consider in assessing whether a DOD IG investigation should be initiated in response to a report of suspicions or allegations against a DOD senior official?

If confirmed, I would consult with the team at DoD OIG to review the factors that are considered in assessing whether an investigation should be initiated in response to a report of suspicions or allegations against a DoD senior official. Based on my own background and experience, such investigation generally would be appropriate where there is sufficient evidence to believe that there may have been a violation of law, rule, regulation, or policy. Each case is different, of course, and I believe that my background as a career federal prosecutor and in the IG community would assist me in working with the investigative team at DoD OIG to ensure that we handling these important matters properly.

58. What factors would you consider in determining to refer a report of suspicions or allegations against a DOD senior official to a military department Inspector General for review and action?

Again, this is a matter that I would review with the team at the DoD OIG, but as a general matter and based on my perspective as a current IG within the DoD, I believe that such factors typically would include the nature of the allegation, the military rank and assignment of the accused, and the ability of the Military Department IG to handle the matter in a timely fashion. I am informed that the DoD OIG does not refer such matters and instead investigates them itself when the allegations cross Service lines, the subject outranks the Service IG, or the Service IG encounters an impediment to their independence. If confirmed, I would review these practices with the team at DoD OIG and make any revisions as are appropriate.

59. If confirmed, what will be your process for determining whether to open an investigation of allegations against a senior officer?

As indicated above, my career as a federal prosecutor and then in the supervision of two OIGs has taught me that each case has to be evaluated on its own merits, and that starts with the determination of whether to open an investigation of allegations of misconduct. If confirmed, I would work with the team at DoD OIG to review the process for determining whether to open an investigation against a senior officer and make any modifications as are warranted.

60. Do you believe that the current allocation of responsibility for senior official investigations between the DOD IG and the Inspectors General of the military departments ensures fair and impartial outcomes—regardless of which Inspector General conducts the investigation? Please explain your answer.

Whoever conducts an investigation, it must result in a fair and impartial outcome. I am not currently in a position to assess whether the current allocation of responsibility for senior official investigations between the DoD IG and the Inspectors General of the Military Departments is sufficient to ensure that that this occurs in all cases, but if confirmed, I will review this with the team at DoD OIG and make such modifications as may be deemed appropriate regarding the referral and oversight of these important matters.

61. If confirmed to be the DOD IG, what steps would you take to oversee and ensure the accuracy, completeness, and timeliness of senior official investigations conducted by a military department Inspector General?

If confirmed as the DoD IG, I would meet with the team at the DoD OIG to review the procedures for conducting oversight over senior and other investigations conducted by a Military Department IG to ensure that they are sufficient to ensure that all investigations result in a fair and impartial outcome.

As the NSA IG, I have established several categories of priority matters, including but not limited to senior official investigations, in which I review all reports of investigation and discuss them with my team to ensure, based on my own background and experience, that we have performed all necessary investigation and reached the right result. If confirmed as the DoD IG, I would anticipate that my review of the office's procedures in these cases might well include reviewing at least some reports of investigation received from the Military Department IGs to further familiarize myself with the work product and inform future discussions within the OIG and with the Military Department IGs regarding it.

Additionally, I would review the level and nature of the training and guidance that is provided by the DoD OIG and otherwise made available to the Military Department IGs, and seek information from those entities regarding gaps or areas where additional training or guidance would be helpful. As discussed earlier, if confirmed, I further would explore opportunities to enhance communications among the various IGs within the defense enterprise, including utilizing the DCIE and other opportunities to conduct training, share best practices, and otherwise ensure the quality of the work performed by everyone, and I would explore opportunities to make more training from across the IG community available. I would seek detailed information from the OIG team regarding the timeliness of the conduct of the investigations in these matters, and work with the Military Department IGs to implement any measures that would improve same.

62. Under what circumstances would it be appropriate, in your view, for the DOD IG to change the findings of a military department Inspector General in regard to a senior official investigation?

Not having served in the role of conducting such oversight review, I am not in a position to definitively or comprehensively state the circumstances under which it would be appropriate for the DoD IG to change the findings of a Military Department IG in regard to a senior official investigation. As a general matter, it would seem to me such action might be appropriate, generally after consultation with the Military Department IG and after having provided an opportunity to correct a clear error of fact or law. I would think it appropriate in such a circumstance to notify the Military Department IG of the matter and give that office an opportunity to correct or amend

the report but, if that does not occur and I still believe the matter is wrong, it would be my responsibility as the IG to ensure that the investigation is correct.

63. If confirmed, what process improvements would you consider to expedite appropriately the completion of Inspector General investigations of DOD senior officials?

Timeliness is an important consideration for investigations and, if confirmed, I would work with the team at the DoD OIG to evaluate this matter, including the expectations in place for the progress of investigations and the manner in which the office tracks same. I also would emphasize the importance of prompt reporting and the resolution of any hurdles to the timely completion of the investigations.

64. At what point in an investigation, and based on what criteria, would you take action to ensure that a “flag” or suspension of favorable personnel action is initiated against a senior military official?

I have been informed that each service has an office that is responsible for ensuring that favorable personnel actions do not occur while a General or Flag Officer is under investigation by the DoD IG or their Service IG. I further understand that the OIG informs the Under Secretary of Defense for Personnel and Readiness when such an officer is under investigation so that they may suspend a favorable personnel action until the Service has removed the flag.

65. In your view, to what extent should a senior official investigation conducted by the DOD IG or a military department Inspector General automatically be released to the public, to a congressional committee, or to an individual Member of Congress?

As is the case with other OIGs, the release of a report of a senior official investigation by the DoD IG or a Military Department IG is subject to federal law, including the Privacy Act and the Freedom of Information Act. Under those statutes, certain types of information, including information implicating personal privacy, legal advice, and deliberative process are exempt from public release. Release determinations involve balancing the public interest in disclosure against any protectable privacy interest of the subject(s), complainant(s), witness(es), and others, while protecting privileged information from release.

With regard to release to congressional committees or to an individual Member of Congress, the Privacy Act and the Freedom of Information Act, as well as guidance from DOJ and, I am informed, DoD, authorize the release of most official use information to Congress in response to an official written request in certain circumstances. Generally, release to individual Members of Congress who do not otherwise meet the criteria for release is not authorized. If confirmed, I would intend to meet with the legislative team at DoD OIG to review the office’s practices in this

area, and would welcome the opportunity to engage with the Congress regarding them.

66. Do you believe current military department procedures and practices for reviewing the records of officers pending the President's nomination for promotion or assignment are sufficient to enable fully-informed decisions by the Secretary of that Military Department, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President?

I am not currently in a position to assess the procedures and practices for reviewing nominations for promotion or assignment. If confirmed, I will review this issue with the team at DoD OIG and make recommendations for any improvements.

67. In your view, are these procedures and practices fair to military officers proceeding through the promotion or assignment process? Please explain your answer.

It is important to ensure that these procedure and practices are fair. Again, I do not currently have the information to assess this but, if confirmed, I will work with the team at DoD OIG to do so.

Maintaining high ethical standards and ensuring appropriate accountability for any misconduct is critical to the mission of the DOD. Ethical misconduct can undermine the American public's trust in DOD, as well as DOD's ability to secure congressional support and funding.

68. In your view, how can the DOD IG contribute to promoting ethical conduct across the Department? What more could the DOD IG do in this regard?

If I am confirmed, I will work with the team at the DoD OIG to ensure that we are availing ourselves of every opportunity to promote ethical conduct at the DoD and, therefore, the public's trust in the Department. IGs play an important role across the federal government in ensuring that public officials act in ways that are consistent with applicable laws, rules, and regulations, including but not limited to the Standards of Ethical Conduct for Employees of the Executive Branch, and in investigating instances of all manners of ethical misconduct. OIGs further these investigations, and the confidence of the workforce and the public, by encouraging personnel to come forward with what they reasonably believe to be evidence of wrongdoing, and by fully and fairly investigating allegations that they have suffered reprisal for doing so.

Additionally, the DoD OIG's Top DoD Management Challenges for FY 2022, issued October 15, 2021, highlights the importance of promoting ethical conduct, identifying preserving trust and confidence in the DoD as one of the ten top challenges currently facing the Department. Among the areas discussed in this report are the important challenges facing the DoD in preventing and responding to sexual harassment and addressing extremism in the military, two of the priority areas discussed earlier and as

to which, if confirmed, I would work with the team at the DoD OIG to focus our efforts, including but not limited to the prioritization placed in this area through the program led by the Deputy IG for Diversity and Inclusion and Extremism in the Military. Another important issue identified in the Top Management Challenges is discrimination and disparate treatment in both the military and civilian ranks. OIGs can play an important role in conducting audits, evaluations, and reviews in such critical areas to identify deficiencies and make recommendations for improvement, as well as conducting investigations of related misconduct. And, of course, OIGs and the IGs who lead them must reflect the highest standards of ethical behavior in all that we do.

Integrity, Reliability and Completeness of Information in Inspector General Case Management Systems

69. What is your understanding of the myriad purposes for which Inspector General case management systems are queried in support of personnel actions across the DOD?

While I do not have personal knowledge of the use of the case management system at the DoD IG, I am informed that it is used for purposes typical across the IG community, including ascertaining whether a particular individual has adverse information that could be relevant to a variety of personnel actions, such as nomination, appointment, promotion, and retirement.

70. What is your understanding of the myriad purposes for which Inspector General case management systems are queried for purposes of tracking complaints of and analyzing trends in misconduct across the Department?

Again, while I do not have personal knowledge, I am informed that the DoD OIG case management system is frequently utilized, as we do at NSA OIG, for a variety of purposes, including to identify and evaluate trends, for reporting in the OIG's SAR and otherwise, and for internal performance evaluation purposes.

71. Are all components of the DOD in compliance with requirements established by the DOD IG for data entry in Inspector General case management systems? Please explain your answer.

If confirmed, I will work with the team at DoD OIG to evaluate this area, and to develop and implement any measures for improvement.

Whistleblower Protection

72. What is your understanding of the role played by the DOD IG and the military department Inspectors General in investigating complaints of reprisal against members of the military, DOD civilian employees, and DOD contractor employees, who raise allegations concerning fraud, waste, and abuse?

A core function of IGs is the receipt and investigation of whistleblower complaints from employees and others who reasonably believe that they have evidence of waste, fraud, abuse, or other categories of protected disclosures. This principle is enshrined in Section 7 of the IG Act, as is the prohibition against taking or threatening any personnel action as a reprisal against those who perform this important public service.

I have, as outlined earlier, been particularly engaged on whistleblower issues during my time in the IG community, leading the DOJ OIG Whistleblower Ombudsperson Program and founding and leading the CIGIE Whistleblower Ombudsperson Working Group, and I have continued to champion these important issues as among my highest priorities as the NSA IG. I am aware from interactions with the DoD OIG over the years that the office has an active whistleblower protection program, with what is now referred to as a Whistleblower Protection Coordinator to educate personnel regarding their rights and protections as whistleblowers, as well as how they can seek review of reprisal allegations through the OIG and other relevant federal entities. I also am aware that the DoD Hotline provides a means whereby military and civilian personnel from across the defense enterprise can report suspected wrongdoing, whether they choose to identify themselves or report anonymously, and through unclassified or classified mechanisms as appropriate to the subject matter of the disclosure. The DoD Hotline also sponsors a widely attended annual conference on these issues, at which I have been a guest speaker in the past, as well as other training opportunities for investigators across the defense enterprise.

Other OIGs, such as the NSA OIG, report reprisal allegations to DoD OIG per established policies and procedures, and it either investigates such matters itself or retains oversight jurisdiction over them. Additionally, as referenced above, it is my understanding that the DoD OIG itself investigates all allegations of reprisal in sexual assault cases.

Some military department Inspectors General have in recent years suggested that the whistleblower system is being “weaponized” within the military as the number of reprisal allegations have grown substantially, including in some cases as an apparent attempt to insulate the effects of misconduct.

73. What is your view of this suggestion, and do you believe that the DOD Inspector General system has the ability to triage or otherwise dispose of baseless complaints while ensuring the full protection that whistleblower statutes afford to military members, Federal civilian employees, and contractors?

I am aware of this suggestion having been made, and it is obviously very troubling. I believe strongly that IGs should make every effort to encourage personnel to come forward to report suspected wrongdoing through appropriate channels, including to the OIG.

74. If confirmed, what level of priority would you accord to your whistleblower protection responsibilities?

If I am confirmed, whistleblower protection would be of the utmost priority for me as the DoD IG, just as it has been during my tenure as the NSA IG, and before that, as Deputy IG and Whistleblower Ombudsperson at the DOJ OIG.

75. If confirmed, what role would you establish for yourself in educating service members, DOD civilian employees, and DOD contractor employees about the whistleblower protection program?

As the NSA IG, I have been very active in this area, naming at the outset of my tenure a Whistleblower Protection Coordinator to provide information to personnel who may have questions about their rights and protections in coming forward, and greatly expanding the information on this subject available on our internal website and the public-facing website that we established after I came on board.

I also advocated for and assisted in the development of a new training program at NSA, which I was pleased the Director agreed to make a mandatory annual requirement for all employees. I helped to prepare and participated in a training video that we created jointly with the Director, again available on both our internal and public websites, in which he joined me and some of my team in what I hope was a memorable way to encourage NSA personnel to come forward to report wrongdoing.

If I am confirmed as the IG at DoD, I will work with the Whistleblower Protection Coordinator at DoD OIG to ensure that we are doing everything possible to educate everyone across the multifaceted defense enterprise about their rights and protections, and the important role that they play when they come forward with evidence of wrongdoing.

76. What is the average age of the investigation at closure of DOD IG whistleblower reprisal investigations? What is the average age of the investigation at closure of whistleblower reprisal allegations investigated by component Inspectors General?

I do not currently have access to the information that would enable me to answer this question. However, as a former Whistleblower Ombudsperson and an IG who is fully committed to protecting whistleblowers, I realize that people cannot be expected to come forward to report suspected wrongdoing if they suffer reprisal for doing so. If I am confirmed as the IG at the DoD, I will obtain the latest information regarding the age of these investigations at closure for that office and for the component IGs and work with the team at the OIG to develop measures to ensure that the DoD OIG and the OIGs across the defense enterprise are doing everything possible to investigate these important matters in a timely fashion.

77. If confirmed, what would you do to improve the timeliness of DOD IG whistleblower reprisal investigations?

Consistent with my prior answer, I cannot offer any particular measures at this point but, if confirmed, I would work with the team at the DoD OIG to assess where we are and pursue all opportunities for improvement.

78. How does the Office of the DOD IG ensure the accuracy, completeness, and timeliness of whistleblower reprisal allegations undertaken by component Inspectors General?

As an IG within the defense enterprise, I am aware that component IGs provide reports of reprisal investigations to the DoD OIG for its oversight review. The DoD OIG then has the ability to reach back out to the component IG to direct that additional investigative work be done, which I believe is an important guarantee of the thoroughness and consistency with which these important matters must be handled. Additionally, as referenced above, I am aware that the DoD OIG provides a range of training opportunities to investigators with the other OIGs within the defense enterprise. I also am aware that the DoD OIG tracks timeliness on whistleblower reprisal matters, and that it has implemented a program to conduct process reviews of Military Service IGs. If I am confirmed, I will work with the team at DoD OIG to assess the office's efforts in this area and to identify and implement opportunities for further action.

79. What is your understanding of the different burdens of proof applicable under the military, Federal civilian, and contractor whistleblower protection statutes? Do you believe these standards are appropriate for the communities these statutes protect?

While I have not personally handled military whistleblower reprisal matters, I understand that there has been concern that the burden of proof can be higher for military members than civilian or contractor employees, and that military whistleblower reprisal complaints must be submitted no more than one year after the date the service member became aware of the personnel action that constitutes the alleged reprisal. I recognize the importance of this issue and, if confirmed, I look forward to examining it further and would welcome the opportunity to engage with the Committee regarding it.

80. What is your understanding of the applicability of the whistleblower protections under section 1034 of title 10, United States Code, to members of the reserve components? Specifically, do you believe those protections attach only to actions taken against such members while they are performing military duties, including inactive duty for training?

Again, while I have no direct experience with this issue, I have been informed that there are concerns regarding whether there essentially is a gap in protection for

members of the Reserve Components when they are not actively performing military duties. Again, this is not an issue on which I have sufficient background or experience to opine at this time but, if confirmed, I will explore it with the team at the OIG and would welcome the opportunity to engage with the Committee regarding this matter to ensure that everyone who makes a protected disclosure is appropriately protected from reprisal.

81. Under what conditions, if any, would section 1034 not apply to a member of a reserve component, in relation to a prohibited personnel action?

Consistent with my prior answer, I really am not in a position to opine on this at the present time but, if confirmed, I look forward to working with the team at the DoD OIG and welcome engagement with the Committee regarding this matter.

82. What is your understanding of the respective responsibilities of the Office of the DOD IG and the Office of Special Counsel with respect to DOD civilian employee whistleblower complaints?

While I have not worked with the Office of Special Counsel (OSC) as the NSA IG, given that the Intelligence Community is one of the areas that is exempted from OSC's jurisdiction, I did have significant contact with OSC during my time at the DOJ OIG and particularly as the DOJ OIG Whistleblower Ombudsperson and Chair of the CIGIE Whistleblower Ombudsperson working group. As described on its website, OSC's primary mission is "to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing." As noted, employees of the Intelligence Community, as well as employees of the FBI, are exempted from OSC's jurisdiction, which also does not extend to allegations related to a security clearance or access to classified information. Employees of the IC or those alleging reprisal in connection with actions affecting a security clearance or access to classified information can be addressed by DoD IG pursuant to Presidential Policy Directive-19 (PPD-19). It is important that OIGs coordinate effectively with OSC given their closely related areas of jurisdiction.

83. If confirmed to be the DOD IG, what would be your relationship with the Special Counsel?

I have been pleased to have a good working relationship with OSC and, if confirmed, I would work with the team at the DoD OIG to maintain that good working relationship at DoD OIG. Given the close jurisdictional relationships, I believe that such communication and coordination is particularly critical to avoid overlapping or inconsistent efforts and to ensure that the whistleblowers, wherever their claims are heard, have the full and fair review of their claims that is warranted.

84. What is the role of the DOD IG with respect to Intelligence Community whistleblowers?

The DoD OIG has jurisdiction over Defense Civilian Intelligence Personnel System (DCIPS) personnel, who are appropriated fund personnel serving in the IC. The DoD OIG either investigates or provides oversight jurisdiction over component investigations of all reprisal allegations made by civilian appropriated fund employees, including DCIPS employees. The MOU between the DoD OIG and the defense intelligence agency IGs that I participated in developing provides procedures for the referral of whistleblower reprisal matters received by the defense intelligence agency IGs to the DoD OIG for a determination as to whether the DoD OIG elects to exercise jurisdiction over a matter or refer it back to the defense intelligence agency IG for investigation and, in the latter cases, for provision of the report of investigation to the DoD OIG and for coordination regarding any additional action that the DoD OIG review may determine is appropriate. The DoD IG is a member of the IC IG Forum, and is one of the IGs who can be appointed by the IC IG to serve on an External Review Panel (ERP) under PPD-19 to consider a claim of reprisal by an IC employee or regarding access to classified information that has been rejected by the component IG.

85. If confirmed to be the DOD IG, what would be your relationship with the Inspector General of the Office of the Director of National Intelligence with respect to Intelligence Community whistleblower complaints?

As stated above, the DoD IG is a member of the IC IG Forum, which is chaired by the IC IG, who serves as the Inspector General for the Office of the Director of National Intelligence. The Forum meets, generally on a quarterly basis, to discuss matters of interest across the IC, including with regard to the establishment of policies and procedures for Intelligence Community whistleblower complaints. I previously participated in some Forum activities when serving as the Deputy IG at DOJ, and I am an active participant as the NSA IG. If confirmed as the DoD IG, I would intend to continue maintain a strong working relationship with the IC IG to ensure the appropriate handling of all Intelligence Community whistleblower complaints within the ambit of the DoD.

86. Do you perceive a need for further legislation to ensure that members of the military, DOD civilian employees, DOD contractor employees, or Intelligence Community personnel are appropriately protected from reprisal for whistleblowing?

If confirmed, I will confer with the Whistleblower Protection Coordinator and others at DoD OIG to consider the need for further legislation in this critical area, and would look forward to engaging further with the Committee regarding this matter.

87. What is your understanding of the prevalence across DOD of unlawful actions to restrict communications by service members, DOD civilian employees, or DOD contractor employees with an inspector general or with Congress?

It is difficult to think of action more harmful to oversight than the restriction of civilian and military members from coming forward to report suspected wrongdoing. We have investigated restriction cases during my time as the NSA IG and, if confirmed as the DoD IG, I will work with the team at DoD OIG to ensure that we are handling these important cases in an appropriate fashion. While I have no independent basis for assessing the overall prevalence of unlawful actions to restrict communications by service members, civilian employees, or contractor employees at the DoD, the DoD OIG's most recent SAR for the six-month reporting period ending September 30, 2021 reports that the DoD Hotline received 25 such allegations during the period, and further that, of 120 military restriction investigations closed by the DoD OIG and Service and Defense agency OIGs during the period, 2 substantiated military reprisal. This is, of course, one area where one case is too many and, if confirmed, I will work with the team at the DoD OIG to take every available step to deter restriction from occurring and, when such allegations are received, to prioritize them appropriately.

88. What do you perceive to be the most effective tools available to the DOD IG to prevent and respond to incidents of unlawful restrictions of communications by service members, DOD civilian employees, or DOD contractor employees with an inspector general or with Congress?

While I cannot speak to the situation across DoD generally, based on my experience as a prosecutor and in the IG community, and as the IG at a defense intelligence agency, I believe that outreach and messaging are critical in this area. If confirmed as the IG at DoD, I would work with the team at DoD OIG to ensure that we are availing ourselves of every opportunity to promote the importance of people coming forward and, conversely, delivering a clear and consistent message to Department and military leaders across the DOD and to the civilian and military workforces conveying the prohibition against in any way attempting to restrict authorized reporting. The message is, and in my view needs to be, that reporting suspected wrongdoing is an important service, and is something to be encouraged so that the matter can be objectively considered and any appropriate corrective action taken in a timely manner. Based on my experience, I also believe that such messaging will only be credible if it is combined with timely and appropriate action in instances where unlawful restriction is substantiated. If confirmed, I would work with the team at the DoD OIG to assess the handling of restriction matters and to develop and implement any measures that would assist in addressing them.

89. What is your understanding of the propriety and efficacy of the Office of the DOD IG Alternative Dispute Resolution (ADR) process in resolving certain whistleblower reprisal complaints?

I am aware that the DoD OIG has an active ADR process that is managed by its Whistleblower Reprisal Investigations Directorate, through which neutral third parties facilitate resolution of reprisal complaints without going through the full investigative

process. The most recent DoD OIG SAR reported that 19 cases involving allegations of whistleblower reprisal were voluntarily resolved through this ADR process during the preceding six-month period, and that there were 36 such cases pending. Based on my experience with these programs, I believe they can be particularly effective where the parties are not far apart in terms of potential corrective action, and that they can help to free up investigative resources for other priority matters. I am not sufficiently familiar with the ADR program at DoD OIG to comment on its efficacy but, if confirmed, I will work with the team at the OIG to evaluate the program, and I would welcome the opportunity to engage with the Committee with regard to any concerns it may have in the area.

90. In your view, should the ADR process be expanded to additional categories of whistleblowers complainants? Please explain your answer.

I do not have sufficient information regarding the ADR program and how it is implemented at DoD OIG to determine whether it should be expanded to additional categories of whistleblower complainants. If confirmed, I will work with the team at the DoD OIG to consider this as part of the assessment of the program and any opportunities for improvement.

A report of investigation documenting an allegation of reprisal substantiated by the DOD IG or a military department Inspector General must be referred to the Secretary of the military department concerned for review and appropriate action. The Senate Armed Services Committee is aware of reprisal cases in which a Secretary's response to the Inspector General has been delayed by months or years. Furthermore, in some of these cases, the Secretary has responded by advising that no corrective or disciplinary action had been taken against the perpetrator because of a belief that the Inspector General's substantiation of reprisal was erroneous or improper.

91. If confirmed to be the DOD IG, what specific actions would you take to ensure that the Secretaries of the military departments are responsive to whistleblower reprisal complaints substantiated by the DOD IG or a component Inspector General?

If confirmed, I would seek to engage directly with the Secretaries of the Military Departments involved with regard to the importance of timely action on substantiated reprisal matters, and of timely communications should there be a question regarding the decision reached by the OIG. If there were outstanding or particularly systemic problems that could not be resolved, I would not hesitate to elevate those to the Deputy Secretary of Defense and the Secretary of Defense as necessary as, per my prior response, I believe that the credibility of the deterrent against reprisal depends in a large measure on there being timely and appropriate action taken when it occurs.

The Office of the DOD IG maintains a “DOD Hotline” to provide a confidential, reliable means through which any person can report: violations of law, rule, or regulation; fraud, waste, or abuse; mismanagement; trafficking in persons; serious security incidents;

or other criminal or administrative misconduct that involves DOD personnel and operations, without fear of reprisal.

92. What is your understanding of the efficacy and timeliness with which DOD Hotline reports are retrieved, reviewed, and addressed?

There is a substantial volume of reporting on the DoD Hotline contained in the DoD OIG's SARs. If I am confirmed, I would meet with the Hotline team to learn about the efficacy and timeliness of its work and, based on my own background and experience, work with them to address any issues that may exist.

93. What is the current DOD Hotline report "backlog"? If confirmed to be the DOD IG, what steps would you take to reduce this backlog and on what timeline?

In its most recent SAR for the period ending September 30, 2021, the DoD OIG reported that its Hotline opened 3,328 cases and closed 2,938 cases during the prior six months, and that as of the end of the reporting period, it had a total of 2,501 open cases that had been opened in that or prior periods. If confirmed as the DoD IG, I would work with the Hotline team, as well as promote the use of data analytics, to assess trends in this area and identify any opportunities for improvement. Without conducting that assessment and knowing exactly what those actions would be, I cannot establish a meaningful timeline for accomplishing them, but I recognize that it is essential in encouraging people to come forward that OIGs promptly address their complaints, which also makes possible timely corrective action in substantiated cases. If I am confirmed, I will work with the team at DoD OIG to assess the situation and move forward with any appropriate actions.

The Council of the Inspectors General on Integrity and Efficiency (CIGIE)

Section 11 of the *Inspector General Act of 1978* established the CIGIE as an independent entity within the executive branch.

94. What is your understanding of the mission of the CIGIE?

CIGIE is established as an independent entity under Section 11(a) of the IG Act with the dual mission of addressing issues that transcend individual government agencies and increasing the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General. In practice, this work is carried out through presentations and the sharing of information at general membership meetings and through a robust committee structure that brings together IGs and OIG personnel from across the community to enable the OIGs to develop and implement best practices for oversight that can be most effective at the departments and agencies over which we have oversight responsibilities. CIGIE also operates a

Training Academy and offers a wide range of other training opportunities to enhance the professionalism of the OIG workforce.

95. In particular, how has the CIGIE's special focus on whistleblower protection benefitted the Office of the DOD IG?

I feel strongly that CIGIE's focus on whistleblower protection has benefitted the entire IG community. As indicated earlier, I was pleased to found and lead the CIGIE Whistleblower Ombudsperson Working Group during my tenure at the DOJ OIG, and I believe that we were successful in sharing information and best practices on a wide range of issues related to whistleblower rights and protections. In addition to sharing our own practices and experiences, we also brought in a variety of speakers, including from the Congress and OSC, who provided valuable insights and assisted in developing relationships important to our work. We additionally worked to share information with the IG community about potential legislative changes, to solicit input from OIGs regarding them, and to engage with the Congress, including with the bipartisan Senate Whistleblower Caucus, to hear from them regarding their concerns and to ensure that the experiences and views of the IG community were understood and considered in the legislative process. The DoD OIG was an active participant in these efforts from the start, and given the size and importance of the DoD, I believe that the DoD OIG's continued participation is essential to the ongoing success of the effort. In the final analysis, all OIGs, big and small, share a reliance on individuals coming forward when they see something they believe it is wrong, so it has always made sense to me that this is a core area on which we can and should work together to learn from each other and share information and practices to improve our operations across the IG community.

In previous roles, you have led efforts within the CIGIE to focus on oversight of emerging technology issues, such as Artificial Intelligence, that are critical to strategic competition with China.

96. How do you envision leading the DOD IG in this area and what are the most important near-term efforts for DOD IG audits and evaluations on Artificial Intelligence and other emerging technology issues?

If I am confirmed, I would work with the team at DoD OIG to ensure that we are at the forefront in addressing the use of emerging technologies across the DoD, and in enhancing the use of such technologies in the office's work. I have been pleased to serve for several years now as the Vice Chair of the CIGIE Technology Committee and as the Chair of the Emerging Technology Subcommittee that we founded because of the cross-cutting nature of issues related to oversight over and the use of a wide range of emerging technologies. We have held two symposia for the oversight community addressing these issues with speakers from many government agencies and OIGs, including the DoD OIG. All of my work in this area has confirmed my fundamental belief that, as the departments and agencies that OIGs oversee

increasingly use and rely on these technologies, it is essential for our work to be authoritative and credible and that we be able to conduct meaningful oversight in this area, beginning with oversight over the use of the emerging technologies themselves, and inevitably maturing to oversight over programs and operations that increasingly incorporate such technologies. Additionally, as data continues to proliferate and many of the systems and operations we oversee increasingly rely on emerging technologies, it will be increasingly important for OIGs to be able to effectively utilize such technologies in our own work and operations.

I am aware that the DoD OIG has been active in this area, including partnering with my office at NSA OIG on an ongoing joint evaluation of the integration of artificial intelligence in signals intelligence activities at the NSA. As with everything else, all of this requires people, and if I am confirmed as the DoD IG, I would work with the team at the DoD OIG to emphasize the need to attract and retain the talented workforce that I believe is essential to addressing this growing need across the oversight community.

97. If confirmed to be the DOD IG, what would be your role and relationship with respect to the CIGIE?

If confirmed as the DoD IG, I would intend to continue my active participation in the activities of CIGIE, and to encourage personnel from across the OIG to continue to benefit from its various programs and activities.

Use of Contractors in Support of DOD IG Functions

Some federal agencies have reacted to limited inspector general resources by using contractors to perform some audit, investigation, inspection, and evaluation functions.

98. Do you believe that the Office of the DOD IG has sufficient resources to carry out its audit, investigation, inspection, and evaluation responsibilities?

I am not currently in a position to assess whether the DoD OIG has sufficient resources to carry out its myriad functions. If confirmed, I would work with the team at DoD OIG to assess this and engage with the Department and the Congress with regard to any future needs to ensure that the office has the resources necessary to perform its full range of oversight functions at a critically important Department.

99. What is your understanding of the DOD IG's role in determining whether the use of contractor resources to perform such functions is appropriate?

The use of contractors to perform some functions is not unusual at OIGs, and is expressly provided for in Section 6(a) of the IG Act. However, those functions must be determined to be appropriate for contractors, including that they not involve inherently governmental activities. If confirmed, I would work with the team at the

DoD OIG to gain more insight regarding the office's use of contractor personnel and the process whereby it is determined that such use is appropriate.

100. Do you believe that the DOD IG functions are inherently governmental?

As noted above, the IG Act provides for the ability of OIGs to retain contractors, but, as with any government employer, those contractors cannot be used to perform inherently governmental functions. I am aware of the caselaw and criteria that have been applied in this area to ensure that government personnel perform those functions that are determined to be so connected to the public interest that they should not be performed by privately contracted personnel, and I have experience in applying them in the context of the work of OIGs. While the determination requires a case-specific analysis, it generally is clear that some functions, such as those involving substantial discretionary decisions in establishing policies or in conducting criminal investigations, for example, would be considered inherently governmental and, therefore, not an appropriate subject for contractor performance.

101. Under what circumstances, if any, would the use of contractor resources or personnel to perform audit, investigation, inspection, and evaluation functions be appropriate, in your view?

As noted above, Section 6(a) of the IG Act authorizes IGs to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and private persons, and to make such payments as may be necessary to carry out the requirements of the IG Act. In practice, I am aware that IGs across the community frequently utilize contractor resources or personnel to perform non-inherently governmental functions, including but not limited to providing particularized subject matter expertise not otherwise available to the OIG for input on OIG-led audits, evaluations, and reviews; performing financial auditing subject to supervision and review by the OIG; augmenting hotline staffing; and providing IT or other specialized technical assistance to the staff of the OIG. If confirmed, I would work with the team at DoD OIG to assess the office's use of contractor resources and personnel and make any adjustments as deemed appropriate.

DOD Financial Management and Audit

The performance of financial audits has consumed a growing share of the resources of the DOD IG's Office.

102. What is your view of the relative priority of financial audits within the Department of Defense, and the resources that should be devoted to such audits?

Based on my experience in the IG community, I believe that financial audits are of the utmost importance, both because they properly inform the Congress and the public regarding the establishment's use of taxpayer dollars and because they frequently uncover and reflect underlying issues in the programs and operations of the

entities in which they occur. These factors seem particularly critical at a Department like the DoD which, per the DoD OIG's report, "Understanding the Results of the Audit of the DoD FY 2020 Financial Statements," released in February 2021, is responsible for almost half of the discretionary spending of the United States and more than three-quarters of our country's assets.

As the NSA IG, I have emphasized to my financial auditing team that I want to be fully informed regarding their work, and have received numerous briefings from the team and engaged with Agency leadership on any number of occasions related thereto. Based on my experience, I believe that it is essential that both the entity being audited and the auditors devote sufficient resources to ensure that the financial audit process is comprehensive, authoritative, and yields meaningful and actionable results.

It is my understanding that the FY 2014 NDAA required the Secretary of Defense to ensure that a full-scope audit is performed annually on the Department's financial statements, and that the DoD OIG became responsible for conducting the audit in FY 2018. While the DoD has yet to achieve an unqualified opinion, it is my understanding from public reporting by the DoD OIG that the process of going through the financial statement audit has resulted in many hundreds of Notices of Findings and Recommendations (NFRs), which are critically important in moving the Department forward toward fiscal accountability.

103. If confirmed, in which specific areas of your duties and responsibilities would you expect to coordinate with the Under Secretary of Defense (Comptroller/Chief Financial Officer)?

The DoD OIG's Top DoD Management Challenges for FY 2022 cited improving DoD's financial management and budgeting as one of the 10 top challenges facing the Department. If confirmed, I would anticipate working with the financial auditing team at DoD OIG to engage with the Under Secretary of Defense (Comptroller)/Chief Financial Officer on an ongoing basis in order to address these challenges and prompt progress by the DoD in this critical area. Additionally, while maintaining the OIG's independent budgetary responsibilities, I would anticipate working with the management staff at the OIG to engage as appropriate with the Congress and the Under Secretary to ensure that the OIG has the resources that it needs to conduct its critical oversight work, including the development of the OIG's portion of the budget that is submitted annually for inclusion in the President's budget as required by the IG Act.

DOD is the only federal agency unable to complete a financial audit in accordance with the law, despite having invested billions of dollars over the past 16 years to do so.

104. What is the role of the DOD IG in the audit process? If confirmed, how would your office help Congress in overseeing and improving DOD's financial management so that the department can receive a clean opinion by 2027?

As described in the DoD IG's report, "Understanding the Results of the Audit of the DoD FY 2020 Financial Statements" – a laudable effort to enhance transparency in an area that is often opaque to the public – the DoD OIG is responsible for the Agency-Wide Basic Financial Statements, and the OIG hires independent public accounting firms (IPAs) to perform the financial statement audits of various DoD components. As is common in such situations, it is my understanding that the financial auditing team at DoD OIG is heavily involved in monitoring and overseeing the work of the IPAs, including participating in discussions regarding ongoing work and performing verification to assure compliance with applicable accounting principles and requirements.

My own financial statement auditing team at NSA OIG engages on a regular basis with the DoD OIG auditing team as appropriate for our work. If I am confirmed as the DoD IG, I will continued the prioritization that I have placed on financial auditing, and work with the team at DoD OIG to ensure that the Congress is kept fully and timely informed regarding issues uncovered through the process and progress made toward the receiving a clean opinion.

105. If confirmed as the DOD IG, how would you objectively evaluate whether DOD's initiatives to improve financial management and business operations are resulting in meaningful progress?

Evaluating the effectiveness of initiatives to improve operations is a key function of OIGs and, if confirmed as the DoD IG, I would work with the financial auditing team at the DoD OIG to understand the initiatives that have been developed and the office's assessment of their efficacy and means for improvement of same. I also have found that issues uncovered through the financial audit process can spin off separate reviews or other reporting to help prompt timely action to address specific issues, and I would work with the team at DoD OIG on an ongoing basis to identify and pursue opportunities to have impact in that way as well.

106. What challenges are unique to conducting an audit of DOD, and how could the DOD IG best assist the Department in continuing to make demonstrable progress toward a clean audit opinion?

As indicated at the outset of this section, I believe that the financial statements audit is a reflection of the operations of the establishment where it occurs. As reflected in the DoD public report on the financial statements audit released last year, the DoD is the largest agency in the federal government, then employing approximately 2.1 million military service members and over three-quarters of a million civilian employees across a vast and complex defense enterprise, with DoD facilities located in all 50 states, 7 U.S. territories, and some 40 foreign countries. The budget of the DoD is, not surprisingly, correspondingly vast, reporting the receipt of appropriations from Congress totaling over \$914 billion in FY 2020 alone. I know from my own experience and work with the financial statement auditing team at NSA OIG that the defense enterprise presents complex and unique challenges for auditors that require robust communication and

coordination to address. Additionally I have learned that it is important to keep making progress, and that as progress is made, it frequently opens up additional avenues for examination and improvement. If I am confirmed as the DoD IG, I will work with the financial auditing team to make sure that the DoD OIG is making every effort to keep the Department moving in the right direction and progressing toward a clean audit opinion.

107. What is your understanding of the DOD IG's role in assessing the Department's strategy for remediating the findings of recent audit attempts?

Keeping in mind the ultimate goal of a clean audit opinion, I believe from my own experience that there is substantial value in the journey, as the establishment being audited takes action to address NFRs and progresses toward a greater state of audit readiness and, hence, fiscal accountability. It is my understanding that, like all OIGs, the DoD OIG engages with the Department to ensure that such actions are taken. In my experience, this requires a great deal of communication between the auditor and auditee and, when necessary, I would make sure that I am prepared as the IG to step in and engage with DoD leadership to ensure such positive movement is taken and maintained.

108. Do you believe the Department can achieve a clean audit opinion through better accounting and auditing, or is a systemic improvement of DOD's business systems architecture a prerequisite?

I do not currently have the information necessary to make this assessment, but it is my general experience that progress on the financial statements audit requires both improved accounting and internal auditing and systemic improvements to business systems and protocols. If I am confirmed, I would work with the financial auditing team at DoD OIG to ensure that the OIG is doing everything appropriate as independent auditors to keep the Department moving in the right direction.

109. In your view, what incentives need to be in place to ensure senior leaders in each DOD Component—not only the financial management community—are fully invested and engaged in the process of achieving a clean audit opinion? Are those incentives currently in place in the Department?

In my experience, it is important to ensure that senior leaders, not limited to those involved directly in financial management, understand the importance of the financial statements audit and are fully invested and engaged in the process of moving toward achieving a clean audit opinion. To some extent, this can be promoted at an operational level by the OIG, and I would certainly support such efforts if confirmed. However, the success of ensuring institution-wide engagement and support for the process ultimately requires clear and consistent messaging from the leadership of the establishment. It is my understanding from public statements I have seen as the NSA IG that the leadership of the DoD has expressed strong support for the financial statements audit process and the Department's efforts to move toward a clean audit opinion. If confirmed, I would work with Department leadership, up to and including the Secretary and the Deputy Secretary, to ensure that this message is delivered and that appropriate incentives are in place so that

it is carried out throughout the DoD. I am not in a position to assess precisely what incentives would be most effective to accomplish this result but, if confirmed, I would consult with the financial auditing team at the DoD OIG to consider the issue and make any appropriate recommendations to Department leadership.

110. What are some specific examples of systemic improvements that have resulted from DOD IG reviews of DOD financial management processes?

The DoD IG's last report summarizing the results of the financial statement audit describes a number of the improvements that the auditors found in DoD's processes and identifies a number of continued material weaknesses that remain to be addressed. I do not have the information necessary to independently opine on this information, but if I am confirmed as the DoD IG, I will work with the team at DoD OIG to assess the progress that has been made and the path forward for the Department to make continued progress toward its goal of a clean audit opinion.

Acquisition and Contracting

In 2021, the Government Accountability Office reported that DOD weapon systems acquisition and contract management are still high risk areas.

111. Do you believe that the Office of the DOD IG has the resources it needs to conduct effective oversight of the Department's acquisition programs and contract management systems?

The DoD OIG's Top DoD Management Challenges for FY 2022 included increasing agility in the DoD's acquisition and contract management as one of the 10 top challenges facing the Department, and the OIG's Oversight Plan for FY 2022 identifies a number of pending and planned projects in this important area. If I am confirmed as the DoD IG, I would meet with the team at the OIG to assess the sufficiency of the office's resources to conduct effective oversight of the Department's myriad acquisition programs and contract management systems and seek additional resources as may be necessary to ensure that the OIG is conducting robust impactful oversight in this critical area.

In an effort to streamline acquisition oversight and field capabilities to the warfighter more rapidly, Congress and DOD have initiated numerous acquisition reforms recently.

112. What role, if any, do you believe the Office of the DOD IG can play in the Department's realization of acquisition reform and use of new acquisition authorities?

I know from my own experience that contracting and acquisitions can be a difficult area for many departments and agencies, and that OIGs can play a critical role by conducting audits, evaluations, and other reviews that provide an independent assessment of acquisition reforms and the use of new acquisition authorities, identifying issues and

making recommendations to leadership to address them. If confirmed as the DoD IG, I will work with the team at the OIG to make sure that we are doing this on an ongoing basis. I also would welcome the opportunity to engage with the Committee in this area, to understand any concerns and to ensure that the Congress if fully informed should there be a need for additional legislation in this area.

113. What specific challenges has the Office of the DOD IG identified with respect to the Department's ability to incorporate the flexibilities of streamlined acquisition processes while ensuring controls are in place to protect the Government's interests?

As noted above, the DoD OIG's Top DoD Management Challenges for FY 2022 identifies acquisition and contract management as a top challenge facing the Department, and the OIG's report at pages 44-50 details a number of specific challenges that the office has identified in this area. If confirmed as the DoD IG, I will work with the team at DoD OIG to learn more about challenges faced by the Department in incorporating the flexibilities of streamlined acquisition processes while ensuring controls are in place to protect the government's interests.

114. The supply chain is an essential part of DOD's efforts to ensure readiness. What tools can the Office of the DOD IG bring to bear to deter the provision to DOD of counterfeit, defective, or nonconforming parts and to hold fraudulent suppliers accountable?

Supply chain risk management (SCRM) is a significant and important issue across the federal government, including the ability to deter the provision of counterfeit, defective, or nonconforming parts and to hold fraudulent suppliers accountable. Last year, for instance, SCRM was added as a metric by the Office of Management and Budget for the annual assessment of compliance with the Federal Information Security Modernization Act of 2014 (FISMA) that is required to be performed by OIGs across the federal government, and this is an issue that is often addressed through the work of the CIGIE Technology Committee and its membership. I believe that the DoD OIG can play a critical role in conducting audits, evaluations, and other reviews that identify issues with regard to SCRM, particularly in a Department as vast and intricate as the DoD, and in making impactful recommendations to assist the DoD in closing gaps that may risk wasting significant amounts of taxpayer dollars and rendering machinery and equipment unfit for use. I also believe that, through the work of the OIG and the Defense Criminal Investigative Service (DCIS), the DoD OIG can play an important role in holding fraudulent suppliers accountable, working with the Department of Justice and U.S. Attorney's Offices across the country to ensure that appropriate civil recoveries and, where warranted, criminal prosecutions are aggressively pursued. I have significant experience in these areas and, if confirmed, would look forward to contributing it to the leadership of the DoD OIG to help address these important issues.

115. How would you evaluate DOD’s ability to track government property as it moves through the supply chain?

I am certainly aware of the importance of this issue for SCRM and, while I do not currently have sufficient information to evaluate the ability of DoD to track government property as it moves through the supply chain, if confirmed as the DoD IG, I would work with the team at DoD OIG to ensure that we are conducting oversight sufficient to identify issues in this area and make recommendations to the Department sufficient to address them.

116. What is your understanding of the harm to the department when DOD does not know what supplies it has “on hand” or the condition of those supplies?

While, again, I do not have firsthand knowledge of the harm to the Department when the DoD does not know what supplies it has “on hand” or the condition of those supplies, I believe that any organization would be degraded in its ability to meet its mission by such deficiencies. Particularly for a Department with a critical national defense and warfighting mission, these issues would seem to be of critical importance and, if confirmed, I would work with the team at DoD OIG to ensure that we are conducting impactful oversight to address them.

117. If confirmed, what steps would you take to ensure that Army, Navy, and Air Force acquisition officials have proper oversight of smaller acquisition category 2 and 3 programs?

I have only had an opportunity to briefly research the basic parameters of these relatively smaller acquisition categories, and do not currently have information sufficient to identify authoritatively steps to ensure that Army, Navy, and Air Force acquisition officials have proper oversight over these programs. If confirmed, I will work with the team at DoD OIG to more fully understand this issue and determine what oversight activities might be appropriate to address it.

118. How does the DOD IG enable the DOD to hold defense contractors accountable for delivering services and products on time, to standard, and at the agreed price?

As a general matter, OIGs help to enable the departments and agencies they oversee to hold contractors accountable for delivering services and products on time, to standard, and at the agreed upon price by conducting audits, evaluations, and other reviews of the processes and procedures of contracting programs that identify issues in these and other areas and make recommendations to assist the contracting entities to address them and, thereby, ensure that they are appropriately obtaining the goods and services for which they have contracted. Additionally, where warranted, OIGs may work with the Department of Justice to pursue civil or even criminal liability in particular cases. If confirmed as the IG at DoD, I would work with the team at the DoD OIG to ensure that

we are pursuing all available avenues to enable the Department to hold defense contractors accountable.

119. How does the DOD IG assist the Department in holding contracting officials and contracting officer representatives accountable for their actions in making sure that contractors are delivering services and products on time, to standard, and at the agreed price?

OIGs assist the departments and agencies they oversee in holding contracting officials and contracting officer's representatives accountable through a range of audits, evaluations, and other reviews that examine contracting practices and make recommendations for improvement. At NSA OIG, we have released unclassified versions of several reports in the contracting area, questioning in those reports a total of approximately \$1.3 billion spent by the Agency. Additionally, OIGs may conduct administrative investigations of contracting officials or contracting officer's representatives where there is evidence of misconduct, and even pursue such matters criminally – for instance, if there is evidence of collusion with contractors to defraud the government. If confirmed as the IG at DoD, I would work with the team at the DoD OIG to ensure that we are pursuing all available avenues to conduct oversight that improves the DoD's contracting processes and assists the Department in holding contracting officials and contracting officer's representatives appropriately accountable for their actions.

120. In your view, are additional legislative changes needed to ensure that contracting officers have the authority they need to require contractors to disclose pricing data for sole-source parts?

If I am confirmed as the DoD IG, I will consult with the team at the OIG to determine whether there are additional legislative changes needed to ensure that contracting officers have the authority they need to require contractors to disclose pricing data for sole-source parts. I am aware that there are significant issues in this area, including as reflected in the recently released DoD OIG report, "Audit of the Business Model for TransDigm Group Inc. and its Impact on Department of Defense Spare Parts Pricing." If confirmed, I would look forward to learning more about the issues in this area, and would welcome the opportunity to engage with the Committee regarding any issues and potential legislative changes.

121. What is your understanding of your obligation, if confirmed, to consult with the Attorney General of the United States when an audit, investigation, or inspection under the auspices of the DOD IG yields reasonable grounds to believe there has been a violation of Federal criminal law—including procurement fraud?

Pursuant to Section 4(d) of the IG Act, the IG is required to report expeditiously to the Attorney General whenever the IG has reasonable grounds to believe that there has been a violation of Federal criminal law. As reflected in the public version of our SARs that

we have prepared and posted since I came on board as the NSA IG, I am fully familiar with this responsibility and would continue to carry it out if I am confirmed as the DoD IG.

In February 2018 and May 2019, the Defense Science Board and Defense Innovation Board issued reports making numerous recommendations to DOD to help guide the department's efforts to modernize its approach to software acquisition. GAO has subsequently reported that the department's efforts to implement more modern software practices are still a work in progress and that DOD acquisition programs have yet to consistently implement software development leading practices.

122. If confirmed, how do you envision the DOD IG's role in helping the department move toward more modern software development approaches, such as Agile software development and DevSecOps?

In my experience, software acquisition is another area that can present challenges for federal entities and, if confirmed as the DoD IG, I would work with the OIG team to assess the office's work in this area and to determine whether there is impactful oversight that could be conducted that would assist the Department in moving toward more modern and effective software development approaches.

DOD IG Resources

In a hearing last year, Acting DOD IG Sean O'Donnell testified that the DOD IG has a proportionately smaller staff than other federal agency inspectors general. As a point of comparison, he stated that the larger federal agency inspectors general typically have a ratio of departmental staff to OIG staff of between 50 to 1 and 200 to 1 while the DOD OIG ratio is closer to 1,700 to 1.

123. If confirmed, how would you ensure that your resources are deployed to address the highest priority missions of DOD?

This is a constant challenge for OIGs – like all government entities, we have limited resources and, therefore, we have to determine how to employ those resources most effectively to maximize the impact of our work. To my knowledge, all OIGs – and this was certainly the case at both DOJ OIG and where I now work at NSA OIG – have risk assessment processes appropriate to the establishments they oversee whereby they evaluate potential oversight projects to determine where they can have the most impact, including with regard to the scope of the activities of the entities they oversee and the severity of particular risks those entities are facing in carrying out their missions. Both before and during this confirmation process, I have observed how the DoD OIG ties its oversight plan directly to its assessment of the top management challenges facing the Department, reflecting the correlation between the topics on which it expends its oversight resources and the areas where it believes the DoD is most challenged in achieving its essential mission set. If confirmed as the DoD IG, I would look forward to working with the team at DoD OIG to gain a deeper understanding of its risk assessment

processes and, contributing my own experience and insights, work to ensure that this important effort at the OIG is as effective as possible in ensuring that the office's resources are best deployed to address the highest priority missions of the DoD.

124. How would you approach, assess, and eliminate DOD IG missions that have outlived their usefulness or are not of a high enough priority to continue?

The mission of the DoD OIG, and all OIGs, is as set forth in the IG Act cited near the start of these questions, but essentially, in my view, is to conduct impactful oversight that promotes positive change at the entities we oversee. That process necessarily involves constant reassessment of our own activities to ensure that we, like the entities we oversee, are using public resources wisely, and ensuring the economy, efficiency, and effectiveness of our own activities. That has been the approach in which I have been engaged at two OIGs and, if confirmed, I would anticipate that I would continue that approach at DoD OIG, and I would look forward to working with the team there to ensure that we are engaging in the most impactful possible oversight.

Lead Inspector General for Contingency Operations

Section 8L of the *Inspector General Act of 1978*, sets out special provisions for the designation of a Lead Inspector General for Overseas Contingency Operations. When serving in this capacity, the DOD IG, in coordination with the offices of the Inspectors General of the Department of State and the U.S. Agency for International Development, is required to develop and carry out a joint strategic plan to conduct comprehensive, independent, and effective oversight of all aspects of any designated contingency operation and of all programs and operations of the Federal Government in support of that operation.

125. If confirmed to be the DOD IG, what would be your relationship with the Inspectors General of the Department of State and the U.S. Agency for International Development?

If confirmed, I would anticipate a close working relationship with the IGs for the Department of State and the U.S. Agency for International Development in order to foster the critical coordination inherent in the structure for oversight over overseas contingency operations (OCOs) as provided for in Section 8L of the IG Act.

126. For how many designated contingency operations does the DOD IG serve as “Lead Inspector General”?

It is my understanding that the DoD IG currently serves as Lead Inspector General for two OCOs, Operation Inherent Resolve and Operation Freedom's Sentinel.

127. At what point in time, and under what conditions, do you envision that the DOD IG will be in a position to close out its responsibilities as “Lead Inspector General” for these contingency operations?

The IG Act specifies that the requirements and authorities under Section 8L shall cease at the end of the first fiscal year after the commencement or designation of the OCO in which the total amount appropriated for the OCO is less than \$100 million.

128. Given the withdrawal of all U.S. troops from Afghanistan, what changes would you plan to make to the DOD IG's oversight activities regarding Afghanistan, if confirmed?

If I am confirmed as the DoD IG, I would intend to consult with the team at the OIG that leads the office's efforts on OCOs, as well as the IGs of the Department of State and the U.S. Agency for International Development, in order to determine what changes may be appropriate regarding DoD OIG's activities as Lead Inspector General for Operation Freedom's Sentinel or otherwise. I also would welcome the opportunity to engage with the Committee regarding its views on same.

129. What is the role of the DOD IG with respect to oversight of the U.S. Government's evacuation of, provision of housing on DOD installations for, and provision of other support for Afghan evacuees?

The DoD IG has oversight jurisdiction over all programs and operations of the DoD. If I am confirmed as the DoD IG, I would intend to consult with the team regarding this matter and determine what additional oversight may be most impactful and appropriate. I also would welcome the opportunity to engage with the Committee regarding any concerns it may have in this area.

130. What is the relationship of the DOD IG with respect to the Inspectors General of the Department of State, U.S. Agency for International Development, and Department of Homeland Security with respect to oversight of the U.S. Government's evacuation of, provision of housing on DOD installations for, and provision of other support for Afghan evacuees?

I am not in a position to authoritatively answer this question but, if confirmed, I would look forward to working with the team at DoD OIG to understand the office's posture in this important area and to engage with other OIGs, including but not limited to those listed above, as may be appropriate.

131. What is your understanding of the relationship of the Office of the DOD IG to the Special Inspector General for Afghanistan Reconstruction?

The DoD OIG has oversight jurisdiction over all programs and operations of the DoD and as the Lead Inspector General responsible for coordinating oversight with the Department of State and the U.S. Agency for International Development over Operation Freedom's Sentinel, which I understand to be essentially a counterterrorism mission against the remnants of al-Qaeda and a train, advise, and assist (TAA) mission in support of the Afghan security forces. Congress established the Office of the Special Inspector General

for Afghanistan Reconstruction (SIGAR) in the FY 2008 NDAA for the purposes of conducting audits and investigations relating to programs and operations for the reconstruction of Afghanistan. It is clear to me that, while recent events may have changed the issues to be overseen, it is critically important that the DoD OIG coordinate effectively with SIGAR to work together where appropriate and to avoid duplicative or inconsistent oversight in this area.

Department of Defense Security Assistance

A key element of the strategic competition with Russia and China is the security assistance provided by the Department of Defense to the security forces of allies and partners.

132. If confirmed as DOD IG, how would you ensure that DOD security assistance, including capacity building under 10 U.S.C. § 333 and the Ukraine Security Assistance Initiative, is executed in a reliable and timely manner consistent with U.S. national security interests?

If confirmed, I would work with the team at DoD OIG to assess this area and ensure that we are conducting audits, evaluations, or reviews as appropriate. I also would welcome the opportunity to engage with the Committee regarding any concerns it may have in this area.

The Defense Criminal Investigative Service (DCIS) and the Military Criminal Investigative Organizations (MCIOs)

The DCIS conducts criminal investigations of matters related to DOD programs and operations. Over time, the DOD IG has sought and obtained increased authority to issue subpoenas and for DCIS Special Agents to carry weapons and make arrests.

133. Do you believe that the authorities of the Office of the DOD IG and the DCIS are adequate in these areas, or would you recommend further changes in the law?

As a former federal prosecutor and now the NSA IG, I am somewhat familiar with the work of DCIS and the MCIOs. I do not, however, have information sufficient to opine authoritatively as to whether the authorities of the DoD IG and the DCIS currently are adequate. I very much appreciate the question and, if confirmed, I would intend to consult within the office and would look forward to the opportunity to engage with the Committee as may be appropriate in order to ensure that the DoD IG and the DCIS have all the authorities necessary to appropriately carry out their important responsibilities.

134. How do you view the division of responsibility and authority between the DOD IG and the Under Secretary of Defense for Intelligence & Security with respect to law enforcement and security policy?

I do not have an independent view as to the current division of responsibility and authority between the DoD IG and the Under Secretary of Defense for Intelligence & Security (USD(I&S)). I have other interactions with the office of the USD(I&S) as the NSA IG, and it is my general understanding that the USD(I&S) has responsibilities within the DoD for establishing law enforcement and security policies, including with regard to training requirements for law enforcement within the DoD, and that it works with the DoD IG to ensure that those policies are appropriate to support the DoD OIG's law enforcement activities. If confirmed, I would look forward to engaging within the OIG and with the USD(I&S) to learn more about this relationship and to ensure that appropriate coordination takes place to enable the DoD OIG to carry out its responsibilities in this area.

135. How do you view the division of responsibility and authority between the DOD IG and the Secretaries of the military departments for oversight of their respective MCIOs?

It is my understanding that the MCIOs report to the Secretaries of their Military Departments. As discussed earlier, the DoD IG performs important oversight over the work of the MCIOs, both through evaluations of the MCIOs' processes and procedures and through oversight jurisdiction over the MCIOs' investigative work products. The DoD IG also is responsible under Section 8(c) of the IG Act for providing policy direction for investigations, and under DoD Directive 5106.01 for establishing policy, monitoring and evaluating program performance, and providing guidance with respect to all DoD activities relating to criminal investigation and law enforcement programs, including investigations and related activities of the MCIOs. All of these activities require communication and coordination and, if confirmed as the DoD IG, I would intend to engage in and encourage same.

136. As the National Security Agency IG, what were the most significant challenges you faced regarding investigations into fraud, waste, abuse and misconduct, and if confirmed, what lessons learned from these investigations would you bring to DOD?

As the NSA IG, I have worked to foster a good, independent working relationship with Agency leadership, and I believe that support from the top has greatly facilitated my office's ability to investigate fraud, waste, abuse, and misconduct at the Agency. Getting people to come forward and report suspected wrongdoing can be difficult, and my team and I have been successful in obtaining explicit support for these efforts from Agency leadership, up to and including the Director. I believe that it is critical to establish such tone from the top and, in this particular regard, the expectation that personnel will report to the OIG when they reasonably believe they have evidence of wrongdoing, and that retaliation for doing so will not be tolerated.

Given the size and complexity of the NSA enterprise, we have disseminated this important message through various means, including the preparation of the video described earlier in which we and, at some level, most importantly the Director instruct

the workforce about the importance of reporting to the OIG. As OIGs, we can make recommendations and follow up on their implementation, but ultimately, only the leadership of the enterprises we oversee has the authority to direct the conduct of their employees. At NSA OIG, we also have worked to get out this important message through briefings with leaders as part of their preparations for postings across the NSA enterprise and through presentations by OIG personnel in senior and other training programs. I believe that diverse and sustained outreach has paid real dividends for our work at NSA OIG, where we have seen an increase of approximately 40 percent in our Hotline contacts over the last few years, as reported in the unclassified versions of our recent SARs. If confirmed as the DoD IG, I would bring the lessons I have learned through our outreach and education efforts at NSA OIG and, before that, as the Whistleblower Ombudsperson at DOJ OIG, to ensure that we are availing ourselves of every opportunity in this regard.

In accordance with section 8(c)(5) of the *Inspector General Act of 1978*, the Office of the DOD IG has established overarching standards for MCIO investigations of adult sexual assaults. In its *4th Annual Report*, dated March 2020, the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) affirmed concerns that MCIO investigators lack necessary discretion with respect to the conduct of sexual assault investigations in the military. The report stated, “[i]nvestigators are taking specific investigative steps not because they believe that the actions are warranted by the facts; instead, they are following a standard checklist and feel that they are required to do so.”

137. If confirmed, how would you balance the imperative that MCIOs conduct rigorous investigations of sexual assault allegations with the DAC-IPAD recommendation that MCIO investigators exercise discretion to tailor the scope of any such investigation to the facts of that case, including the ability to close an investigation in a timely and appropriate fashion?

Given my own background and experience, I have often discussed with investigators the importance of conducting rigorous investigations that are tailored to the facts of the case, including the importance of closing investigations in a timely and appropriate fashion. If confirmed, I would work with the team at DoD OIG and the MCIOs to consider the IPAD recommendations and how they might be addressed in the context of these priority matters.

138. What more would you do, if confirmed, to ensure that MCIO Special Agents assigned to respond to and investigate allegations of sexual assault have received requisite specialized training?

It is my understanding that the DoD OIG has engaged and currently is engaged in the evaluation of the MCIOs handling of sexual assault cases. If confirmed, I would work with the team at DoD OIG to assess the training that the MCIO Special Agents receive and ensure that they receive such specialized training as may be necessary to appropriately handle these priority matters.

139. What more can be done, in your view, to stamp out retaliation against those who come forward as victims of or witnesses to, a sexual assault?

People who come forward as victims of, or witnesses to, a sexual assault should never suffer retaliation. As a federal prosecutor, I was directly involved in ensuring the rights of victims in the cases I handled and, as the Deputy IG and Whistleblower Ombudsperson at the DOJ OIG, and as the NSA IG, I have championed whistleblower rights and protections. If I am confirmed as the DoD IG, I will meet with the team at the OIG to assess our efforts in this area, and ensure that we are availing ourselves of every method to communicate to both the military and civilian workforces regarding this message, and to appropriately address all reprisal matters in a timely manner.

140. What is the relationship of the Office of the DOD IG with the National Guard Bureau's Office of Complex Investigations?

I was not previously aware of the National Guard Bureau's Office of Complex Investigations (OCI), but it is my understanding from the National Guard's Sexual Assault Prevention and Response Program FY 2020 Review, issued in February 2021, that the OCI generally seeks to explore opportunities to expand investigative capabilities in cases that are not prosecuted locally or where such investigation is deemed deficient. If confirmed, I will work with the team at DoD OIG to understand the office's relationship with the OCI, and take such action as may be appropriate.

Oversight of the Military Health System (MHS)

The MHS is a global, comprehensive, integrated health care system that includes a health care delivery system, combat medical services, public health activities, medical education and training, and medical research and development.

141. If confirmed, what is your view of the role of the DOD IG in overseeing the operations of the MHS?

The DoD OIG's assessment of the Top DoD Management Challenges for FY 2022 included protecting the health and welfare of service members and their families as one of the top 10 challenges facing the DoD. As the DoD IG has oversight jurisdiction over all programs and operations of the DoD that are expressly correlated with these challenges, it is my understanding that the office performs robust oversight in this area, including a number of planned and pending oversight projects as detailed in the DoD OIG's FY 2022 Oversight Plan.

142. What are your views of the role that the DOD IG has in improving visibility into and assessing the quality of care provided through the MHS?

The DoD IG, as indicated above, has oversight jurisdiction over all programs and operations of the DoD, including those involved in the provision of care through the

MHS. Additionally, OIGs play an important role in furthering transparency in their oversight of the entities they oversee. If confirmed, I would work with the team at the DoD OIG to determine the role that the office should have in improving visibility into and assessing the quality of care provided through the MHS. I also would welcome the opportunity to engage with the Committee regarding any particular concerns it may have in this area.

143. Do you believe the DOD IG currently has the resources and expertise to play a more prominent role in assessing the performance of DOD health care providers—in both military medical treatment facilities and in the TRICARE purchased care system?

While I am aware from the DoD OIG's SARs and Oversight Plan that it has conducted a range of oversight in this area, I am not currently in a position to assess the sufficiency of its resources and expertise in assessing the performance of DoD health care providers in both military medical treatment facilities and in the TRICARE purchased care system. If confirmed, I would work with the team at the DoD OIG to assess the resources and expertise of the office in this area and would welcome the opportunity to engage with the Committee regarding same.

144. What role is the DOD IG playing regarding DOD's implementation of the electronic health records system? What role is it playing regarding evaluating the integration of the electronic health records systems of DOD and the Department of Veterans Affairs?

I am aware that the DoD OIG currently has an ongoing joint audit with the Department of Veterans Affairs relating to the interoperability of both Departments' electronic health record systems. According to the DoD OIG's FY 2022 Oversight Plan, the objective of the joint audit is to determine whether the DoD is developing standards and implementing controls to provide interoperability between the health care systems of the DoD, the Department of Veterans Affairs, and external health care providers. If confirmed, I would work with the team at DoD OIG to understand these issues more fully, including any findings and recommendations that may result from the pending joint audit in this area.

DOD must continue to implement proactive controls to contain health care costs and fight health care fraud—all with a view to maximizing the funding available to treat beneficiaries.

145. What is your understanding of the role of the Office of the DOD IG in identifying and preventing health care fraud against DOD?

A core function of all OIGs is to detect and deter waste, fraud, and abuse in the programs and operations of the establishments they oversee, and it is my understanding that the DoD OIG plays an active role in identifying and preventing health care fraud against the DoD. This includes conducting audits, evaluations, and other reviews that may identify

risks and indicators of health care fraud, and conducting and participating in civil and criminal investigations that may result in the recovery of substantial sums and the prosecution of wrongdoers. I also am aware that DoD OIG has developed a substantial data analytics capacity that can be of pivotal importance in facilitating all of these efforts. As a former federal prosecutor, if I am confirmed, I would work with the team at DoD OIG to ensure that we are robustly engaged in identifying and preventing health care fraud, which serves as a drain on the health care system and diverts funds from other critical functions.

146. If confirmed, what role would you establish for the Office of the DOD IG in providing oversight of the Third Party Collections Program?

While I was not previously aware of the Third Party Collections Program, I have learned from publicly available information that it is the military program established to implement the statutory authorization for military treatment facilities to recover the cost of providing health care services to covered DoD beneficiaries from third party payers. If confirmed, I would explore with the team at DoD OIG the appropriate role for the OIG in providing oversight over this program.

147. In your view, do the Defense Health Agency and military medical treatment facilities have the requisite “in-house” analytic tools and personnel with the training and experience, to monitor and take corrective action in high-risk areas, such as preventing improper payments and collecting delinquent debt related to DOD-provided healthcare services?

If confirmed, I would work with the team at the DoD OIG to review any relevant work or experience in the office and otherwise assess whether the Defense Health Agency and military medical treatment facilities have the requisite tools and personnel to monitor and take corrective actions in these important high-risk areas, and make any recommendations as appropriate. I also would welcome the opportunity to engage with the Committee regarding any specific concerns it may have in this area.

COVID Vaccine Mandate

148. What do you believe should be the role of the DOD IG with respect to oversight of the processes in place for granting medical, administrative, and religious exemptions to military and civilian personnel under DOD’s COVID-19 vaccine mandate?

The DoD OIG has oversight jurisdiction over all programs and operations of the DoD. I am aware that the OIG has done some work in this area, including a pending audit relating to effectiveness of the vaccine distribution plan within the DoD. This obviously has been a rapidly changing area, including what I understand to be the suspension of the civilian vaccination requirement and exemption process in response to pending federal litigation. If confirmed, I would work with the team to assess the situation existing at that time and determine whether there is additional impactful oversight work that would be

appropriate with regard to the exemptions process. I also would welcome the opportunity to engage with the Committee regarding any specific concerns it may have in this area.

Military Housing Privatization Initiative (MHPI)

In the FY 1996 NDAA, Congress established the MHPI, providing DOD with the authority to obtain private-sector financing and management to repair, renovate, construct, and operate military housing. DOD has since privatized 99 percent of its domestic housing. In 2019, the Senate Armed Services Committee held hearings to address concerns voiced by military families living in privatized housing that the program had been grossly mismanaged by certain private partners; that military and chain of command oversight were non-existent; and that in speaking out about the appalling condition of the quarters in which they lived, they were opening themselves to reprisal. One such contractor has since entered into a settlement with the Justice Department for fraudulent activities with respect to the management of its contracts under MHPI.

149. What is your understanding of the role of the Office of the DOD IG and the military department Inspectors General in addressing service member and family concerns regarding untenable living conditions prevalent in certain privatized housing locales?

The DoD OIG's Top DoD Management Challenges for FY 2022 includes discussion of health and safety management of military housing as an important component of the challenge that the DoD faces in protecting the health and wellness of service members and their families. The report describes numerous oversight products and recommendations that have been issued by the OIG over a number of years, as well as recent work by GAO in the area. The report further identifies reforms that were included and elaborated upon in the NDAA for FYs 2020 and 2021, and additional evaluations pending and planned by the OIG to monitor progress and ensure implementation of these reforms. If confirmed, I would work with the team at the DoD OIG to review the status of outstanding recommendations and pending and planned oversight projects in order to ensure that the office is conducting robust oversight that is driving positive change in this very important area for military personnel and their families.

150. If confirmed, what would you do to assess the progress being made by DOD and the military departments in reestablishing oversight of, and accountability for the MHPI program?

As described above, it is my understanding that the DoD OIG has a number of pending and planned oversight projects in this important area. If confirmed, I would work with the team at the OIG to understand the status of recommendations outstanding from past oversight work, to get up to speed on the status of ongoing work, and to consider the need for future work to ensure that the DoD and the Military Departments have robust oversight of and accountability for the MHPI program. I also would welcome the opportunity to engage with the Committee regarding any particular concerns it may have in this area.

151. If confirmed, what tools would you recommend the Office of the DOD IG or the military department Inspectors General bring to bear to ensure the accountability of MHPI contractors for strict adherence to the terms of their partnership agreements with the military services?

If confirmed, I would work with the team at DoD OIG to understand the situation with regard to the compliance of MHPI contractors with their partnership agreements, and then utilize all appropriate remedies to address any deficiencies. While my experience as a prosecutor and in the IG community has taught me that there is no one-size-fits-all solution, the tools that can be brought to bear as appropriate include management advisories and other rapid response reporting; audits, evaluations, and reviews; and civil and, where warranted, criminal prosecutions.

Intelligence

152. What is your understanding of the role of the DOD IG in ensuring that intelligence and other sensitive activities within DOD are conducted in accordance with relevant legal standards?

The DoD OIG has oversight jurisdiction over the programs and operations of the DoD, including those in the area of intelligence and related sensitive activities. Section 5(x) of DoD Directive 5106.01 specifically provides that the DoD IG shall “[a]udit, evaluate, monitor, and review the programs, policies, procedures, and functions of the DoD Intelligence Components to ensure that intelligence resources, including those funded through the National Intelligence Program, are properly managed.” Pursuant to the MOU that I participated in negotiating as referenced earlier in these responses, the DoD IG and the IGs for the four defense intelligence agencies cooperate and coordinate support on audits, investigations, inspections, evaluations, other reviews, and oversight matters so that each party can more efficiently and effectively fulfill its duties and responsibilities without unnecessary duplication of effort and resources. The DoD OIG also leads the DCIE, which can play an important role in facilitating coordination of oversight in such areas.

153. If confirmed, in which areas of DOD IG responsibility would you expect to coordinate with the Special Assistant to the Secretary of Defense for Intelligence Oversight?

DoD Directive 5106.01, Section 5(x), also provides that the audit and other actions conducted by the DoD IG in this area “shall be coordinated, as appropriate, with the Assistant to the Secretary of Defense for Intelligence Oversight to determine respective areas of responsibility, in accordance with DoD Directive 5148.11.” Under the later directive, the DoD Senior Intelligence Oversight Official (known as the “DSIOO”), then the Special Assistant to the Secretary of Defense for Intelligence Oversight, has responsibility for conducting independent oversight of all DoD intelligence and

intelligence-related activities, including inspecting intelligence and intelligence-related activities; developing oversight policy; reviewing in consultation with the DoD General Counsel allegations questioning the legality or propriety of intelligence or intelligence-related activities; monitoring administrative investigations and inspections conducted by DoD Components related to intelligence and intelligence-related activities, evaluating the findings and, if appropriate, recommending corrective action; conducting independent investigations in coordination with the appropriate Defense Criminal Investigative Organization or Military Counterintelligence Investigative Organization; and serving as the lead DoD official for all matters associated with the Intelligence Oversight Board (IOB) of the President's Intelligence Advisory Board, including DoD reporting to the IOB. By memorandum dated September 1, 2021, the Deputy Secretary of Defense redesignated the Assistant to the Secretary of Defense for Intelligence Oversight as the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, known as the ATSD(PCLT), and further specifically provided that the previously designated official shall continue to serve as the DSIOO. As the NSA IG, I have met with and coordinated intelligence oversight activities with the DSIOO and, if confirmed, I would anticipate continued coordination in furtherance of both office's functions, including with regard to inspections of DoD intelligence and intelligence-related activities and providing notice of any matters reportable by the DSIOO to the IOB.

Cyber

The Office of the DOD IG has consistently reported on problems the DOD has in protecting its cyber systems, networks, and data.

154. What are your views on whether the Office of the DOD IG has the expertise and capacity to adequately assess DOD cybersecurity plans, policies, and capabilities?

Cybersecurity is a critical issue for all federal agencies, and one with which I have developed substantial experience as the NSA IG and as Vice-Chair of the CIGIE Technology Committee. If confirmed, I would work with the team at DoD OIG to ensure that we have sufficient capacity to conduct robust oversight over DoD's cybersecurity plans, policies, and capabilities.

155. If confirmed to be the DOD IG, what would be your priorities for cybersecurity, and where would cybersecurity rank in terms of your overall priorities?

The DOD OIG's Top DoD Management Challenges for FY 2022 includes strengthening DoD cyberspace operations and security systems, networks, and data as one of the top challenges facing the DoD. The OIG's FY 2022 Oversight Plan details a number of planned and pending oversight projects in this area and, if confirmed, it would remain one of my highest priorities as the DoD IG.

General Counsel to the DOD IG

156. What is your understanding of the history and purpose of section 907 of the NDAA for FY 2009, regarding the position of General Counsel to the DOD IG?

It is my understanding that, consistent with the IG Act, Section 907 of the NDAA for FY 2009 provided for a General Counsel to the DoD IG in order to ensure that the IG has independent legal counsel to provide advice to the IG regarding the office's independent oversight activities separate and apart from the DoD Office of General Counsel.

157. What is your understanding of the role played by the General Counsel to the DOD IG with respect to completed investigations?

While I have not been briefed specifically on the role played by the General Counsel of the DoD IG with respect to completed investigations, it is my understanding that the General Counsel plays a role similar to that at other OIGs in conducting reviews of administrative investigative reports to ensure their legal and factual sufficiency.

158. If confirmed, how would you address differences of opinion between the DOD IG General Counsel and a DOD IG investigative team as to findings of fact and the appropriate weight to be given such facts in a completed investigation?

It has been my experience over the years as a federal prosecutor and in the leadership of two Offices of Inspector General that it is not uncommon to have good faith differences of opinion regarding findings of fact and/or conclusions in any particular investigation. It has been my consistent practice to engage collaboratively to discuss such issues when they arise, and thereby to reach agreement on the right result. Of course, as the NSA IG and, if confirmed, as the DoD IG, the final decision regarding such matters is and would be my responsibility.

159. If confirmed as the DOD IG, what manner of relationship would you expect the General Counsel to the DOD IG to maintain with the General Counsel of the DOD, who by law serves as the department's chief legal officer?

I would expect the General Counsel to the DoD IG to maintain a good, professional working relationship with the General Counsel of the DoD. In my experience, such a relationship facilitates good communication and the appropriate resolution of myriad legal issues that inevitably arise as an OIG conducts robust, independent oversight.

160. What is your understanding of the authority of the DOD IG to access for official purposes records of the Department of Defense that may be protected by an institutional attorney-client privilege?

For the independent oversight conducted by OIGs to be effective, credible, and authoritative, it is essential that the OIG have access to all records available to the

establishment that it oversees that the OIG – not the establishment – determines are relevant to its work. This was the fundamental principle underlying the effort, led by IG Horowitz as CIGIE Chair when I was at the DOJ OIG, to lead the IG community in supporting what became the IG Empowerment Act of 2016. That important legislation amended Section 6(a) of the IG Act to make explicit, essentially, that “all means all” when it comes to the IG’s access to records and information relevant to the programs and operations with respect to which the IG has responsibilities under the IG Act (unless, of course, Congress were to pass a law specifically referring to the IG and restricting such access to the IG). A related and essential aspect of the IG Act is that the IG is within the establishment that it oversees, which means that it is not subject to having records or information withheld from its review by a claim of institutional attorney-client privilege. These are bedrock principles that are insisted upon across the IG community and, if confirmed as the DoD IG, I would ensure that they are scrupulously followed at the DoD.

161. What is your view of the authority of the DOD IG to access for official purposes—including for purposes of responding to a congressional request—records of the Department of Defense that may be protected by executive privilege?

Similar to the last question, because the DoD IG is within the Department, it is not subject to having access to information withheld based on executive privilege.

Civilian Senior Executives

If confirmed to be the DOD IG, you would be in a position to select applicants for appointment to positions in the Senior Executive Service (SES) in the Office of the DOD IG.

162. Given that competent leadership is one of the most reliable guarantors of a high-performing civilian workforce, if confirmed, what factors and characteristics would be most important to you in selecting a candidate for appointment to the SES?

I have been a member of the SES and supervised the office’s senior cadre as Deputy IG at the DOJ OIG, and I have made a number of selections for SES and senior leader (known as DISES and DISL) positions at the NSA OIG. The Office of Personnel Management sets forth Executive Core Qualifications (known as “ECQs”) that must be met for elevation to an SES position, which are: Leading Change, Leading People, Results Driven, Business Acumen, and Building Coalitions. There is nothing more important to an office than ensuring that it has a strong leadership team that values people and is committed to excellence in all of the areas covered by the ECQs. In my experience, strong SES performers share excellent communication and collaborative skills and a strong commitment to the people and mission of their office. They also are creative, not satisfied with doing things a certain way just because that is how they have always been done, but willing to think outside the box to find new and better ways to drive their organizations forward. I have been fortunate to attract and retain an

outstanding group of senior leaders at the NSA OIG, who also exemplify the diversity that I believe is critical for any organization to most effectively address complex problems.

163. If confirmed, how would you go about ensuring that SES employees under your authority are held accountable for both organizational performance and the performance of their subordinate employees?

All organizations with SES employees, including OIGs, are required to have procedures in place to evaluate the performance of their SES employees, with review of the results conducted through independent performance review boards. If confirmed as the DoD IG, I would work with the management and human resources professionals at the OIG to ensure that we are scrupulously following the requirements in this area.

More generally, I believe that, as a leader, it is important to set tone and expectations at all levels of an organization, and then to follow up to ensure that these are met and to discuss and resolve any obstacles to doing so. I have found that this is often best done through a combination of formal and informal interactions and regular check-ins, identifying and discussing issues as they arise so that timely solutions can be developed and implemented. And, of course, there is no substitute for letting people know, through your words and, more importantly, through your deeds, that you care about them, their work, and their professional development. I have found that this has been particularly true during the difficult time through which we all have gone over the past couple of years, though it has always been the way I work with and for the teams I lead and, if confirmed as the DoD IG, it will be central to how I work in that organization as well. I also think it is important to appropriately and fairly incentivize superior performance, as well as to take timely and appropriate action to address poor performance, and to be as transparent as possible in both respects. If I am confirmed as the IG at DoD, I will work with the team at the OIG to make sure that we are performing these critical functions properly and as transparently as possible so as to further the confidence and the performance of the workforce.

Sexual Harassment

164. If confirmed, what actions would you take if you receive or otherwise become aware of a complaint of sexual harassment or discrimination from an employee of the DOD IG?

There is absolutely no place for sexual harassment or discrimination in any workplace. If confirmed as the DoD IG, I would work with the team at the OIG to develop and disseminate clear and consistent messaging to the workforce in this area. And, should such incidents arise, I will ensure that they are handled appropriately, including that the victim has timely access to any necessary support services and that the perpetrator is investigated and faces consequences as appropriate.

Congressional Oversight

In order to exercise legislative and oversight responsibilities, it is important that this committee, its subcommittees, and other appropriate committees of Congress receive timely testimony, briefings, reports, records—including documents and electronic communications, and other information from the executive branch.

165. Do you agree, without qualification, if confirmed, and on request, to appear and testify before this committee, its subcommittees, and other appropriate committees of Congress? Please answer yes or no.

Yes, consistent with the IG Act and other applicable laws, policies, and practices.

166. Do you agree, without qualification, if confirmed, to provide this committee, its subcommittees, other appropriate committees of Congress, and their respective staffs such witnesses and briefers, briefings, reports, records—including documents and electronic communications, and other information, as may be requested of you, and to do so in a timely manner? Please answer yes or no.

Yes, consistent with the IG Act and other applicable laws, policies, and practices.

167. Do you agree, without qualification, if confirmed, to consult with this committee, its subcommittees, other appropriate committees of Congress, and their respective staffs, regarding your basis for any delay or denial in providing testimony, briefings, reports, records—including documents and electronic communications, and other information requested of you? Please answer yes or no.

Yes, consistent with the IG Act and other applicable laws, policies, and practices.

168. Do you agree, without qualification, if confirmed, to keep this committee, its subcommittees, other appropriate committees of Congress, and their respective staffs apprised of new information that materially impacts the accuracy of testimony, briefings, reports, records—including documents and electronic communications, and other information you or your organization previously provided? Please answer yes or no.

Yes, consistent with the IG Act and other applicable laws, policies, and practices.

169. Do you agree, without qualification, if confirmed, and on request, to provide this committee and its subcommittees with records and other information within their oversight jurisdiction, even absent a formal Committee request? Please answer yes or no.

Yes, consistent with the IG Act and other applicable laws, policies, and practices.

170. Do you agree, without qualification, if confirmed, to respond timely to letters to, and/or inquiries and other requests of you or your organization from individual Senators who are members of this committee? Please answer yes or no.

Yes, consistent with the IG Act and other applicable laws, policies, and practices.

171. Do you agree, without qualification, if confirmed, to ensure that you and other members of your organization protect from retaliation any military member, federal employee, or contractor employee who testifies before, or communicates with this committee, its subcommittees, and any other appropriate committee of Congress? Please answer yes or no.

If confirmed as the DoD IG, I will make every effort to ensure that no military member, federal employee, or contractor employee is subject to unlawful retaliation.