

Senate Armed Services Committee
Advance Policy Questions for Mr. Peter J. Beshar
Nominee to be General Counsel of the Department of the Air Force

Duties and Responsibilities

Section 9019 of title 10, U.S. Code, establishes the position of the Air Force General Counsel and provides that the General Counsel shall perform such functions as the Secretary of the Air Force may prescribe.

1. What is your understanding of the current duties and functions of the Air Force General Counsel?

The duties and functions of the General Counsel are determined and assigned by the Secretary of the Air Force pursuant to 10 U.S.C. §§ 9013, 9014 and 9019. The General Counsel provides legal advice and guidance to the Secretary, the Under Secretary, the Assistant Secretaries, their staffs, and other offices within the Office of the Secretary, as well as to the Chief of Staff and the rest of the Air Staff and the Chief of Space Operations and the Office of the Chief of Space Operations. The General Counsel also provides legal services throughout the entire Department in a variety of disciplines including fiscal law, ethics, acquisition, dispute resolution, environmental law, international law, intellectual property law, real property law, and personnel law. The General Counsel serves as the Designated Agency Ethics Official, the Dispute Resolution Specialist, and is responsible for providing and supervising the Suspending and Debarring Official for the Department of the Air Force. In addition, the General Counsel exercises oversight of intelligence and other sensitive activities and investigations.

2. If confirmed, what additional duties and functions would you expect the Secretary of the Air Force to prescribe for you?

If confirmed, I anticipate Secretary Kendall will expect me to provide sound and timely legal advice, on a wide range of issues, to assist him in carrying out the Air Force's mission to Fly, Fight and Win against all adversaries. Additionally, I anticipate the Secretary will expect me to manage the General Counsel's Office efficiently and effectively, while fostering an atmosphere of professionalism, and will expect me to work collaboratively across the organization, including with The Judge Advocate General, the General Counsel of the Department of Defense and the General Counsels of the other military departments, as well as the legal staffs of other government agencies.

3. If confirmed, specifically what would you do to ensure that your tenure as Air Force General Counsel epitomizes the fundamental requirement for civilian control of the Armed Forces embedded in the U.S. Constitution and other laws?

My understanding is that civilian and military personnel in the Department of the Air Force, as well as the entire Department of Defense, respect this foundational principle of our system of government. Civilian control of the Armed Forces is ensured by Article I and Article II of the Constitution. It is also embedded in federal law for the Secretary of Defense and the Secretary

of the Air Force. If confirmed, I would confer with Secretary Kendall and others to help ensure the Department is organized and operated to properly reflect this requirement for civilian control.

4. In your opinion, who is the “client” of the Air Force General Counsel?

The client of the General Counsel of the Department of the Air Force is the Department of the Air Force.

5. What is your view of the responsibility and authority associated with the Air Force General Counsel’s designation as the Chief Legal Officer of the Department of the Air Force?

As the Chief Legal Officer of the Department of the Air Force, the General Counsel serves as the principal legal advisor to the Secretary and other senior officials. The responsibility and authorities of the General Counsel are those prescribed by the Secretary. In discharging those responsibilities, I would, if confirmed, seek out and greatly value the input of The Judge Advocate General.

6. If confirmed, what would be your responsibility for providing legal advice and services to the Space Force?

My understanding of the responsibility for providing legal advice and services to the Space Force is that the General Counsel provides legal advice to the Chief of Space Operations and the Office of the Chief of Space Operations, as well as other uniformed and civilian members of the Space Force as needed or directed by the Secretary of the Air Force.

7. If confirmed, how would you view your role as the Air Force General Counsel with respect to the General Counsel of the Department of Defense (DOD) in her role as the DOD Chief Legal Officer?

The General Counsel of DOD is the Chief Legal Officer and final legal authority for DOD. If confirmed, I anticipate having a close professional relationship with Honorable Krass characterized by continuing consultation, communication, and cooperation. I also look forward, if confirmed, to building strong working relationships with the General Counsels of the Army and Navy.

Qualifications

8. What background and experience do you possess that qualify you to serve as the General Counsel of the Department of the Air Force?

If confirmed, I respectfully believe that I have the experience, judgment and temperament to serve as the General Counsel of the Department of the Air Force.

First, I have extensive management experience leading a team of over 600 legal, compliance and public affairs professionals. For the past 17 years, I have served as the Executive Vice President and General Counsel of Marsh McLennan, a global professional services firm that specializes in risk management. With the support of our leadership team, I have built a world-

class, and diverse, legal and compliance team. I have found that the greatest accomplishments in life are the collective endeavors achieved by a group of individuals pulling together toward a common goal. I have also developed the project management skills to drive policy change across an organization of more than 80,000 employees in 100 countries.

Second, over the past decade, I have developed domain expertise in cybersecurity, with a particular focus on public-private partnerships to enhance the resilience of our nation's critical infrastructure. I have testified multiple times before Congress on cybersecurity and terrorism matters and had the privilege of participating in the Joint Service Academy's Cybersecurity Summit at the Air Force Academy in Colorado Springs. As the Department of the Air Force develops its next generation air dominance program, modernizes its nuclear enterprise and communication systems and builds out the Space Force, cybersecurity and technological innovation will be crucial priorities.

Third, early in my career, I had the great privilege of serving as the Special Assistant to former Secretary of State Cyrus Vance in the peace negotiations in the Balkans. It was my first exposure to war, and it sparked a profound respect for our military and a deep interest in our national security. As Chair of the Veteran's Committee at John Jay College for Criminal Justice and executive sponsor of our veterans' initiatives at Marsh McLennan, I have spearheaded a series of initiatives to help military students and veterans get jobs and enhanced housing and disability benefits. As a result of the work that we did on multiple fronts, Marsh McLennan was voted the No. 1 Military-Friendly Employer in the United States.

I have been honored to receive the Military Mondays Pro Bono Award from Legal Services NYC, the Distinguished Leadership Award from John Jay College of Criminal Justice, the Law and Society Award from the New York Lawyers for the Public Interest and the Business Leadership Award from Citizens Union.

9. Do you believe that there are any actions you need to take to enhance your ability to perform the duties of the Air Force General Counsel?

If confirmed, I would be eager to meet with the Department's leadership team to learn more about their strategic priorities, including the seven operational imperatives identified by Secretary Kendall, to assess how best the Office of General Counsel can support their goals. I would plan to conduct in depth sessions with the talented career lawyers within the Office of General Counsel to learn more about the most pressing legal and compliance issues facing the Department. Concurrently, I would seek to develop a respectful and cooperative relationship with The Judge Advocate General of the Department and other members of the JAG Corps to understand their perspective on the range of legal and compliance issues that can arise across an organization of nearly 700,000 individuals. In addition, I would be eager to confer with the General Counsel of the Department of Defense to learn about her top priorities and how I can best support her objectives for the entire Department.

Major Challenges and Priorities

10. If confirmed, what would be your vision for the Office of the Air Force General Counsel of today? And for the Office of the Air Force General Counsel of the future?

Before articulating any type of a strategic vision for the Office of General Counsel, I would

want, if confirmed, to consult widely to understand the opportunities, and challenges, before the broader Department of the Air Force. This would include senior leaders, such as the Secretary and Undersecretary of the Air Force, the Chief of Staff of the Air Force and the Chief of Space Operations, peers and others throughout the organization. I believe it is important as a general counsel to have a philosophy about what the team is trying to accomplish and how it proposes to do so. After consulting broadly, I would seek, if confirmed, to identify a limited set of strategic priorities. The office can do anything, but it cannot do everything.

The pace of technological change is accelerating exponentially. Moving forward, it will be important for the attorneys and other professionals within the Office of General Counsel to adjust to this changing dynamic. The domains of cyber and space, in particular, will only increase in significance in the years ahead. If confirmed, I would hope to provide, and personally take advantage of, professional development opportunities in an array of emerging areas.

11. In your view, what are the most significant legal issues facing the Air Force and Space Force today?

The top priorities of the Office of General Counsel should reflect the top priorities of the Department of the Air Force, and the broader Department of Defense. If confirmed, I would want to consult with the experienced and capable attorneys and compliance professionals within the Office of General Counsel, and with The Judge Advocate General and other members of the JAG Corps, to solicit their views about the most pressing legal issues facing the Department.

12. What do you consider to be the most significant challenges you will face if confirmed as Air Force General Counsel?

From reading public reports and Congressional testimony, I would anticipate that key challenges, if confirmed, would include: (1) the implementation of the sexual assault reforms recently passed by Congress and the Independent Review Commission recommendations adopted by the Department of Defense; (2) the modernization of the nuclear enterprise, including the Ground Based Strategic Deterrent; (3) acquisition and sustainment initiatives for accelerating modernization efforts; (4) the build out of the Space Force; (5) the refinement of protocols, particularly around post-strike assessments and investigations, for minimizing civilian casualties; (6) compliance with environmental laws; and (7) efforts to foster a culture of integrity and inclusion.

The overarching challenge for the next General Counsel of the Department of the Air Force will be to advise on legal issues relating to the Department of Defense's number one pacing challenge - China.

13. What plans do you have for addressing each of these challenges, if confirmed?

The Office of General Counsel has experienced and capable attorneys who are experts in these areas of the law. If confirmed, I would support these attorneys in their efforts to provide the best possible advice to decision-makers throughout the Department. If confirmed, my goal as General Counsel would be to serve as a trusted legal advisor to enable the senior leadership to meet these challenges and execute the mission of the Department.

14. If confirmed, what broad parameters would you establish as to the types of legal and policy issues on which you and the Office of the Air Force General Counsel must be consulted?

The legal and policy issues on which the Department of the Air Force General Counsel and the Office of the General Counsel must be consulted are those directed by the Secretary of the Air Force. If confirmed, I would recommend to the Secretary that the General Counsel review every staffing package provided to his office for a decision. If confirmed, I would seek to have senior leaders engage with the Office of General Counsel early on in the process of developing strategies and plans for the Department regardless of operational sensitivity. I would strive to accomplish this in a cooperative and collaborative manner.

15. If confirmed, are there specific categories of Air Force General Counsel legal opinions that you would expect to reconsider and possibly revise? If so, what categories?

At this time, I do not anticipate revising any specific category of Department of the Air Force General Counsel legal opinions. If confirmed, I would seek input from others in both the Office of General Counsel and The Judge Advocate General to see what legal opinions, if any, might warrant reconsideration.

16. If confirmed, what innovative ideas would you consider providing to the Secretary of the Air Force to improve the organization and operations of the Office of the Air Force General Counsel and to improve the delivery of legal services Air Force-wide?

If confirmed, I would first study the organization and operations more closely, as well as the delivery of legal services across the Air Force. I would also solicit the views of the team regarding the technology available to each attorney in the Office of the Air Force General Counsel. As an example, we established an in-house innovation team at Marsh McLennan that harnessed artificial intelligence and other technology tools to streamline routine processes.

17. If confirmed, how would you use organizational climate surveys to enhance your leadership and management of the Office of the Air Force General Counsel?

If confirmed, I would be keenly interested to review organizational climate surveys to better understand any challenges facing personnel in the Office of Air Force General Counsel. These tools can also play an important role in assessing the overall culture of an organization.

18. If confirmed, what actions would you take to sustain a productive and mutually beneficial relationship between Congress and the Department of the Air Force?

Communication is crucial. It is important that the Department of the Air Force has a professional and collaborative partnership with Congress. If confirmed, I would be committed to building and maintaining open lines of communication and working closely with the Secretary of the Air Force and the Office of Legislative Liaison to maintain a productive and transparent relationship with Congress.

Relationship with the Judge Advocate General of the Air Force

19. If you are confirmed, how will you work with the Judge Advocate General of the Air Force in carrying out your duties?

If confirmed, I intend to fully respect the role of The Judge Advocate General as an independent legal advisor. I would strive to maintain a collaborative, respectful and professional relationship with The Judge Advocate General. To that end, if confirmed, I would hope to meet regularly with The Judge Advocate General to exchange information and views about our respective priorities and identify those areas where we can collaborate most effectively. I expect that personnel within the Office of the General Counsel will maintain similar professional working relationships with members of The Judge Advocate General's Corps to ensure consultation and collaboration on matters of mutual interest and to ensure the provision of the highest quality legal support to the Department of the Air Force.

20. How are the legal responsibilities of the Department of the Air Force allocated between the General Counsel and the Judge Advocate General?

Subject to the direction and control of the Secretary of the Air Force, the General Counsel serves as the Chief Legal Officer of the Department of the Air Force. The Judge Advocate General is established as part of the Air Staff and is the senior uniformed legal adviser to the Secretary and all officers and agencies of the Air Force and Space Force. The Judge Advocate General is responsible for the activities of The Judge Advocate General's Corps and is primarily responsible for providing legal advice and services regarding the Uniform Code of Military Justice. I recognize and understand that the law expressly prohibits interference with the ability of The Judge Advocate General to give independent legal advice to the Secretary of the Air Force.

21. How are the legal responsibilities of the Space Force allocated between the General Counsel and the Judge Advocate General?

My understanding is that the legal responsibilities of the Space Force are allocated between the General Counsel and The Judge Advocate General similarly to how they are allocated for legal advice to the Air Force. The General Counsel serves as the Chief Legal Officer of the Department of the Air Force and as such, provides legal counsel to the Chief of Space Operations and Space Force. The Judge Advocate General is the senior uniformed legal adviser to the Chief of Space Operations and the Space Force. Per 10 U.S.C. 9037, The Judge Advocate General is entitled to give independent legal advice to the Chief of Space Operations without interference from any other office or employee. If confirmed, I would regularly communicate with the Chief of Space Operations and The Judge Advocate General to ensure all legal needs are met in a timely fashion.

22. If confirmed, will you seek to revise this allocation of responsibilities?

If confirmed, I will strive to maintain a collaborative, respectful and professional relationship with The Judge Advocate General and between the Office of General Counsel and the Office of The Judge Advocate General.

23. What is your view of the authority of the Judge Advocate General of the Air Force to provide independent legal advice to the Secretary of the Air Force and the Chief of Staff of the Air Force and Chief of Space Operations?

The Judge Advocate General's ability to provide independent legal advice to the Secretary of the Air Force, the Chief of Staff of the Air Force, and the Chief of Space Operations without interference from any other employee, has been statutorily recognized as essential to the delivery of legal services to the Department of the Air Force. Beyond the statutory requirement that The Judge Advocate General be able to provide independent legal advice, I appreciate that military attorneys are in a position to provide a different legal perspective and many insights into key issues, and I believe the ability to share that perspective unhindered ensures the Department of the Air Force receives the most timely and thorough legal advice possible.

24. What is your view of the responsibility of Air Force judge advocates to provide independent legal advice to military commanders and other Air Force officials and employees?

Air Force Judge Advocates have a critical responsibility to provide timely and effective legal advice to commanders in the field. My understanding is that The Judge Advocate General's Office takes that responsibility seriously and, if confirmed, I would seek to ensure the General Counsel's Office respects that responsibility as well.

25. If confirmed, would you propose any changes to the current relationship between the Air Force General Counsel and the Judge Advocate General of the Air Force?

If confirmed, my top priority will be building on the effective and professional relationship that I understand currently exists between the Acting General Counsel and The Judge Advocate General. If confirmed, I would solicit the views of the Secretary, The Judge Advocate General and others, to discuss the best way to maximize our respective resources to meet the legal challenges facing the Department. Our common goal is to ensure that the Department of the Air Force is receiving the most effective legal advice possible.

26. If confirmed, would you propose any changes to the current relationships and/or allocation of responsibilities between attorneys in the Office of the Air Force General Counsel and uniformed Air Force judge advocates?

Are legal opinions of the Office of the Air Force General Counsel binding on all Air Force lawyers?

If confirmed, I plan to discuss the current relationship and allocation of responsibilities with The Judge Advocate General to ensure the Department of the Air Force is receiving effective and timely legal advice. The legal opinions within the areas of responsibility assigned to the Office of the Air Force General Counsel are binding on all Air Force lawyers.

27. If confirmed, how would you ensure that the legal opinions of your office are available to Air Force attorneys, including judge advocates?

If confirmed, I would ensure legal opinions are easily accessible through knowledge management systems and disseminated as widely as possible through email and other means. I expect The Judge Advocate General's Office to assist in this and ensure that all judge advocates are aware of any legal opinions.

28. How do you view the role and responsibilities of the Air Force General Counsel in the supervision and oversight of military justice matters vis-à-vis the Judge Advocate General of the Air Force?

My understanding is that The Judge Advocate General has the primary responsibility for providing legal advice and services regarding the Uniform Code of Military Justice and the administration of military discipline. If confirmed, I will recognize The Judge Advocate General's statutory duties and special expertise in military justice and expect to consult on matters of mutual interest. I also recognize the recent changes to the Uniform Code of Military Justice with respect to certain crimes, such as sexual assault, and the creation of the Office of Special Counsel. If confirmed, I would be guided by the views of the Secretary and plan to offer support and advice as these important changes are implemented and carefully review the role of the Air Force General Counsel with respect to military justice matters that will be under the purview of the Office of Special Counsel.

Section 548 of the National Defense Authorization Act for Fiscal Year 2020 required the Secretary of Defense to carry out a program to provide legal counsel to victims of domestic violence offenses who are otherwise eligible for military legal assistance.

29. In your view, how do the needs of victims of domestic violence offenses differ from the needs of victims of sexual assault? How should any such differences affect the parameters of a legal counsel program established for domestic violence victims?

The needs of victims of domestic violence and victims of sexual assault can be similar in many ways, while also having important differences depending on the particular facts of each case, including living arrangements. As I understand it, a key parameter of the legal counsel program is to ensure that the assigned counsel as well as paralegals receive sufficiently broad training to serve all victims effectively.

30. In your view, how do the needs of military child victims of sexual abuse differ from the needs of adult victims of sexual assault and from those of domestic violence victims? How would any such differences affect the parameters of a legal counsel of guardian *ad litem* program established for military child victims of sexual abuse?

The sexual abuse of a child of a military member is particularly abhorrent. As above, one of the most important parameters is the specialization and depth of the training for relevant staff.

31. If confirmed, what role would you establish for yourself in assisting the Secretary of the Air Force to conduct the program required by section 548?

If confirmed, as with all requests and needs of the Secretary of the Air Force, I will seek to assist the Secretary, with appropriate coordination and deference to The Judge Advocate General.

Comprehensive Review of Department of the Navy Uniformed Military Legal Communities

On January 10, 2020, the Department of the Navy released its *Comprehensive Review of the Department of the Navy's Uniformed Legal Communities*. In commenting on the importance of the review, the Vice Chief of Naval Operations stated, “[i]t is precisely because our legal communities provide vital services [that] are necessary to promote the readiness of the force and successful mission accomplishment, that a review of this nature was warranted. . . . This comprehensive review was an opportunity for us . . . to reflect on how we conduct ourselves and do business, in terms of military justice and legal support to our Sailors, Marines, and their families.”

32. Have you reviewed the report of the Navy's *Comprehensive Review*?

Yes, I have reviewed the report.

33. Did the Navy's *Comprehensive Review* yield any findings or recommendations that you believe may be applicable or useful to the Air Force legal community? Please explain your answer.

A number of the findings of the *Comprehensive Review* regarding the need for organizational structural improvements, professional development, and better data collection may be applicable or pertinent to the Department of the Air Force legal community. If I were to be confirmed, I would want to consult, and reflect, on these issues, especially regarding the build out of the Space Force, the implementation of the recent Uniform Code of Military Justice amendments, and the creation of the Office of Special Counsel. If confirmed, I would discuss the findings in the *Comprehensive Review* with The Judge Advocate General to determine if any of the findings or recommendations may be applicable, and if so, how they may best be implemented.

COVID-19 Response

34. What is your view of the legality of the Secretary of Defense's directive that requires all service members, including members of the National Guard and Reserves, to be vaccinated for the coronavirus?

I support the Secretary of Defense's determination that vaccination against COVID-19 disease is necessary to protect and ensure a ready Force. If confirmed, I will seek to ensure that Department of the Air Force's vaccination programs and guidance comply with recent Court rulings, applicable laws, regulations and policies.

35. What guidance have the Air Force and Space Force given to commanders regarding precautions to limit the spread of COVID-19, and what role has the Office of the Air Force General Counsel played in generating and reviewing such guidance?

I am not familiar with the specific guidance given to commanders regarding precautions to limit the spread of Covid-19. I understand that the Department, at the direction of Secretary Austin, has committed significant resources and effort to this task.

36. What role do you believe that the Air Force General Counsel should play in reviewing medical, administrative, and religious accommodation requests from Air Force and Space Force service members and Department of the Air Force civilian employees for an exemption from the Department's COVID-19 vaccine mandate?

The Department of the Air Force General Counsel should play the role directed by the Secretary of the Air Force. The General Counsel has a responsibility for advising senior leaders of any significant legal concerns that have been identified and then work with the leadership to ensure the Department of the Air Force exemption processes comply with applicable court rulings, laws, regulations and policies.

37. What are your views on the medical, administrative, and religious accommodation processes for Air Force and Space Force service members and Department of the Air Force civilian employees who seek an exemption from the Department's COVID-19 vaccine mandate?

The publically announced processes appear to appropriately cover the requirements of Federal law and policy. I understand that processes involving civilian employees have been paused based on a U.S. District Court injunction. If confirmed, I would examine the Department's policies with respect to civilian employees so that they comport with the recently-issued court injunction.

Civilian Attorney Recruiting and Retention

38. In your view, does the Department of the Air Force have a sufficient number of military and civilian attorneys to perform its many missions?

I am not currently in a position to have sufficient visibility into the level of resources. If confirmed, I would plan to review the needs of the Department with senior leaders, confer closely with The Judge Advocate General, review legal staffing levels at the other military departments and assess the adequacy of those resources. The demand for legal expertise in the domains of cyber and space will only grow in significance to the Department's evolving mission. If confirmed, I would also be committed to adequate staffing to effectively implement the changes to the Uniform Code of Military Justice and the Independent Review Commission recommendations.

Air Force judge advocates benefit from an established career progression format, substantial mentoring and training opportunities, and exposure to a broad spectrum of legal practice areas and leadership responsibilities. By contrast, Air Force civilian attorneys normally do not have established career programs and may do the same type of legal work for many years, with promotions based solely upon longevity and vacancies that may arise.

39. If confirmed, what specific actions would you take to recruit, hire, and retain high quality civilian attorneys, and provide sufficient opportunities for their development and advancement through positions of increasing responsibility and leadership in the career civilian component of the Air Force legal community?

I am a firm believer in the importance of providing opportunities in professional development and career progression. As part of that process for me personally, I have been reading and

watching many of the materials recommended by General Brown. If confirmed, I would seek to confer with the members of the Office of General Counsel and others and hope to build on existing programs to develop compelling professional development opportunities, particularly around emerging areas of the law relating to technological advances. If confirmed, I will also seek to foster a culture of inclusion so that attorneys and others in the General Counsel's office are able to contribute to the best of their abilities. I would consider it part of my responsibility, if confirmed, to try to support all of the members of the OGC in their career aspirations.

40. Do you foresee that in the coming years, the Department of the Air Force's demand for civilian attorneys with legal expertise in certain technical fields (e.g., cyber, space, and intellectual property law) will increase, commensurate with the Department's evolving missions and the 2018 National Defense Strategy? If so, in what legal specialties would you expect the Air Force's and Space Force's requirements to increase, and why?

Yes. The need for legal expertise in the domains of cyber and space in particular will only grow in importance to the Department's evolving missions. I understand the Office of Air Force General Counsel has already set up an Intellectual Property Cadre to tackle challenging intellectual property law issues.

41. Do you believe the Air Force, including Air Force Office of General Counsel, needs additional incentives and talent management tools to recruit, develop, sustain, and retain a 21st century career civilian attorney workforce? If so, what sort of incentives and tools do you believe would be helpful?

At this time, I am not familiar enough with the current incentives and talent management tools that exist. If confirmed, I would look into these matters and determine if enhancements are needed to recruit, develop, sustain and retain a top-flight civilian attorney workforce.

The American Bar Association's *Standing Committee on Pro Bono and Public Service* asserts that "[w]hen society confers the privilege to practice law on an individual, he or she accepts the responsibility to promote justice and to make justice equally accessible to all people. Thus, all lawyers should aspire to render some legal services without fee or expectation of fee for the good of the public."

42. If confirmed, would you favor the creation of a program to permit civilian attorneys in the Air Force Office of General Counsel to engage in *pro bono* work? If not, why not? If so, what would be the parameters of such a program?

If one does not already exist, I would favor, if confirmed, the creation of a program to permit civilian attorneys in the Air Force Office of the General Counsel to engage in *pro bono* work. I support the American Bar Association's assertion that all lawyers should aspire to provide legal services for the good of the public. As an example, Marsh McLennan has been a proud sponsor of the Advanced Individual Academic Development program at West Point for over a decade. Furthermore, if confirmed, I will look at any current policies and work with the ethics attorneys to determine appropriate parameters.

Ethics

43. If confirmed, what actions would you take to effectuate your duties as the Designated Agency Ethics Official for the Department of the Air Force?

I consider this a core responsibility of the General Counsel. If confirmed, I would meet with the Alternative Designated Agency Ethics Official and Deputy Designated Agency Ethics Officials, as well as the leaders of the DoD's Standards of Conduct Office, to review the ethics program. I would plan, if confirmed, to build on the excellent work that has already been done and seek, through leadership messaging and impactful training, to foster a culture of integrity and inclusion.

44. What do you see as the role of the Air Force General Counsel in setting an “ethical tone” for all Air Force and Space Force personnel, military and civilian?

Every leader has a responsibility to set the right ethical tone. If confirmed, I would seek to enlist the support of senior leaders across the Department, including the Secretary, the Undersecretary, the Chief of the Air Force, the Chief of Space Operations, the Assistant Secretaries and The Judge Advocate General, in reinforcing the importance of fostering an ethical environment that makes everyone feel proud to be associated with the Department of the Air Force.

45. What actions has the Air Force taken over time to ensure that its military officers and other Air Force and Space Force personnel are trained—throughout their careers—on ethics matters and the Air Force’s and Space Force’s core values?

My understanding is that the Air Force has developed a robust training program on ethics. If confirmed, I would review these programs and seek to ensure that all Air Force and Space Force personnel have access to ethics training and understand the core values of the Air Force and Space Force.

46. What role does the Air Force General Counsel play in ensuring that Department of the Air Force personnel—military and civilian—timely identify and disclose potential personal and organizational conflicts of interest and take all appropriate steps to avoid or mitigate them?

If confirmed, I will work with Air Force and Space Force senior leadership to inform military and civilian personnel within the Department to understand the types of circumstances that can lead to organizational conflicts of interest and how to identify those circumstances at the earliest opportunity. Together with others within OGC, I would also help Department of Air Force personnel assess any conflicts of interests that they may have and when they must recuse themselves.

47. What training do Air Force lawyers receive to ensure they are competent to provide effective, accurate, and timely guidance to Air Force and Space Force personnel in need of counsel on ethics matters?

It is my understanding that the Office of Air Force General Counsel employs several attorneys who specialize in ethics and that they provide training to other attorneys. I am not familiar with the specifics of training programs, but would review the trainings if confirmed. I am also not familiar with how The Judge Advocate General ensures judge advocates are properly trained to handle ethics issues. If confirmed, as the Designated Agency Ethics Official for the Department,

I would work with The Judge Advocate General to seek to ensure judge advocates were properly trained.

48. What resources has the Air Force made available to provide Air Force and Space Force GOs and SESs the legal advice and assistance they need to adhere to ethical and legal standards in complying with travel regulations, and ensuring that government resources, including the official time of their military and civilian subordinates—are used only for official purposes? Please explain your answer.

I am not familiar with the specific resources, but I understand that Air Force and Space Force GOs and SESs receive training on the ethical and legal standards regarding travel regulations and ensuring government resources are used only for official purposes. If confirmed, I will review the resources provided to Air Force and Space Force GOs and SESs and seek to ensure Air Force and Space Force all GOs and SESs know about the resources available to them.

49. What is your understanding of the actions required of a Department of the Air Force civilian attorney or judge advocate who becomes aware of improper activities by an Air Force or Space Force officer or official who has sought, but failed to follow that attorney's legal advice?

I expect all attorneys to fully comply with applicable rules of professional responsibility. Under those rules, if an attorney becomes aware of improper activity, the attorney should raise the issue to a superior or another appropriate resource. In extreme cases, I understand that the matter may need to be referred to either the Department of the Air Force Inspector General or the Department of Justice.

Energy Security and Resilience

The range of threats against which Air Force and Space Force installations must maintain resiliency is ever-growing.

50. In your view, how can the Air Force OGC assist the Air Force and Space Force in better integrating energy security and resilience as standard components of its Military Construction (MILCON) programs?

I understand that the Department of the Air Force has already engaged in exercises to test energy resilience at various installations and will continue to do so. The General Counsel's office has a continuing role in monitoring compliance with statutes related to energy, as well as Administration Executive Orders. If confirmed, in addition to supporting compliance, I will encourage lawyers in the OGC to review programs and policy for opportunities to integrate energy security and resilience.

51. What is the role of the Air Force Office of General Counsel in advising on the use of these authorities? Has the Air Force's or Space Force's use of one or more of these authorities yielded outcomes of particular promise?

I do not have working familiarity with all of the authorities mentioned. However, I understand that one division in the Office of General Counsel specializes in installation matters and thus

supports the exercise of all of these authorities. I am aware of a few publicly-reported projects such as the large-scale solar array at Edwards Air Force Base, and if confirmed, would seek to have the General Counsel's office continue to support projects and initiatives to enable energy security and resilience.

Environmental Stewardship and Conservation

52. If confirmed to be the Air Force General Counsel, how would you educate Air Force and Space Force leaders and the forces at large about the imperative of complying with environmental protection laws and regulations, as well as with guidance from the Environmental Protection Agency?

I understand that Department of the Air Force General Counsel personnel already participate in training events for Air Force and Space Force personnel, as well as providing crucial one-on-one advice to senior leaders regarding the Department's obligations to comply with environmental protection laws and regulations. If confirmed, I will encourage Department of the Air Force General Counsel personnel to continue and, if warranted, expand this training and reiterate the importance of complying with environmental protection laws and regulations.

53. If confirmed, how would you work with the Department of the Interior and the U.S. Fish and Wildlife Service to promote environmental stewardship and conservation on and around Air Force and Space Force installations, while ensuring military readiness?

If confirmed, in addition to ensuring Department of the Air Force General Counsel staff support Department of the Air Force compliance with applicable environmental laws and regulations relating to such resources, I will encourage them to confer with the Department of the Interior and the U.S. Fish & Wildlife Service on how best to comply with relevant laws and regulations in a manner that strikes the appropriate balance between stewardship of lands within our control and the needs of the military mission.

54. What are your ideas as to how the process associated with generating an Environmental Impact Statement (EIS) could be streamlined, with a view to completing any future EIS in two years or less, from start to finish?

I recognize that any effort to streamline the preparation of EISs must ensure that federal agencies still give proper consideration to the environment prior to undertaking any major federal action that significantly affects the environment. I understand the Council of Environmental Quality (CEQ) is currently reviewing its implementing regulations. If confirmed, I would advise members of the Department of the Air Force strive to respect the intent of National Environmental Policy Act while supporting CEQ's review effort.

Military Housing Privatization Initiative (MHPI)

55. If confirmed as Air Force General Counsel, what would be your role in establishing accountability inside the Air Force and Space Force for sustaining the high-quality housing that Airmen and Guardians and their families deserve?

Airmen, Guardians and their families deserve safe and clean housing under the Military Housing

Privatization Initiative (MHPI). I understand that the Department of the Air Force has made significant progress in implementing reforms that increased accountability within the MHPI program so that privatized housing meets the expected quality and conditions established for Airmen, Guardians, and their families. If confirmed, I would seek to have the General Counsel's office continue to play a key role in the implementation of the MHPI reforms that are contained in the National Defense Authorization Acts, in addition to working with the Office of the Secretary of Defense on policy to improve oversight and accountability measures.

56. If confirmed, specifically what would you do to improve business operation constructs and vest accountability in MHPI “contractors” for strict compliance with the terms of their public-private partnership agreements with the Air Force and Space Force?

I understand that the National Defense Authorization Acts for Fiscal Years 2020-2022 included MHPI reforms designed to improve certain operational aspects of MHPI projects and enhanced accountability in the business practices of MHPI project owners. I believe it is important for the General Counsel's office to help continue efforts to incorporate those reforms into existing contractual agreements, along with identifying other measures that can be negotiated to further strengthen accountability and improve housing services to our military members. In the event that MHPI project owners fail to comply with their contractual obligations, the General Counsel's office would provide legal assistance to the Department of the Air Force for the enforcement of appropriate remedies. In this regard, I note the important enforcement actions recently taken by the Department of Justice. In addition, the General Counsel's Office has the ability, on behalf of the Department of the Air Force, to suspend or debar MPHI providers and employees who have engaged in fraud or poor performance.

57. What progress has the Air Force and Space Force made in creating a “Tenant Bill of Rights” and enumerating “Tenant Responsibilities” applicable to military families who reside in privatized housing?

I understand that the Tenant Bill of Rights was made available to all military tenants of Air Force privatized housing projects last August, as directed by the Department of Defense. If confirmed, I would review the ongoing work with respect to the Tenant Bill of Rights and seek to ensure military tenants in privatized housing projects are aware of their rights.

The installation or regional commander in charge of the oversight of privatized housing units will serve as the “deciding authority” in the dispute resolution and payment-withholding processes established pursuant to section 2894 of the NDAA for FY 2020.

58. What role will Air Force Office of General Counsel play in training commanders, their legal counsel, and other participants in the dispute resolution and payment withholding processes?

My understanding is that, as part of its Acquisition Integrity Program, the Office of the General Counsel, in cooperation with the Judge Advocate General's Corps, provides training across the Air Force and Space Force on fraud remedies available in response to fraud, corruption and poor performance.

Civilian Casualty Matters

59. What is your understanding of the obligations of the Air Force and U.S. military in seeking to avoid civilian casualties under international law, U.S. law, and Department of Defense policy?

Secretary Austin recently stated that this is a moral and strategic imperative for the Department of Defense.

60. What is your understanding of the role of the Air Force General Counsel in advising DOD leadership on policies relating to civilian harm mitigation and investigations into civilian casualty incidents?

If confirmed, I would closely review the plans recently announced by Secretary Austin and seek to support the Secretary and other senior leaders in any efforts to implement refinements or enhancements to existing protocols, particularly around post-strike assessments and investigations. In coordination with The Judge Advocate General and others, I would also seek to provide appropriate training and guidance regarding the proper reporting of relevant incidents.

Acquisition

In successive NDAs beginning in FY 2013, Congress enacted sweeping reforms of the defense acquisition system and organizational structure. These reforms expanded the acquisition-related functions of the Service Chiefs and incorporated measures designed to reduce the cost and development timelines of major systems.

61. What is your understanding of the role of the Air Force General Counsel in ensuring that Air Force and Space Force acquisition programs are executed in accordance with the law and DOD, Air Force, and Space Force acquisition policy?

As the Chief Legal Officer of the Air Force, the General Counsel has an essential role in seeking to ensure that the Air Force's acquisition programs complies with the law and DOD, Air Force, and Space Force acquisition policy. If confirmed, I would plan to work closely with the Secretary of the Air Force, the Assistant Secretary for Acquisition, Technology and Logistics, the Assistant Secretary for Space Acquisition and Integration, and other senior leaders to support critical modernization efforts while complying with these responsibilities.

62. If confirmed, how would you ensure that Air Force and Space Force acquisition officials understand and leverage the flexibilities provided by Congress in the context of acquisition reform?

The Office of General Counsel should be proactive in providing legal counsel to acquisition officials regarding legal authorities and flexibilities to meet the needs of the warfighter. I understand the OGC has a division of attorneys who specialize in acquisition and partner regularly with acquisition officials at all stages of the acquisition process. If confirmed, I would seek to ensure that acquisition officials receive sound and timely legal advice regarding the full spectrum of acquisition authorities so they understand and can leverage the flexibilities provided by Congress.

63. What are the legal implications that must be considered when the Air Force and Space Force leverage non-developmental or commercial off-the-shelf solutions to meet Air Force and Space Force requirements?

It is important that the Air Force and Space Force leverage non-developmental or commercial products to meet warfighter requirements. Determining appropriate technical data and computer software license rights in non-developmental and commercial products is essential to making the best use of this important acquisition tool.

64. What is your assessment of the legal issues pertaining to the identification, evaluation, and management of risk in the Air Force's and Space Force's organic and commercial defense industrial base, including the munitions industrial base?

I expect that there are many nuanced legal issues that pertain to the identification, evaluation, and management of risk in the Air Force's and Space Force's organic and commercial defense industrial base, including "vendor lock", supply chain vulnerabilities, and cyber vulnerabilities. The efforts to innovate in this area are important, but must always follow applicable statutes and regulatory rules.

65. Do you believe that the Air Force has implemented intellectual property (IP) best practices to ensure that the government has appropriate access to IP and technical data to give proper return on investments in research and development (R&D), retain the ability to re-compete programs to control costs, and exercise better control over program sustainment costs?

My understanding is that the Air Force has consistently bolstered its intellectual property practices to enable continued access to needed data and software, drive competition in future contracts, and to reduce sustainment costs. I am aware that the Air Force recently created an Intellectual Property Cadre composed of experts in the field to address these issues, and half of the Cadre are part of the General Counsel's office. It is my understanding that the Cadre is continuing to examine new and innovative methods for accomplishing these goals, to include regulatory and administrative methods, and it will implement them as developed.

66. If confirmed, what adjustments would you make, or work with acquisition officials to make, to the Air Force's practices in negotiating IP and technical data rights for programs to improve its ability to develop, procure, and sustain new systems and technologies affordably?

I am committed to obtaining and maintaining the ability to develop, procure, and sustain new systems and technologies affordably. However, as each case will be different, a one-size-fits-all approach will not address each matter. I will work with acquisition officials, if confirmed, to continue to innovate in their acquisition approaches.

Role in the Air Force and Space Force Officer Promotion and Confirmation Processes

67. What is your understanding of the role of the Air Force General Counsel in ensuring the integrity and propriety of the statutory officer promotion selection board process?

I understand that the Office of the Air Force General Counsel reviews all promotion board memoranda of instruction, promotion board results and documentation for officer promotions to ensure conformity with legal and policy requirements and Secretarial guidance. An important component of this process is trying to ensure that any adverse or reportable information is properly considered so that the Secretary can make informed decisions.

68. Do you perceive any need for change in this role? Please explain your answer.

Not at this time. If I am confirmed, I will assess whether any change in this role and process might be warranted.

69. In your view, are the current policies and procedures governing review of the records of Air Force and Space Force officers whose selection for promotion or assignment requires Presidential or Secretary of Defense approval or Senate confirmation sufficient to enable informed decisions by the Secretary of the Air Force, the Secretary of Defense, the President, and the Senate? Please explain your answer.

If confirmed, I would familiar myself with the current policies and procedures governing review of the records of Air Force and Space Force officers whose selection for promotion or assignment requires Presidential or Secretary of Defense approval or Senate confirmation. After my review, I would consult with the Secretary of the Air Force to learn whether he feels the current policies and procedures are sufficient to enable him to make informed decisions.

70. In your view, are these policies and procedures fair to the individual Air Force and Space Force officers proceeding through the promotion or assignment processes?

If confirmed, I would familiarize myself with the applicable policies and procedures. After my review, if I find the policies and procedures are not fair to individual Air Force and Space Force officers proceeding through the promotion or assignment process, I would bring my concerns to the Secretary of the Air Force or the Assistant Secretary of the Air Force (Manpower & Reserve Affairs), to discuss potential solutions.

71. What is the role, if any, of the Air Force General Counsel in advising senior Air Force, Space Force, and DOD officials on the implications of adverse or reportable information pertaining to a military officer nominated for promotion to General Officer grades or for appointment to a position of “importance and responsibility?”

If confirmed as the General Counsel, I believe my role in advising senior Air Force, Space Force and DOD officials on the implications of adverse or reportable information pertaining to a military officer nominated for promotion to General Officer grades or for appointment to a position of “importance and responsibility” would be to seek to ensure that adverse or reportable information has been reported and properly investigated in compliance with law, regulation, and applicable records, and provide advice to the Secretary of the Air Force on particularly difficult or unusual cases.

72. If confirmed, what will be your role in ensuring the Air Force’s and Space Force’s strict compliance with section 502 of the NDAA for FY 2020 and section 505 of the NDAA for FY 2021, regarding the conduct of boards for the selection of officers for promotions

requiring Senate confirmation?

If I am confirmed, I will assess whether the Department of the Air Force has implemented appropriate policies to meet these obligations. The Office of the Air Force General Counsel should provide advice to the Secretary of the Air Force on the need for special selection review boards and review all promotion related board reports, as well as, all Departmental communications to this committee, the President, and the Secretary of Defense, to ensure compliance with law, regulation, and applicable directives.

73. What is your level of confidence that adverse information derived from Air Force and Space Force administrative investigations is recorded and tracked across an individual Airman or Guardian's career, and properly considered by promotion selection boards?

I am not in the position to provide the committee an assessment of my confidence in the recording and tracking of adverse information. If confirmed, I will assess the state of the Department's ability to record, track, and furnish such information to promotion selection boards.

Officer Personnel Management System Reforms

The John S. McCain National Defense Authorization Act for Fiscal Year 2019 contains several provisions to modernize the officer personnel management system.

74. How are the Air Force and Space Force implementing these authorities today and to what effect?

I am not in the position to provide the committee an assessment of my confidence in the recording and tracking of adverse information. If confirmed, I will assess, in consultation with others, the state of the Department's ability to record, track, and furnish such information to promotion selection boards.

75. If confirmed, what would be your role in advising and assisting the Air Force and Space Force in further leveraging these new authorities?

It is my understanding that the Office of the General Counsel works closely with the Secretary of the Air Force, Assistant Secretary of the Air Force, (Manpower and Reserve Affairs), Deputy Chief of Staff of the Air Force, Manpower, Personnel and Services (AF/A1), and Deputy Chief of Space Operations for Personnel (SF/S1), to develop, review, and implement Departmental policy on matters pertaining to officer management and promotion.

76. Are there other authorities that the Air Force and Space Force need to modernize the management of their officer personnel?

I am not currently able to offer an opinion on the need for additional legislative or regulatory authority to modernize the management of officer personnel. However, if confirmed, I believe the Office of the General Counsel should be involved in assessing the need and assisting in drafting any legislative proposals.

Non-Deployable Service members

In July 2018, DOD published Department of Defense Instruction (DODI) 1332.45, *Retention Determinations for Non-Deployable Service members*. DODI 1332.45 provides that the Secretaries of the Military Departments may “retain . . . those service members whose period of non-deployability exceeds the 12 consecutive month limit . . . if determined to be in the best interest of the Military Service.”

77. What factors would you consider in advising the Secretary of the Air Force that the retention of an Airman or Guardian who has been non-deployable for more than 12 months is “in the best interest of the Service”?

If confirmed, the main factors I would consider would include the individual circumstances of the Airman or Guardian, and the overall force needs and readiness capabilities of the Department of the Air Force.

78. In your view, what legal and legal policy parameters govern how this policy should be applied to Airmen and Guardians with HIV and to Airmen and Guardians who identify as transgender?

I understand the policy with respect to Airmen and Guardians with HIV continues to be reviewed in light of new medical treatments and HIV prevention methods. I understand the policy for Airmen and Guardians who identify as transgender has been updated in the past year and continues to be reviewed. However, I am not familiar with the specific details of those policies. If confirmed, I would review those policies and work with senior leaders and medical personnel in the Department of Defense and the Department of the Air Force to better understand the legal and policy parameters around these issues.

Sexual Assault, Harassment, and Discrimination Prevention and Response

79. What is your view of the adequacy of Department of Air Force-level oversight of the implementation of policies for the prevention of and response to sexual assaults and sexual harassment in the Air Force and Space Force?

I have reviewed the Independent Review Commission’s recommendations and the military justice reforms recently approved by Congress regarding the prevention of and response to sexual assault and sexual harassment in the Air Force and Space Force. I am troubled by the reports that have come out about the prevalence of sexual assault and sexual harassment across the Department of Defense. I am not familiar with the exact contours of the Department of Air Force-level oversight of the implementation of policies for the prevention of and response to sexual assault and sexual harassment in the Air Force and Space Force. If confirmed, I will make this a priority.

80. In your view, what can the Air Force General Counsel do to ensure improvements in such oversight?

The goal of these important reforms is to implement effective and lasting change to prevent and, when necessary, respond to instances of sexual assault and sexual harassment. This will

require the support and commitment of the senior leadership, military and civilian staff, including commanders across the world and countless others throughout the Department. If confirmed, I will confer with the Secretary, and other senior leaders including The Judge Advocate General about the best way to bolster the implementation and oversight of these reforms.

81. What is your view of the value of the Air Force’s Special Victims’ Counsel program? In your view, has this program had any effect on the reporting and prosecution of allegations of sexual assault in the Air Force and Space Force?

I understand the Air Force’s Special Victims’ Counsel program was put in place to provide victim-centered advice and advocacy to sexual assault victims. At this point, I have not closely studied the program and am not aware of any specific effect the program has had on reporting and prosecution of allegations of sexual assault in the Air Force and Space Force. If confirmed, I look forward to learning more about the details and efficacy of this program in collaboration with The Judge Advocate General.

DOD reports on sexual assault and sexual harassment in the military generally, and at the Military Service Academies more specifically, consistently document the correlation of incidents of sexual harassment and incidents of sexual assault.

82. What is your view of the Air Force’s program to prevent and respond to sexual harassment in the Air Force and Space Force?

The IRC Report referenced a “continuum of harm” that can often be traced from sexual harassment to sexual assault. I understand the National Defense Authorization Act for Fiscal Year 2022 added sexual harassment to the Uniform Code of Military Justice. If confirmed, I would plan to confer with The Judge Advocate General about the implementation of new policies related to this amendment to the Uniform Code of Military Justice and review the Department’s program to prevent and respond to sexual harassment in the Air Force and Space Force.

83. If confirmed, what role would you establish for yourself, in addressing the problem of sexual assault and sexual harassment in the forces?

If confirmed, I would confer with the Secretary to discuss the best way that the OGC can help address the problem of sexual assault and sexual harassment in the force. If confirmed, I would anticipate working closely with the Secretary, the Undersecretary, the Assistant Secretary for Manpower & Reserve Affairs and The Judge Advocate General to help implement the recommendations from the Independent Review Commission and the changes directed by Congress in the National Defense Authorization Act for Fiscal Year 2022.

84. In your view, does the Air Force’s method for tracking the submission and monitoring the resolution of informal Equal Employment Opportunity complaints of harassment or discrimination provide Air Force and Space Force leaders, supervisors, and managers, with an accurate picture of the systemic prevalence of these adverse behaviors in the civilian workforce?

I am not familiar with the Department’s method for tracking the submission and monitoring the

resolution of informal Equal Employment Opportunity complaints of harassment or discrimination. If confirmed, I would review the method of tracking and work with senior leaders in the personnel department to review the number of complaints and determine if it provides an accurate picture of these behaviors in the civilian workforce.

85. Does the Air Force's method for recording the outcomes of informal Equal Employment Opportunity complaints of harassment or discrimination provide Air Force and Space Force leaders, supervisors, and managers with a means of identifying repeat perpetrators in the civilian workforce?

I am not familiar with the method for recording the outcomes of informal Equal Employment Opportunity complaints of harassment or discrimination and am not sure if that method provides Air Force and Space Force leaders, supervisors, and managers with a means of identifying repeat perpetrators in the civilian workforce. If confirmed, I will look at the recording method and determine if any changes need to be made.

86. Do the Air Force's and Space Force's methods for responding to complaints of harassment or discrimination in the civilian workforce provide appropriate care and services for victims?

I am not familiar with the Air Force and Space Force methods for responding to complaints of harassment and discrimination and cannot evaluate if they provide appropriate care and services for victims. If confirmed, I will review the methods and work with senior leaders in the appropriate offices to determine if they provide appropriate care and services for victims.

87. If confirmed, what role would you play in shaping policies and processes for the prevention of harassment and discrimination in the Air Force's and Space Force's civilian workforces?

If confirmed and subject to the guidance of the Secretary, I would strive to play a constructive role in shaping the policies and processes for the prevention of harassment and discrimination in the Department of the Air Force's civilian work force. I would seek to ensure that any policy or process complies with applicable legal standards takes into account any recent findings about harassment and discrimination in the Air Force and Space Force civilian work force, and provides appropriate care and services for victims.

Identification of Potential Extremist Views

Press reports document the involvement of a small number of active duty military personnel, retired military officers, members of the National Guard, and military veterans in events at the U.S. Capitol on January 6.

88. In your view, are the Department's policies adequate to address, document, and track extremism in the Air Force and Space Force, including in the civilian workforce?

I understand that the Department of Defense has been reviewing the policies to address, document, and track extremist activities in the Air Force and Space Force, including in the civilian workforce. I read the recent report on the work and believe the new policies provide

importance guidance. If confirmed, would want to study that report more carefully. I would also plan, if confirmed, to review the implementation of any new policy as a result of that work.

89. What is your understanding of how the Air Force and Space Force balance the need to identify and respond to potentially harmful extremist views held by Airmen, Guardians, and civilian employees against individual privacy and respect for the rights of Airmen, Guardians and civilians to hold and express personal beliefs?

I reviewed the recent report on extremist activities and think the Department of Defense has found an appropriate balance between the need to identify and respond to extremist activities and the rights of individuals to freedom of expression.

90. Do you see a need for a change in this balance?

I believe the brave men and women of our armed forces represent the best of America and that the overwhelming majority of Airmen, Guardians and indeed the total force serve this country with dignity and honor. I am not aware of any need for additional change after the recent review, but, if confirmed, I will examine this policy more closely.

91. What is your view of the recent revisions made to DOD Instruction 1325.06, and what is your understanding of the role that you would play, if confirmed, in implementing this instruction throughout the Department of the Air Force?

Though I am aware of the updated DODI guidance from the Countering Extremist Activities Working Group, I am not familiar with the specific recent revisions made to DoD Instructions 1325.06. If confirmed, I would review the recent revisions and see that corresponding revisions were made, as needed, to any Department of the Air Force policies.

92. In your view, do current DOD, Air Force, and Space Force policies limit the ability to include information about an individual's extremist views in official records that may assist in the identification of potential insider threats? Please explain your answer.

It is my understanding the Department of Defense reviewed the policy for including information about an individual's extremist views in official records in their recent review of extremist activities. If confirmed, I would review the policy to evaluate this point more closely.

93. In your view, do current DOD, Air Force, and Space Force procedures hinder the ability to share this same type of information with other federal and state agencies charged with identifying and monitoring potential extremist activities? Please explain your answer.

It is my understanding the sharing of information is one item that was reviewed this year, but I am not familiar with the details of a new policy. If confirmed, I would review the policy, and any changes to comply with relevant legal requirements.

A recent Department of Defense Inspector General report on activities prohibited under DOD Instruction 1325.06 (supremacist, extremist, and criminal gang activity) found that the Department of the Air Force had the most allegations of prohibited activity in the Department of Defense from January 1, 2021 through September 30, 2021, with 137. Of that total, 102 allegations were for “domestic violence extremism participation.” None of the other military departments noted any allegations in this category.

94. What is “domestic violence extremism participation” and what is your understanding of why the Air Force used this term?

My understanding of “domestic violence extremism participation” is participation in extremist activities by a person in the United States. I do not have knowledge of why the Department of the Air Force used that particular formulation and why the other Military Departments did not note any allegations in this category. If confirmed, I would seek to understand why the Department of the Air Force used the term and why it recorded this number of allegations in that category.

Medical Malpractice Claims

Section 731 of the NDAA for FY 2020 authorizes the Secretary of Defense to consider, settle, and pay claims against the United States for personal injury or death incident to the service of a member of the uniformed services that was the result of medical malpractice caused by a DOD health care provider.

95. In your view, what should be the role of the Air Force General Counsel in adjudicating and approving claims under section 731?

It is my understanding that these claims are filed with a legal office within the Air Force Judge Advocate General’s Corps and that the Department of the Air Force General Counsel will not have a direct role in the adjudication or approval of these claims.

Juvenile Problematic Sexual Behavior

A 2018 media expose asserted that the U.S. military frequently fails to “protect or provide justice to” the children of service members who are sexually assaulted by other children on a military installation.

96. What actions have the Air Force and Space Force taken to regularize policies and programs for responding to, investigating, adjudicating, and documenting allegations of juvenile problematic sexual behavior on Air Force and Space Force installations?

I do not have this information at this time, but if I am confirmed I would quickly get up to speed on this important topic.

97. How do the Air Force and Space Force ensure that the victims of juvenile problematic sexual behavior receive the care, treatment, support, and advocacy services they need?

I do not have this information at this time, but if I am confirmed I would quickly get up to

speed on this important topic.

98. In your view, do the Air Force and Space Force have mechanisms to hold accountable, as appropriate, and provide treatment to juveniles who engage in problematic sexual behavior?

I do not have any knowledge of the specifics on this topic. If confirmed, I will support the implementation of appropriate mechanisms if they do not yet exist.

99. In your view, is retrocession of jurisdiction over juvenile offenses committed on Air Force and Space Force installations, to the State or territory in which that installation is located, the most effective way to ensure the accountability of juveniles who engage in acts of delinquency, including problematic sexual behavior? Please explain your answer.

I do not have the expertise or knowledge to answer at this time, but if confirmed, I will seek the advice and recommendations of the Air Force's subject matter experts.

100. Do the Air Force and Space Force require any additional authorities to establish and maintain the centralized database on child and youth problematic sexual behavior required by section 1089 of the John S. McCain NDAA for FY 2019?

I do not have any insight into the status of a centralized database by the Department, but if I am confirmed, I will look further into this matter.

Whistleblower Protection

Section 1034 of title 10, U.S. Code, prohibits taking or threatening to take an unfavorable personnel action against a member of the armed forces in retaliation for making a protected communication. Section 2302 of title 5, U.S. Code, provides similar protections to Federal civilian employees.

101. If confirmed, what role would you perform in ensuring that Airmen, Guardians, and civilian employees of the Department of the Air Force who report fraud, waste, and abuse, or gross mismanagement are protected from reprisal and retaliation, including from the very highest levels of the Air Force, Space Force, DOD, and the Executive Branch?

If confirmed, I will work with the members of the Office of Special Counsel, Inspector General and The Judge Advocate General to ensure that Airmen, Guardians, and civilian employees of the Department of the Air Force are properly advised of the whistleblower protections accorded by law and regulation. It is important that all military and civilian staff understand their legal responsibilities to individuals who report fraud, waste, and abuse, or gross mismanagement and that those individuals understand their protections under Section 1034 of title 10, U.S. Code and Section 2302 of title 5, U.S. Code. In addition, if I become personally aware of any cases involving reprisals, I will take steps to address these matters in an appropriate manner.

102. What role does the Air Force General Counsel play in ensuring compliance with Office of Special Counsel requests to the Air Force and Space Force for investigations, and in ensuring the legal sufficiency of any such investigation the Air Force or Space Force conducts?

It is my understanding the Department of the Air Force General Counsel has been delegated the authority to serve as the Senior Management Official on Office of Special Counsel referrals of allegations by the Secretary of the Air Force. The Department of the Air Force General Counsel, in collaboration with the Inspector General and The Judge Advocate General, coordinates recommended findings and actions as a result of investigations for final decision by the Assistant Secretary of the Air Force for Manpower and Reserves Affairs (SAF/MR).

Support to the Air Force Inspector General

103. What is the relationship between the Air Force General Counsel and the Air Force Inspector General?

I understand the Department of the Air Force General Counsel and Air Force Inspector General work closely together on matters of mutual interest. If confirmed, I will seek to establish and maintain a close, professional relationship with the Inspector General, and will provide candid, independent, and objective legal advice where appropriate.

104. In your view, what role, if any, should the Air Force General Counsel have in reviewing and rendering opinions on the legal sufficiency of the investigations and recommendations of the Air Force Inspector General?

To my understanding, attorneys assigned to the Office of the Air Force Inspector General provide the legal sufficiency reviews for all investigations that the Inspector General conducts involving senior officials. The Office of the Air Force General Counsel provides legal reviews and advice involving cases with substantiated findings regarding senior officials or otherwise brought to the attention of the General Counsel by the Air Force Inspector General [see comment above re: #102].

Litigation Involving the Department of the Air Force

105. What is your understanding of the relationship between the Department of the Air Force and the Department of Justice with respect to litigation involving the Air Force and/or Space Force?

The Department of Justice represents the Department of the Air Force through its statutory responsibility to represent all agencies, officers, and employees in civil litigation. I understand most litigation matters are handled by The Judge Advocate General's Office, often in collaboration with the Office of the General Counsel of the Air Force. If confirmed, I will work with The Judge Advocate General to ensure the continuation of the current strong collaborative relationship with the Department of Justice with respect to litigation involving the Department of the Air Force.

106. In your view, should the Department of the Air Force have the independence and resources to conduct its own litigation?

I understand that there is a strong working relationship between the Department of the Air Force and the Department of Justice.

107. If confirmed, what factors would you consider in determining whether official Department of the Air Force information should be released in litigation? How would your analysis of *Touhy* requests differ in cases in which the United States or the Air Force is a party as compared to cases in which the United States or the Air Force is not a party?

I understand the factors to be considered as to whether official information should be released are decided by the Department of Defense General Counsel and have been laid out in Agency regulations. If confirmed, I would review the regulations to become more familiar with the factors that should be considered when making these decisions, including how the analysis may differ in cases in which the United States or the Air Force is a party.

108. How is the authority to waive attorney/client privilege allocated within the Department of the Air Force? If confirmed, would you make any changes to this allocation of authority or to policies governing the release of information potentially subject to the privilege?

The authority to waive attorney/client privilege rests with the Secretary of the Air Force. If confirmed, I do not intend to make any changes to the allocation of authority or policies governing the release of information subject to the privilege, but I would discuss the matter with the Secretary of the Air Force and the Department of Defense General Counsel if warranted.

109. If confirmed, what factors would you consider in approving a request for the representation of an Air Force or Space Force official or employee by Department of Justice attorneys or by private counsel furnished by the Department, in civil, criminal, or congressional proceedings in which an Air Force or Space Force employee is sued, subpoenaed, or charged in their individual capacity?

If confirmed, the two factors I would consider, based on Agency regulation are: whether the actions for which representation is requested appear to have been performed within the scope of the employee's employment; and whether providing representation would otherwise be in the interest of the United States. I understand that The Attorney General or designee makes the final decision on the second factor. I further understand representation of Department of Air Force personnel by private counsel at Federal expense, or with reimbursement of private counsel fees, may also be provided at the discretion of the Attorney General or designee.

Air Force and Space Force Civilian Workforce

110. In your judgment, what is the biggest challenge facing the Air Force and Space Force in effectively and efficiently managing its civilian workforce?

A vexing problem that is hopefully receding in significance is the COVID-19 pandemic. In addition, the pace of technological innovation and change is exponential. This presents myriad opportunities and also challenges. A priority would likely be to ensure that civilian positions within the Air Force and Space Force remain competitive with private sector opportunities. If confirmed, I would be interested in conferring with General Brown and General Raymond, the Undersecretary, the Assistant Secretary for Manpower & Reserve Affairs and others to hear their views about the best way to attract, retain and promote outstanding talent within the civilian workforce.

It is not uncommon for contractor employees—particularly those contracted to provide knowledge-based or administrative services—to work in the same offices, serve on the same projects and task forces, and perform many of the same functions as Air Force and Space Force military personnel and civilian employees.

111. In your view, does the Department of the Air Force have in place adequate processes to ensure that contractor employees do not perform inherently governmental functions and that contractor performance of “closely associated” and critical government functions is minimized? Please explain your answer.

My understanding is the Department of the Air Force has robust processes in place to avoid having contractor employees perform inherently governmental functions and that Department of the Air Force officials also closely monitor contractor performance of “closely associated” and critical government functions. If confirmed, I would review these processes.

Department of the Air Force Compliance with Enacted Legislation

In recent years, the Department of the Air Force has sometimes struggled to implement recently enacted legislation within a reasonable period of time. This applies particularly to areas of military and civilian personnel law.

112. If confirmed, what would be your role in reviewing newly enacted legislation and how do you plan to ensure the Department of the Air Force complies in a timely manner?

If confirmed, I would work with the Department of the Air Force’s Office of Legislative Liaison to review newly enacted legislation that applies to the Department of the Air Force and then propose, as appropriate, courses of action to the Secretary of the Air Force for the implementation of new legislation and ensure any timeline developed is appropriate to properly implement the changes.

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.

113. 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.

114. 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.

115. 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.

116. 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.

117. 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.

118. 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.

119. 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.

Yes.