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before the Senate Armed Services Subcommittee on Personnel
on Public Integrity and Anti-Corruption Laws at the Department of Defense

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Chairwoman Warren and Ranking Member Scott, thank you for inviting me to testify today. The subject of this hearing is one of the primary reasons my organization was created.

Founded in 1981, the Project On Government Oversight (POGO) is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

We made our mark in the 1980s by investigating Pentagon waste, fraud, and abuse, spotlighting overspending on \$640 toilet seats, \$7,600 coffee makers, and \$435 hammers.¹ Four decades later, things have mostly changed for the worse and this hearing on public integrity at the Department of Defense (DOD) could not have come at a better time. Congress can and must act to improve the laws that are meant to ensure policymakers spend tax dollars pragmatically and are acting in the interest of our national security.

Improving these laws will require tackling three legal — but corrupting — phenomena that skew public policy for personal and private gain. We have practical solutions for each of these persistent problems. First, close remaining loopholes to slow the revolving door between the Pentagon and defense companies. Second, end the rubberstamp approval of former military personnel working for foreign governments. And third, mitigate the risk and appearance of financial conflicts of interest for senior Pentagon officials.

Slow the Revolving Door Between Pentagon and Defense Contractors

¹ Project On Government Oversight, *Defense Waste and Fraud Camouflaged as Reinventing Government* (September 1999), 5, <https://docs.pogo.org/report/1999/report-19990901.pdf>.

The United States spends more on defense than the next nine highest-spending countries combined, including our principal rivals, Russia and China.² The military budget proposal submitted by the Biden administration for 2024 totals some \$842 billion and stands to be the largest appropriations of military funds since 1960.³

This money represents the intent of this Congress to maintain the most capable and advanced military in the world. But it also presents opportunities for waste, mismanagement, and predatory abuse. Recent history has borne this out time and again. Now is the time to eliminate opportunities for corruption. Congress took important steps to address this problem in the National Defense Authorization Acts (NDAA) for fiscal years 2018 and 2022,⁴ but more work must be done to close the remaining loopholes.

The past 20 years of major weapons systems development from the Pentagon and its industry partners has been a litany of failures. The F-35 Joint Strike Fighter, the littoral combat ship, the *Zumwalt*-class destroyer, and the *Ford*-class supercarrier have all suffered major and costly challenges.⁵ These systems have cost American taxpayers hundreds of billions of dollars, and they still don't fulfill their intended missions even after years of delays and retrofits.⁶ These setbacks have burdened our armed forces with decades of opportunity costs. Taxpayer money could instead have gone to systems that actually work as intended.

Defense companies and their lobbyists, rather than practical military strategy, have guided significant budgetary and strategic decisions by Congress, over the objections of top military leaders. And it is no secret that the defense industry owes this success in no small part to defense companies having hired former military and civilian DOD personnel to shape the lobbying efforts. According to OpenSecrets, in the last presidential election cycle in 2020 the defense industry spent over \$100 million on lobbying.⁷

A 2018 POGO report identified 380 instances of high-ranking former Pentagon officials who transitioned from the DOD to private companies between 2008 and 2018 and almost immediately became lobbyists, board members, executives, or consultants for defense contractors. These instances included work performed for defense contractors by 25 former

² "The United States Spends More on Defense than the Next 9 Countries Combined," Peter G. Peterson Foundation, accessed April 21, 2023, <https://www.pgpf.org/blog/2022/06/the-united-states-spends-more-on-defense-than-the-next-9-countries-combined>.

³ Department of Defense, "Department of Defense Releases the President's Fiscal Year 2024 Defense Budget," Press Release, March 13, 2023, <https://www.defense.gov/News/Releases/Release/Article/3326875/department-of-defense-releases-the-presidents-fiscal-year-2024-defense-budget/>; "U.S. Military Spending/Defense Budget 1960-2023," Macrotrends, accessed April 21, 2023, <https://www.macrotrends.net/countries/USA/united-states/military-spending-defense-budget>.

⁴ 10 U.S.C., Chapter 49, "Miscellaneous Prohibitions and Penalties," Notes, <https://www.law.cornell.edu/uscode/text/10/subtitle-A/part-II/chapter-49>.

⁵ Geoff Wilson, Project On Government Oversight, "Ushering in a New Generation of Accountable Defense Spending," *Baker's Dozen: Thirteen Crucial Issues Policymakers Can Act on Now*, February 2, 2023, <https://www.pogo.org/report/2023/02/bakers-dozen-thirteen-crucial-issues-policymakers-can-act-on-now#heading-9>.

⁶ Dan Grazier, "The F-35 and Other Legacies of Failure," Project On Government Oversight, March 19, 2021, <https://www.pogo.org/analysis/2021/03/the-f-35-and-other-legacies-of-failure>.

⁷ OpenSecrets, "Defense Summary," <https://www.opensecrets.org/industries/indus.php?Ind=D>.

generals, nine former admirals, 43 former lieutenant generals, and 23 former vice admirals.⁸ Nearly 90% of these former officials became registered lobbyists, where the operational skill is influence-peddling.⁹

In clashes between industry lobbying and military judgment, the lobbyists all too often win. We saw this in 2022 when the Navy attempted to retire nine *Freedom*-class littoral combat ships, with Chief of Naval Operations Admiral Mike Gilday telling the Senate Appropriations Subcommittee on Defense that he “refused to put an additional dollar against that system.”¹⁰ He also said that, while keeping these ships in service would allow for a “larger Navy,” it would also be a Navy that was “less capable, less lethal, and less ready.”¹¹ The Navy justified cutting these ships, which have faced significant problems with their powerplants as well as failures to develop weapons and systems for their hulls, by showing that their early retirements would save some \$4.3 billion over the next five years that could be used to support more pressing Navy priorities.¹²

In a recent investigation, the *New York Times* reported that “A consortium of players with economic ties to the ships — led by a trade association whose members had just secured contracts worth up to \$3 billion to do repairs and supply work on them — mobilized to pressure Congress to block the plan, with phone calls, emails and visits to Washington to press lawmakers to intervene.”¹³

Lobbying efforts like this are often led by former career DOD officials and retired military officers, who have managed to turn their military connections and flag ranks into lucrative careers in the private sector. That was the case with the littoral combat ships. A nearly 20-year retired Navy veteran, Timothy Spratto, led the lobbying effort to thwart their retirement. At the time, Mr. Spratto was general manager of BAE Systems’ Jacksonville, Florida, shipyard where the littoral combat ships on the East Coast are serviced and which recently won part of a \$1.3 billion Navy contract to do repairs on the vessels.¹⁴ According to his LinkedIn page, Spratto’s last role before leaving the Navy was “Assistant Chief of Staff, Material Readiness and Assessments, Naval Surface Forces Atlantic” — the exact sort of position he would later lobby to gin up support for underperforming ships.¹⁵ According to the *New York Times*, the lobbying effort started almost immediately after the Navy announced its plans to retire nine of the ships,

⁸ Project On Government Oversight, *Brass Parachutes*, 9, https://s3.amazonaws.com/docs.pogo.org/report/2018/POGO_Brass_Parachutes_DoD_Revolving_Door_Report_2018-11-05.pdf.

⁹ Project On Government Oversight, *Brass Parachutes*, 9-10 [see note 8].

¹⁰ *Senate Appropriations Subcommittee on Defense Hearing on the Fiscal Year 2023 Navy and Marine Corps Budget Request*, 117th Cong. (May 26, 2022) (Remarks of Admiral Mike Gilday, Chief of Naval Operations) <https://www.navy.mil/Press-Office/Testimony/display-testimony/Article/3046510/senate-appropriations-subcommittee-on-defense-holds-hearing-on-the-fiscal-year/>.

¹¹ *Senate Appropriations Subcommittee on Defense Hearing*, Remarks of Admiral Mike Gilday [see note 10].

¹² Eric Lipton, “The Pentagon Saw a Warship Boondoggle. Congress Saw Jobs,” *New York Times*, February 4, 2023, <https://www.nytimes.com/2023/02/04/us/politics/littoral-combat-ships-lobbying.html>.

¹³ Lipton, “The Pentagon Saw a Warship Boondoggle. Congress Saw Jobs” [see note 12].

¹⁴ Lipton, “The Pentagon Saw a Warship Boondoggle. Congress Saw Jobs” [see note 12].

¹⁵ “LinkedIn page for Timothy Spratto,” LinkedIn, accessed April 18, 2023, <https://www.linkedin.com/in/tbspratto/>.

“with a burst of phone calls to Capitol Hill, local officials in Jacksonville, and the Navy’s ship-maintenance division.”¹⁶

Mr. Spratto was not alone in this effort. Take, for example, retired Rear Admiral James A. Murdoch, who served as program executive officer for the littoral combat ship program from 2011 to 2013. After his retirement, he became the international business development director for ship and aviation systems at Lockheed Martin, one of the prime contractors that built the failing *Freedom*-class littoral combat ships.¹⁷ Or retired Captain Tony Parisi, who penned an op-ed in 2022 for *Real Clear Defense* titled “Don’t Give Up the Ship,” which defended continuing the littoral combat ship program but failed to mention that he was a member of the General Dynamics team responsible for training crews to operate the ships.¹⁸ While writing an op-ed would not trigger post-employment restrictions even if they had covered Captain Parisi (whose rank placed him below their coverage), this contribution to the fight illustrates how the defense industry can deploy the credibility of prior military service to sway public opinion. In the end, this lobbying effort was successful in undermining the Navy and preventing five of the ships from being retired.¹⁹

Existing restraints on lobbying the Pentagon after leaving government are clearly inadequate. Despite the reforms Congress has made in recent years, none of the previously mentioned activities would have been prohibited.²⁰ This is either because post-government employment restrictions don’t apply to most military personnel below an O-7 rank and most civilian personnel below the Senior Executive Service level; the ban that applied to Rear Admiral Murdoch was only for one year; or because an activity like writing an op-ed isn’t considered lobbying and the prohibitions only apply to narrowly defined lobbying activities and contacts.²¹ These weak guardrails risk prioritizing the financial interests of former senior officials and arms contractors over our national security.

Congress should strengthen the post-government employment restrictions for former uniformed and civilian defense personnel. And those restrictions should not be limited to former contracting officials, who are not the only individuals influencing the department’s acquisition decisions. Senior officials make strategic decisions that can influence the department’s budgetary requests, contracting plans, and policy formulation. Officials with no direct role in procurement activities make recommendations and decisions that can shape departmental needs that drive acquisition decisions. While the final call on which bidder receives a particular contract award may not be theirs to make, these officials can influence the criteria that will ultimately determine which companies are eligible to compete for contracts or are likely to succeed. Other officials can shape day-to-day decisions affecting the delivery of contracted services or the evaluation of performance.

In 2017, information technology expert Deep Ubhi helped shape the early direction of what would become the Joint Enterprise Defense Infrastructure (JEDI) contract. A civilian worker for

¹⁶ Lipton, “The Pentagon Saw a Warship Boondoggle. Congress Saw Jobs” [see note 12].

¹⁷ Project On Government Oversight, *Brass Parachutes*, 19 [see note 8].

¹⁸ Lipton, “The Pentagon Saw a Warship Boondoggle. Congress Saw Jobs” [see note 12].

¹⁹ Lipton, “The Pentagon Saw a Warship Boondoggle. Congress Saw Jobs” [see note 12].

²⁰ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties,” Notes [see note 4].

²¹ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties,” Notes [see note 4].

the Pentagon, Mr. Ubhi did market research for the JEDI project in his last two months on the job. He eventually recused himself from the project and, two weeks later, went to work for Amazon in October 2017.²² When his participation in the project and employment negotiations with Amazon came to light in 2018,²³ the contract, which DOD had awarded to Amazon, was upended.²⁴ Another bidder, Oracle, challenged the award. That revolving door case was among the reasons the contract bid was the subject of costly protests, court-ordered holds and investigations, and finally cancellation of the contract.²⁵ The reforms Congress later passed in 2021 to extend recusals would have prevented this calamity.²⁶

Two additional examples also stand out. As undersecretary of defense for acquisition, technology, and logistics, Edward “Pete” Aldridge was head of the Defense Acquisition Board that made the controversial decision to pursue procurement of the Lockheed Martin F/A-22 fighter jet. Two months after he ensured Lockheed would be awarded the contract, he secured a position on the company’s board of directors.²⁷ The Procurement Integrity Act only bars those directly involved with contracting decisions at a granular level from receiving compensation from a contractor for a year after they leave government. It fails to cover higher level officials whose decisions steer the director of contracting efforts.²⁸ When Mr. Aldridge left DOD to work for Lockheed Martin, a spokesperson for the company emphasized that the compensation restriction did not apply to him. As a director, Mr. Aldridge received a \$75,000 retainer and \$75,000 in Lockheed Martin stock.²⁹ After only six years then-Secretary of Defense Robert Gates cancelled production of the F-22, stating, “The more they buy of stuff we don’t need, the less we have available for the stuff we do need. ... It ain’t a complicated problem.”³⁰

So far, we’ve given examples from the Navy and Air Force to illustrate the weaknesses of current revolving door restrictions on senior officials. Let us round things out with one from the Army. Army Lt. General David K. Heebner was a top assistant to Army Chief of Staff General Eric Shinseki. Three months before Heebner retired, the Army announced it was “prepared to move to an all wheel formation as soon as technology permits,” in a shift away from tracked vehicles. General Dynamics, which manufactures the wheeled Stryker, was the beneficiary of this new vision, essentially putting United Defense, which produced tracked vehicles, out of the

²² Karen Weise and Thomas Kaplan, “Giant Military Contract Has a Hitch: A Little-Known Entrepreneur,” *New York Times*, March 20, 2019, <https://www.nytimes.com/2019/03/20/technology/military-contract-deap-ubhi.html>.

²³ Aaron Gregg, “‘Once an Amazonian, always an Amazonian’: Former Pentagon official’s business ties draw scrutiny,” *Washington Post*, December 18, 2018, <https://www.washingtonpost.com/business/2018/12/18/once-an-amazonian-always-an-amazonian-former-pentagon-officials-business-ties-draw-scrutiny/>.

²⁴ Alex Emmons, “Amazon Offered Job to Pentagon Official Involved with \$10 Billion Contract it Sought,” *Intercept*, June 3, 2019, <https://theintercept.com/2019/06/03/amazon-defense-department-jedi-contract/>.

²⁵ Aaron Gregg and Jay Greene, “Fierce backlash against Amazon paved the way for Microsoft’s stunning Pentagon cloud win,” *Washington Post*, October 30, 2019, <https://www.washingtonpost.com/business/2019/10/30/fierce-backlash-against-amazon-paved-way-microsofts-stunning-pentagon-cloud-win/>.

²⁶ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties,” Notes [see note 4].

²⁷ Renae Merle, “Lockheed Adds Director Fresh from the Pentagon,” *Washington Post*, June 27, 2003, <https://www.washingtonpost.com/archive/business/2003/06/27/lockheed-adds-director-fresh-from-the-pentagon/1f65541e-56c7-42be-892b-d2c416f33739/>.

²⁸ 41 U.S.C. § 2104 (2023), <https://www.law.cornell.edu/uscode/text/41/2104>.

²⁹ Merle, “Lockheed Adds Director Fresh From the Pentagon” [see note 27].

³⁰ Greg Jaffe, “Gates Makes Impassioned Case for Ending F-22 Program,” *Washington Post*, July 17, 2009, <https://www.washingtonpost.com/wp-dyn/content/article/2009/07/16/AR2009071603872.html>.

running. Just one month after the Army announced the plan to procure more wheeled vehicles, General Dynamics revealed that it had selected Lt. General Heebner to be its senior vice president of planning and development.³¹ While the Stryker remains in service, the battle in Ukraine has demonstrated the benefit of having tracked vehicles for the purpose of off-road mobility.³²

The law did not prevent these former senior officials from going to work for these companies. Additional restrictions Congress later enacted also would not have prevented these trips through the revolving door. Congress must do more. There is no time to delay in making the necessary reforms to give the public confidence that our weapons procurement decisions and military budget are crafted with integrity and put genuine national security needs first.

Very real national security challenges face us today, but not all of them need high-tech answers or the investment of hundreds of billions of dollars in exquisite new weapons systems. It is critical that lawmakers do all in their power to ensure that decisions regarding the largest part of our annual discretionary spending, on which our national security depends, are made without bias or undue influence from corporate or self-interests.

In 2017, lawmakers included a provision strengthening revolving door restrictions on senior Defense Department officials in Section 1045 of the fiscal year 2018 NDAA.³³ That provision expanded post-government restrictions related to lobbying for military officers at the O-7 level and above, as well as their civilian counterparts in Senior Executive Service and Executive Schedule positions. Except for the secretary, these officials were previously covered by a one-year restriction on communicating with, or appearing before, their former employing components of the Defense Department.³⁴ (The secretary was already covered by a longer and broader restriction.) The new provision expanded the scope of the restriction to cover contacts with any part of the department — not just the former employing components — and to cover behind-the-scenes work, such as research and preparation for lobbying contacts.³⁵ For officials at the O-9 level and above, as well as civilians at Executive Schedule Level III and above, the new provision also extended the length of the restriction to two years.³⁶ POGO supported this important legislation.³⁷ We applauded its passage as a remarkable advancement in protecting the

³¹ Revolving Door Working Group, “The Government-to-Industry Revolving Door,” 32 [see note 26].

³² Lara Seligman, Lee Hudson, and Paul McLeary, “Pentagon weighs sending Stryker combat vehicles to Ukraine,” *Politico*, January 9, 2023, <https://www.politico.com/news/2023/01/09/pentagon-stryker-combat-vehicles-ukraine-00077083>.

³³ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties” [see note 4].

³⁴ 18 U.S.C. § 207(c) (2023), <https://www.law.cornell.edu/uscode/text/18/207>. Regulations of the Office of Government Ethics designate various components of the Department of Defense as separate agencies for the purpose of applying the statutory post-employment restrictions only to communications and appearances before the component that previously employed a former senior or very senior employee. 5 C.F.R. pt. 2641, app. B, https://www.law.cornell.edu/cfr/text/5/appendix-B_to_part_2641.

³⁵ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties” [see note 4].

³⁶ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties” [see note 4].

³⁷ Daniel Van Schooten, Mandy Smithberger, and Scott Amey, “POGO Tells National Defense Authorization Act Conferees to Prioritize Troops and Taxpayers, Not Contractors,” Project On Government Oversight, October 13, 2017, <https://www.pogo.org/letter/2017/10/pogo-tells-national-defense-authorization-act-conferees-to-prioritize-troops-and-taxpayers-not-contractors>.

government against former officials seeking undue influence over the government on behalf of their new employers and clients.³⁸

However, established interests inside the Pentagon had a different reaction. The department dragged its feet on implementing the law for over two years, stalling until March 2020 before releasing a policy.³⁹ Even before issuing this policy, the Pentagon requested a legislative rollback that would strip the behind-the-scenes lobbying restriction and narrow the scope of the no-contact ban to only the former official's former employing component.⁴⁰

POGO and other watchdogs objected to this effort to weaken government ethics in the DOD, and the measure failed.⁴¹ However, Pentagon leaders may try again. If they do, Congress should reject the rollback.

The fiscal year 2022 NDAA added another ethics restriction, now requiring those coming into the Defense Department to recuse for two years from any particular matter involving specific parties in which a former employer is a party or represents a party.⁴² The recusal obligation should be expanded beyond "particular matters involving specific parties" to any "particular matter" affecting the former employer. But we can't stop there.

Congress should enact several additional commonsense measures to slow the revolving door between the Pentagon and the military industrial complex and build a more transparent, accountable, and capable national security policy.

First, lawmakers must close remaining loopholes in current ethics rules, which give former high-ranking officials room to evade post-government employment restrictions.⁴³ The primary post-government employment law, 18 U.S.C. § 207, mainly covers traditional lobbying activities (contacts with parts of the Department of Defense). But it should cover behind-the-scenes work of all types, to prevent former officials from selling their expertise and insider knowledge to defense contractors, as well as to remove the temptation of future employment prospects for current defense officials making decisions that affect contractors.⁴⁴ Another loophole in that law allows the Office of Government Ethics to designate separate components of the DOD for treatment as distinct federal agencies, meaning former officials can contact any part of the DOD other than their former employing component without restriction. While the fiscal year 2018 NDAA may have closed this loophole, 18 U.S.C. § 207 should be amended to incorporate that change.⁴⁵

³⁸ Scott Amey, "Defense Lobbying Ban Might Drain the Pentagon Swamp," Project On Government Oversight, March 12, 2018, <https://www.pogo.org/analysis/2018/03/defense-lobbying-ban-might-drain-pentagon-swamp>.

³⁹ Office of the General Counsel of the Department of Defense, DOD Instruction 1000.32, "Prohibition of Lobbying Activity by Former DOD Senior Officials," March 26, 2020, https://irp.fas.org/DODdir/DOD/i1000_32.pdf.

⁴⁰ Katie Porter and Jackie Speier, "The Pentagon's Proposal to Fill the Swamp," *Lawfare*, June 10, 2020, <https://www.lawfareblog.com/pentagons-proposal-fill-swamp>.

⁴¹ John M. Donnelly, "Pentagon Looks to Undo Parts of McCain Anti-Lobbying Law," *Roll Call*, April 14, 2020, <https://rollcall.com/2020/04/14/pentagon-looks-to-undo-parts-of-revolving-door-law/>.

⁴² 18 U.S.C., Chapter 49, "Miscellaneous Prohibitions and Penalties" [see note 4].

⁴³ Project On Government Oversight, *Brass Parachutes*, 11 [see note 8].

⁴⁴ 18 U.S.C. § 207(c) [see note 34].

⁴⁵ 18 U.S.C. § 207(c) [see note 34]; 5 C.F.R. pt. 2641, app. B [see note 34].

The Procurement Integrity Act imposes a one-year post-government employment bar on a former defense official receiving compensation for employment with a defense contractor that holds a contract award worth more than \$10,000,000.⁴⁶ However, the restriction applies only if the former official served in one of several specified procurement-related capacities with respect to the contract.⁴⁷ This restriction should be expanded to apply to all former senior and very senior employees of the Department of Defense in the chain of command of covered procurement officials, not just to those who were directly involved in procurements. This change would track the concept of a restriction applying to certain matters under a former employee's "official responsibility," which is used in 18 U.S.C. § 207(a)(2). The prohibition as to employers should apply to all divisions, affiliates, and subcontractors of a contractor, and language in the law making it applicable to work as a "consultant" should be amended to explicitly refer to attorneys, lobbyists, and other representatives or advisors to defense contractors.⁴⁸ The loopholes in these restrictions leave room for defense contractors to stack the decks in their favor by bringing former high-ranking officials onto their boards and into executive suite offices, or by otherwise engaging in advocacy that has the impact of lobbying but is not explicitly banned.

Second, Congress should extend the post-government ban on lobbying the DOD. For generals, admirals, and career members of the Senior Executive Service, this restriction should last four years; for political appointees at the Senior Executive Service level and above, the restriction should last either four years or until the end of the presidential administration, whichever is longer. As discussed previously, the recent reforms extended that ban to two years for former military officials at the O-9 level and above and their civilian counterparts. But a two-year ban on lobbying the Department of Defense should also apply to former military officials at the O-7 and O-8 levels, and their civilian counterparts in Senior Executive Service and Executive Schedule positions.

Presidents George H.W. Bush, Bill Clinton, Barack Obama, Donald J. Trump, and Joe Biden all issued ethics Executive Orders or standards of conduct at the start of their presidencies, addressing these ethics issues for their administration. Presidents Clinton and Trump extended the post-government employment lobbying ban on their appointees to five years, and President Biden extended the lobbying ban on his appointees to two years or the duration of his administration, whichever is longer.⁴⁹ It is time for Congress to codify what the public clearly wants from their government.

We are well aware of the objection that expanding post-employment restrictions would make it impossible for former Pentagon officials to find post-government work. But there are terrific examples of senior government officials finding lucrative work in the private sector by leveraging their management experience without exploiting the relationships they developed inside the government. One example is the Bush administration's Deputy Secretary of Energy Kyle McSlarrow, who went on to run the National Cable and Telecommunications Association

⁴⁶ 41 U.S.C § 2104(a)(1) [see note 28].

⁴⁷ 41 U.S.C § 2104(a)(1) [see note 28].

⁴⁸ 41 U.S.C § 2104(a) [see note 28].

⁴⁹ Project On Government Oversight, "Comparing Ethics Orders: Biden's Is on Top, But it Could be Stronger," January 28, 2021, <https://www.pogo.org/resource/2021/01/comparing-ethics-orders-bidens-is-on-top-but-it-could-be-stronger>.

(now known as NCTA – The Internet & Television Association) after leaving government.⁵⁰ Other famous examples include former Secretary of Defense Robert Gates, who became the president of the Boy Scouts of America and then chancellor of William & Mary after leaving the government.⁵¹ There’s also former Secretary of State, Defense, and Army Chief of Staff George C. Marshall, who served as president of the American Red Cross and chairman of the American Battle Monuments Commission.⁵²

Third, Congress should require defense contractors to certify that their employees are in compliance with the requirements of Section 1045 of the NDAA for fiscal year 2018.⁵³ Specifically, Congress should enact a law mandating that the secretary of defense issue regulations requiring each offeror that submits a bid or proposal in response to a solicitation issued by the DOD to include in such bid or proposal a representation that all covered individuals receiving compensation from such offeror are in compliance with the requirements of that section. The Government Accountability Office recommended in 2021 that the DOD issue regulations containing this requirement, and the DOD agreed with the recommendation and committed to do so.⁵⁴ There is no reason Congress should not make this certification a statutory requirement.

Finally, Congress should increase transparency regarding government ethics compliance by current and former defense officials. Congress has mandated that the DOD issue written guidance on post-government employment restrictions to departing senior and very senior employees and retain that guidance in the After Government Employment Advice Repository, but the public has little access to that guidance.⁵⁵ Congress should require the DOD to make that guidance public by posting it in a centralized database on the website of the Office of Government Ethics.

This is data that is already collected and processed by government administrators, following a congressional mandate in 2008.⁵⁶ Furthermore, this information is not private or classified, and can be accessed by a Freedom of Information Act (FOIA) request or by some cursory searching on websites like LinkedIn. POGO has maintained a similar “proof of concept” database to demonstrate a relatively simple and inexpensive way to strengthen federal contractor

⁵⁰ “Kyle McSlarrow, Senior Vice President, TPX Business Planning and Development, Comcast Cable,” Comcast, accessed April 18, 2023, <https://corporate.comcast.com/news-information/leadership-overview/kyle-mcslarrow>.

⁵¹ Erin Zagursky, “Robert M. Gates to be reappointed as W&M Chancellor,” *William & Mary News Archive*, September 20, 2018, <https://www.wm.edu/news/stories/2018/robert-m.-gates-to-be-reappointed-as-wm-chancellor.php>.

⁵² The George C. Marshall Foundation, “Marshall and the Red Cross,” September 22, 2017, <https://www.marshallfoundation.org/articles-and-features/marshall-and-the-red-cross/>; American Battle Monuments Commission, “History,” <https://www.abmc.gov/about-us/history>.

⁵³ 10 U.S.C., Chapter 49, “Miscellaneous Prohibitions and Penalties” [see note 4].

⁵⁴ Government Accountability Office, *Post-Government Employment Restrictions: DOD Could Further Enhance Its Compliance Efforts Related to Former Employees Working for Defense Contractors*, GAO-21-104311 (2021) Recommendations, <https://www.gao.gov/products/gao-21-104311>.

⁵⁵ “Defense Federal Acquisition Regulation Supplement; Senior DoD Officials Seeking Employment with Defense Contractors” (DFARS Case 2008–D007), 74 Fed. Reg. 59913 (November 19, 2009), <https://www.govinfo.gov/content/pkg/FR-2009-11-19/pdf/E9-27849.pdf>.

⁵⁶ 74 Fed. Reg. 59913 [see note 56].

accountability.⁵⁷ The United Kingdom also maintains a public database for its former appointees and government officials.⁵⁸ The public has a strong interest in seeing the formal ethics opinions in DOD's secret database. These opinions are the first line of defense against intentional or inadvertent misconduct by covered former DOD officials, and their publication would go a long way toward assuring taxpayers that military procurement decisions are being made based on merit and not preferential treatment.

Along the same lines, we recommend releasing other ethics records pertaining to top political appointees in the DOD and other agencies on the Office of Government Ethics' website. While the public can request these records under the Freedom of Information Act or, in some cases, under government ethics laws, practical obstacles limit public access to these records. Because the public has no way of knowing when the government has issued an ethics waiver, for example, a member of the public would not know to request a copy of the waiver or where to file the request. Obtaining other records, like ethics screening arrangements, through FOIA requests is a slow process that, in many cases, can only be employed effectively through costly litigation.

But the public's need to know when the government is excusing officials from compliance with ethics laws and regulations or how the government is implementing recusals outweighs any interest an individual official may have in keeping such matters hidden from the public. A law mandating the creation of a centralized database could exclude records containing classified information or records of individual ethics counseling, other than legally mandated issuances like the post-employment guidance in the After Government Employment Advice Repository.⁵⁹ Therefore, the increased transparency and public accountability would not come at any cost to government effectiveness.

We think that it is important to close this section by noting that U.S. military personnel have complied with more serious restrictions than what we are proposing in more demanding times than these. U.S. Navy and Marine Corps personnel were barred from being employed by Navy contractors under U.S. law from 1896 into the 1960s.⁶⁰ That broad restriction specified, "No payment shall be made from appropriations made by Congress to any officer in the Navy or Marine Corps on the active or retired list while such officer is employed by any person or company furnishing naval supplies or war material to the Government."⁶¹ Despite this ban, the U.S. Navy and Marine Corps underwent an incredible technological and doctrinal modernization that allowed them to claim victory in the two largest wars ever fought.

The revolving door has been a growing problem for a long time. The Government Accountability Office has been issuing reports on the problems with the DOD revolving door since at least

⁵⁷ "Pentagon Revolving Door Database," Project On Government Oversight, last modified January 31, 2023, <https://www.pogo.org/database/pentagon-revolving-door>.

⁵⁸ Cabinet Office, "Business Appointment Rules Advice," last updated April 5, 2023, <https://www.gov.uk/government/publications/cabinet-office-business-appointment-rules-advice>.

⁵⁹ 74 Fed. Reg. 59913 [see note 56].

⁶⁰ 10 U.S.C. § 6112 was repealed by Pub. L. 87-649, §14c(36), September 7, 1962, 76 Stat. 501, <https://uscode.house.gov/statviewer.htm?volume=76&page=501>.

⁶¹ 34 U.S.C. § 883, 1896, <https://tile.loc.gov/storage-services/service/ll/uscode/uscode1925-00103/uscode1925-001034016/uscode1925-001034016.pdf>.

1986.⁶² POGO has also pushed for specific reforms since the 1980s.⁶³ We know what the problems are. They have been studied, reported on, evaluated, and reevaluated. Now is the time for Congress to finish what it has started by implementing additional reforms.

End Rubberstamp Approval of Former Military Personnel Serving Foreign Powers

The second problem of outside influence we would like to bring to Congress's attention involves the influence of foreign governments. In the earliest days of the republic, the founders understood the dangers of foreign government influence. That is why they took care to enshrine a safeguard in the Constitution against foreign influence over government officials — the Emoluments Clause. The Emoluments Clause prohibits anyone holding “an office of profit or trust,” which includes retired military personnel and members of the reserves, from receiving payments from foreign governments unless Congress consents.⁶⁴

Congress has granted limited consent to receive such payments for individuals who obtain waivers, first from their employing services and then from the Department of State.⁶⁵ The statutory designation of the State Department as the final approving authority comes with the duty to wield the waiver power responsibly, putting national interests before an individual's profit-seeking activities.⁶⁶ But, in practice, that is not what State Department officials appear to have done.

A POGO investigation, concurrent with an investigation by the *Washington Post*, revealed that the State Department all but rubberstamps these approvals. Between April 2010 and August 2020, over 500 retired and reserve U.S. military personnel received authorization to work for foreign countries.⁶⁷ The governments of some of those countries are notorious for human rights violations and their activities raise questions of potential national security issues.

This is true of the government of Saudi Arabia, one of the top employers at issue in these waivers. The State Department has expressed concern about the authoritarian government's record of abuses, citing “unlawful or arbitrary killings, including extrajudicial killings; enforced disappearances; torture and cruel, inhuman, or degrading treatment or punishment by government agents; harsh and life-threatening prison conditions; arbitrary arrest and detention;

⁶² Government Accountability Office, *DOD Revolving Door; Many Former Personnel Not Reporting Defense-Related Employment*, GAO/NSIAD-86-71 (March 1986), <https://www.gao.gov/assets/nsiad-86-71.pdf>.

⁶³ Danielle Brian-Bland and Dina Rasor, “Lies, Half-Truths, and Misrepresentations: How the Military Gets Its Money,” *Yale Law & Policy Review*, Vol. 5, No. 1 (1986): 102-119, <https://www.jstor.org/stable/40239235>.

⁶⁴ Congressional Research Service, “Foreign Government Employment by Armed Services Retirees,” IF12276, January 5, 2023, <https://crsreports.congress.gov/product/pdf/IF/IF12276/7>; Department of Defense, Standards of Conduct Office, “Application of the Emoluments Clause to DOD Civilian Employees and military personnel,” White Paper, accessed April 19, 2023, https://dodsoco.osd.mil/Portals/102/emoluments_clause_applications.pdf.

⁶⁵ 37 U.S.C. § 908, <https://www.law.cornell.edu/uscode/text/37/908>.

⁶⁶ 22 C.F.R. §§ 3a.2 and 3a.3 (2023), <https://www.law.cornell.edu/cfr/text/22/part-3a>.

⁶⁷ Julienne McClure, “State Dept. Is Quietly Approving Former Servicemembers' Work for Foreign Interests. That's a Problem,” Project On Government Oversight, October 18, 2022,

<https://www.pogo.org/investigation/2022/10/state-dept-is-quietly-approving-former-servicemembers-work-for-foreign-interests-thats-a-problem>; Craig Whitlock and Nate Jones, “Retired U.S. Generals, Admirals Take Top Jobs with Saudi Crown Prince,” *Washington Post*, October 18, 2022, <https://www.washingtonpost.com/investigations/interactive/2022/veterans-us-foreign-jobs-saudi-arabia/>.

political prisoners or detainees; [and] transnational repression against individuals in another country.”⁶⁸ In 2018, Saudi leaders ordered the brutal murder of Jamal Khashoggi, a United States resident employed by the *Washington Post*.⁶⁹

There are also concerns about Saudi Arabia’s ties to our international rivals. The White House has accused the Saudi government of taking measures to help Russia fund its murderous campaign in Ukraine.⁷⁰ The monarchy has also reportedly relied on Russian and Chinese negotiators to work toward reestablishing diplomatic ties with Syria and Iran.⁷¹

Yet former National Security Advisor James Jones and former head of the National Security Agency Keith Alexander, both of whom are retired military officers, have served the Saudi monarchy with the State Department’s blessing.⁷² There is not much higher in the ranks of former United States government insiders a foreign power could hope to reach than these two individuals.

Mr. Jones increased his involvement with the Saudi government after the murder of Mr. Khashoggi.⁷³ The killing did not discourage Jones’s company from applying to do more work for the regime. According to the *Washington Post*, former four-star Air Force General Charles Wald, who worked for Mr. Jones, said, “We asked ourselves, are we basically turning a blind eye toward immorality?”⁷⁴ The answer to that question is yes. And the State Department joined them in ignoring that immorality.

Topping even Saudi Arabia as an employer of former U.S. military personnel is the United Arab Emirates (UAE). The State Department approved nearly 280 waivers permitting former military personnel to work for the regime in the UAE.⁷⁵ Over three-quarters of those waivers authorized work for EDGE Group or one of its subsidiaries, a defense conglomerate owned by the Emirati

⁶⁸ State Department Bureau of Democracy, Human Rights, and Labor, *2022 Country Reports on Human Rights Practices: Saudi Arabia*, (2022), <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/saudi-arabia/>.

⁶⁹ [Shane Harris](#), [Souad Mekhennet](#), [John Hudson](#), and [Anne Gearan](#), “Turks tell U.S. officials they have audio and video recordings that support conclusion Khashoggi was killed,” *Washington Post*, October 11, 2018, https://www.washingtonpost.com/world/national-security/turks-tell-us-officials-they-have-audio-and-video-recordings-that-support-conclusion-khashoggi-was-killed/2018/10/11/119a119e-cd88-11e8-920f-dd52e1ae4570_story.html.

⁷⁰ Jackie Northam, “The White House accuses Saudi Arabia of aiding Russia and coercing OPEC oil producers,” NPR, October 13, 2022, <https://www.npr.org/2022/10/13/1128523146/saudi-arabia-russia-opec-oil-cut-biden-congress-washington>.

⁷¹ Summer Said, Benoit Faucon, and Michael Amon, “Saudi Arabia, Syria Close to Resuming Ties in Russia Brokered Talks,” *Wall Street Journal*, March 23, 2023, <https://www.wsj.com/articles/saudi-arabia-syria-close-to-resuming-ties-in-russia-brokered-talks-a340b817>; Abby Sewell, “Saudi Arabia, Syria may restore ties as Mideast Reshuffles,” Associate Press, March 24, 2023, <https://apnews.com/article/saudi-arabia-syria-restore-relations-192c4b2086b34288bdd530e06fc4a32a>.

⁷² Whitlock and Jones, “Retired U.S. Generals, Admirals Take Top Jobs with Saudi Crown Prince” [see note 68].

⁷³ Whitlock and Jones, “Retired U.S. Generals, Admirals Take Top Jobs with Saudi Crown Prince” [see note 68].

⁷⁴ Whitlock and Jones, “Retired U.S. Generals, Admirals Take Top Jobs with Saudi Crown Prince” [see note 68].

⁷⁵ McClure, “State Dept. Is Quietly Approving Former Servicemembers’ Work for Foreign Interests. That’s a Problem” [see note 68].

state. This year, EDGE’s CEO, Mansour AlIMulla, boasted that his company has “excellent relationships with a lot of partners in China, Russia, and with the different countries.”⁷⁶

The State Department has identified a litany of “significant” human rights violations by the UAE’s rulers, including reports of arbitrary arrests, torture, and disappearances, as well as harassment of human rights organizations.⁷⁷ Despite such concerns, the State Department essentially rubberstamped waiver requests from former military personal to work on behalf of the UAE.

Former Defense Secretary James Mattis received one of these waivers. That was during a brief gap in federal employment, between his service as a Marine Corps four-star general and his appointment as secretary of defense. He did not disclose his work for the Emirati government in the financial disclosure report he filed upon being nominated for defense secretary, though a departmental spokesperson claims he told the Senate Armed Services Committee about it.⁷⁸

As secretary, General Mattis was leading the Department of Defense when former President Trump decided to support a blockade of Qatar by the UAE.⁷⁹ Whatever position then-Secretary Mattis may have taken regarding the blockade behind closed doors, having a former UAE military advisor leading our military at that time risked an erosion of public confidence in the government’s decisions and jeopardized relations with America’s allies.

Another example involves Charles Bolden, retired United States Marine Corps major general and former administrator of the National Aeronautics and Space Administration (NASA). While leading NASA in 2016, then-Administrator Bolden negotiated a cooperation agreement with the UAE.⁸⁰ Following his departure from government, the State Department authorized him to work as a member of the Emirati Space Advisory Committee in 2018. He had expressed his interest in fostering collaboration between the U.S. and UAE as early as 2010, so his work on the 2016 agreement may have been an earnest effort to pursue legitimate policy objectives.⁸¹ But without greater public awareness of the relationships involved or the negotiations, his work for the UAE so soon after leaving government creates an appearance problem that threatens public trust.

These episodes illustrate the potential for conflicts of interest. The State Department’s permissive approach to dispensing foreign government emolument waivers creates a perverse

⁷⁶ Agnes Helou, “EDGE Group CEO Talks Acquisitions, Chinese and Russian Cooperation and Autonomous Systems,” *Breaking Defense*, February 21, 2023, <https://breakingdefense.com/2023/02/edge-group-ceo-talks-acquisitions-chinese-and-russian-cooperation-and-autonomous-systems/>.

⁷⁷ State Department Bureau of Democracy, Human Rights, and Labor, *2022 Country Reports on Human Rights Practices: United Arab Emirates*, (2022), <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/united-arab-emirates/>.

⁷⁸ Mandy Smithberger, “Generally Concerning,” Project On Government Oversight, August 2, 2017, <https://www.pogo.org/investigation/2017/08/generally-concerning>.

⁷⁹ Julian Borger, “Qatar Blockade Exposes Rifts in Trump Administration’s ‘Peculiar’ Foreign Policy,” *Guardian*, June 24, 2017, <https://www.theguardian.com/us-news/2017/jun/24/qatar-blockade-trump-administration-foreign-policy>.

⁸⁰ National Aeronautics and Space Administration, “NASA, UAE Sign Significant Outer Space, Aeronautics Cooperation Agreement,” Press Release 16-058, June 12, 2016, <https://www.nasa.gov/press-release/nasa-uae-sign-significant-outer-space-aeronautics-cooperation-agreement>.

⁸¹ McClure, “State Dept. Is Quietly Approving Former Servicemembers’ Work for Foreign Interests. That’s a Problem” [see note 68].

incentive for officials to consider currying favor with foreign governments before they leave the military. This temptation could lead to misusing their positions in the hopes of reaping rewards after they leave their posts. The *Washington Post* reported that some former top officials received six- and seven-figure payments working for foreign governments, “far more than what most American service members earn while on active duty.”⁸²

The effects of these waivers even touches on one of the most hotly debated issues in Congress today: the strategic challenge to the United States from China. Between April 2010 and August 2020, at least four emoluments waivers were approved for former U.S. military personnel to work for organizations with ties to China.⁸³ This is despite the fact that the DOD and Secretary of Defense Lloyd Austin have described China as “America’s pacing threat,” with other DOD officials clarifying that “China is the only country that can pose a systemic challenge to the United States in the sense of challenging us, economically, technologically, politically and militarily.”⁸⁴

Beyond the problem of the State Department’s permissiveness with waivers, there is also the issue of transparency. In theory, the public should have access to these waivers to monitor the risks the State Department is choosing to create. But it took protracted FOIA litigation by both POGO and the *Washington Post* to secure the release of these waivers, with the State Department and the Department of Justice fighting against it. If those agencies had put as much effort into considering these waivers as they put into keeping them from the public, there might be fewer waivers.

After we prevailed in the FOIA case, the documents still left questions unanswered. Many of them were heavily redacted. The government redacted names of officials receiving the waivers in 80% of the waivers generally and 98% of the waivers for work on behalf of the UAE.⁸⁵ Even without redactions, the waivers were short on details. In some cases, they identified the employing entity but not the foreign country for which the work was to be performed. And in cases of firms with numerous clients, identifying the client nation from the waiver was often impossible.

When highly visible former members of U.S. military leadership appear on television, give quotes to reporters, or publish opinion pieces, they enjoy the trust of a public that assumes their proven loyalty is solely to the interests of our own country. But if they are working for a foreign government, or hope to work for one in the future, that trust may be misplaced. The public should know of their divided interests. Unfortunately, the State Department has left the public without tools to identify these conflicts of interest if the former officials in question fail to share that information.

⁸² Whitlock and Jones, “Retired U.S. Generals, Admirals Take Top Jobs with Saudi Crown Prince” [see note 68].

⁸³ McClure, “State Dept. Is Quietly Approving Former Servicemembers’ Work for Foreign Interests. That’s a Problem” [see note 68].

⁸⁴ Jim Garamone, “Official Talks DOD Policy Role in Chinese Pacing Threat, Integrated Deterrence,” Department of Defense, June 2, 2021, <https://www.defense.gov/News/News-Stories/Article/Article/2641068/official-talks-DOD-policy-role-in-chinese-pacing-threat-integrated-deterrence/>.

⁸⁵ McClure, “State Dept. Is Quietly Approving Former Servicemembers’ Work for Foreign Interests. That’s a Problem” [see note 68].

This lack of transparency thwarts public oversight. Without knowing the name of a former official being granted a waiver, the public does not know what expertise and insider knowledge is being put to use abroad. Without knowing which country is buying that former official's services, the public cannot gauge the risks created. And without knowing what services a former official will provide, the public has no way to scrutinize whether divided loyalties could have influenced an official's prior work for our own government. These are not risks Americans should bear in ignorance.

But there are things Congress can do to improve the situation. This year, POGO published a list of recommendations on how to deter foreign influence.⁸⁶ We recommend that Congress:

- Enact substantive prohibitions on former government officials (including but not limited to the military) seeking and obtaining employment with certain problematic foreign countries or entities controlled by those countries. The list of prohibited employers should include adversaries, serial human rights abusers, regimes that do not respect religious freedom, and other authoritarian and malign governments and the entities controlled by those governments.
- Enact a five-year ban or a ban that lasts for the duration of a president's administration, whichever is longer, on former senior and very senior DOD employees covering both representational activity and behind-the-scenes assistance to foreign governments, foreign political parties, and foreign business entities.
- Require expanded waiver applications to include more substantive details and information about potential foreign employers, including the precise nature of the role, any preexisting relationships or communications between the applicant and the prospective employer, compensation, and additional relevant information.
- Require submission of comprehensive waiver application data to Congress on a regular basis and make those reports available to the public within a reasonable time frame. This reporting should come from the Department of Defense and Department of State, and should include complete articulation of the methodology and procedures for assessing and rendering decisions on waiver applications.
- Require a retrospective analysis and subsequent report on previously approved waivers and any conflict of interest or national security concerns that were either flagged at the time and not resolved or that were flagged and adjudicated. This report should also specifically address any waivers in which the Department of State flagged International Traffic in Arms Regulations (ITAR) concerns, what the exact nature of those concerns were, and how they were resolved.
- Impose robust financial penalties for those retired and reserved officials who violate the law by not obtaining a waiver prior to working on behalf of a foreign interest or who have otherwise violated the rules in place around seeking employment with foreign interests.
- Require the Government Accountability Office to periodically audit the emoluments waiver system and its efficacy as well as any ongoing concerns around the potential

⁸⁶ Dylan Hedtler-Gaudette, "How to Deter Foreign Influence and Protect Government Integrity," Project On Government Oversight, February 22, 2023, <https://www.pogo.org/resource/2023/02/how-to-deter-foreign-influence-and-protect-government-integrity>.

corrupting impact of former U.S. government officials working on behalf of foreign interests.

POGO urges the committee to undertake the work of implementing our recommendations by advancing legislation. The American people deserve nothing less than the protection these solutions would provide.

Reduce Risk and Appearance of Financial Conflicts of Interest for Senior Pentagon Officials

The final corrupting phenomenon we recommend Congress address is the possibility and the appearance of ongoing financial conflicts of interest that exist because of an inadequate ban on stock ownership by certain defense officials.

The law currently prohibits specified defense officials from owning or purchasing stocks in the top 10 companies doing business with the Pentagon during the previous five fiscal years.⁸⁷ Those 10 companies claim a disproportionate chunk of contract awards — over 38%. But in fiscal year 2022, the top 100 contractors accounted for 61% of obligated contract dollars.⁸⁸ Most of those companies rely on the Pentagon as their largest or, in some cases, only customer.⁸⁹ Expanding the ban to cover these 100 companies would significantly reduce the risk as well as the perception of conflicts of interest.

Furthermore, the current prohibition only applies to senior acquisition officials. As we mentioned earlier, other senior officials who are not designated as acquisition officials can significantly impact the fortunes of companies. Their ability to hold stock in companies that do business with the DOD damages public faith in the department. Applying the prohibition to more senior officials would help restore the public's trust.

With so much money and the security of the nation at stake, the public deserves to know that legal safeguards are sufficient to prevent the temptation of lucrative investment returns from compromising our national defense.

Contractor interactions with defense personnel create risks of conflicts of interest, as well as the potential for insider trading based on information gleaned from these interactions. There is no way for Congress or the public to know how often these risks materialize under the current circumstances. This creates an appearance problem for the DOD because the public cannot rule out the possibility of conflicts of interest and insider trading. Banning more senior officials from owning stocks in a wider array of defense contractors can significantly reduce both the risks of insider trading and the appearance of these possible conflicts.

This simple measure would bolster public confidence in defense programs. Congress should apply the stock ownership prohibition to all senior and very senior employees covered by subsections (c) and (d) of 18 U.S.C. § 207, and expand the current prohibition to the top 100 defense contractors. Broadening the scope of this stock ownership ban to cover more senior

⁸⁷ 10 U.S.C. § 988 (2023), <https://www.law.cornell.edu/uscode/text/10/988>.

⁸⁸ Defense and Security Monitor, "Top 100 Defense Contractors 2022," *Forecast International*, February 22, 2023, <https://dsm.forecastinternational.com/wordpress/2023/02/22/top-100-defense-contractors->

⁸⁹ "Top 100 for 2022," *Defense News*, <https://people.defensenews.com/top-100/>.

officials and more of the top companies working with the Pentagon would strengthen the public's faith in the DOD while reducing the risks of financial conflicts of interest.

Senior leaders in the government have ample alternatives for investing without jeopardizing national security or public trust, including diversified mutual funds, diversified exchange-traded funds, and the Thrift Savings Plan's portfolio investments. Demonstrating the viability of this approach, this committee used to require nominees for Senate-confirmed positions to commit to divesting all defense contractor stock in their ethics agreements, and there is no reason to believe that this practice affected the quality of Pentagon leadership.⁹⁰

Conclusion

Major General Smedley Butler, who twice won the Congressional Medal of Honor while serving 33 years in the United States Marine Corps, wrote after World War I, "War is a racket. It always has been. It is possibly the oldest, easily the most profitable, surely the most vicious. ... It is the only one in which the profits are reckoned in dollars and the losses in lives. A racket is best described, I believe, as something that is not what it seems to the majority of people. Only a small 'inside' group knows what it is about. It is conducted for the benefit of the very few, at the expense of the very many. Out of war a few people make huge fortunes."⁹¹

Echoing these comments, President Dwight D. Eisenhower warned in his 1961 farewell address that "we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together."⁹²

There is too much at stake now to do nothing. This Congress is in a position to make a real impact. We urge Congress to pass legislation that more effectively slows the revolving door between the Pentagon and defense contractors while simplifying the rules; deters the possibility of foreign influence by ending the rubberstamp approval of former military personnel working

⁹⁰ Ethics agreements of Department of Defense nominees used to be explicit as to the requirement to divest contractor stocks, a requirement we believe came from the policy of the Senate Armed Services Committee at the time. See Letter from Robert Work (nominee for the position of Deputy Secretary) to Stephen Preston, General Counsel and Designated Agency Ethics Official, Department of Defense, February 7, 2014, 1 ("During my term of office, neither my spouse nor I will invest in any company identified as a Department of Defense contractor or any other entity that would create a conflict of interest with my Government duties. I understand that if any company in which my spouse or I invest enters into a contract with the Department of Defense, my spouse or I will be required to divest that interest."), <https://www.documentcloud.org/documents/23784690-dod-robert-o-work-2015ea>; Letter from Dr. Jonathan Woodson (nominee for the position of Assistant Secretary of Defense for Health Affairs) to Jeh Johnson, General Counsel and Designated Agency Ethics Official, Department of Defense, April 23, 2010 (similar language), <https://www.documentcloud.org/documents/23784697-dod-02542-jonathan-woodson-ea>.

⁹¹ Smedley D. Butler, *War is a Racket*, (New York: Round Table Press, INC., 1935), 1-2.

⁹² Dwight D. Eisenhower, "President Dwight D. Eisenhower's Farewell Address," (speech, the Oval Office, Washington, DC, January 17, 1961), <https://www.archives.gov/milestone-documents/president-dwight-d-eisenhowers-farewell-address>.

for foreign governments; and expands the stock ownership prohibition to reduce the risk and perception of financial conflicts of interest for senior Pentagon officials.

Our aspirational American values of government ethics and taxpayer accountability are all touched by these reforms. And in a very real sense, the strength of our military and our readiness are also directly undermined when policymakers make decisions based not on actual need, but on what is best for the bottom line of defense contractors. Congress should move to ensure that the United States military, the servicemembers who wear its uniforms, and the citizens who depend on their service are all provided for by a system that prioritizes our national security and results over private gains.