

**Advance Questions for Alissa M. Starzak**  
**Nominee for the Position of General Counsel**  
**of the Department of the Army**

**Defense Reforms**

**The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms have strengthened the warfighting readiness of our Armed Forces. They have enhanced civilian control and clearly delineated the operational chain of command and the responsibilities and authorities of the combatant commanders, and the role of the Chairman of the Joint Chiefs of Staff. They have also clarified the responsibility of the Military Departments to recruit, organize, train, equip, and maintain forces for assignment to the combatant commanders.**

**Do you see the need for modifications of any Goldwater-Nichols Act provisions?**

I believe that Goldwater-Nichols and other reforms significantly improved interservice and joint relationships within the Department of Defense. The principles that animated Goldwater-Nichols—including enhancing civilian control of the military, improving military advice to civilian leaders, strengthening the role of combatant commanders to allow them to accomplish the missions assigned to them, and encouraging joint officer management—continue to apply today. I understand that there is currently a desire to take a careful look at Goldwater-Nichols to assess whether any changes are necessary. Although at this time, I am unaware of any need to amend Goldwater-Nichols, I look forward to being involved in those discussions, if confirmed, and to recommend any changes I believe to be warranted through the established process.

**If so, what areas do you believe might be appropriate to address in these modifications?**

As noted above, I am not aware of any need to amend Goldwater-Nichols.

**Duties**

**What is your understanding of the duties and functions of the General Counsel of the Department of the Army?**

The duties and functions of the General Counsel of the Army are determined and assigned by the Secretary of the Army. The General Counsel provides legal advice to the Secretary of the Army, the Under Secretary, the Assistant Secretaries, and other offices within the Army Secretariat and serves as the chief legal officer of the Department of the Army responsible for determining the controlling legal positions of the Department. I understand that the General Counsel's responsibilities extend to any matter of law and to

other matters as directed by the Secretary, to include overseeing matters in which the Army is involved in litigation, taking final action on certain claims filed against the Army, providing professional guidance to the Army's legal community, and establishing and administering the Army's policies concerning legal services.

**What background and experience do you possess that you believe qualifies you to perform these duties?**

Because of the broad nature of the duties and responsibilities of the office, the Army General Counsel must not only have good judgment and legal skills, but also the ability to build strong relationships and work collaboratively with individuals in the Army, across the Executive branch, and in the Congress. I believe my experience, both inside and outside the Department of Defense, has prepared me for this role.

After receiving a Bachelor of Arts degree, magna cum laude, from Amherst College, I attended the University of Chicago Law School, where I was an editor on the Law Review and graduated with honors. After graduation, I served as a law clerk to the Honorable E. Grady Jolly, on the U.S. Court of Appeals for the Fifth Circuit in Jackson, Mississippi. I subsequently moved to Washington, D.C., to practice law at the law firm of O'Melveny and Myers, where I focused on compliance, corporate investigations and white collar defense. In 2005, I joined the Office of General Counsel at the Central Intelligence Agency, before becoming a counsel on the Senate Select Committee on Intelligence in 2007. I currently serve as a Deputy General Counsel in the Department of Defense Office of General Counsel, working on a variety of legal issues related to Congress, including issues directly related to the Army. I believe that this legal and practical experience –in three branches of government –will serve me well in addressing the wide range of issues that will face the Department of the Army.

**Do you believe that there are actions you need to take to enhance your ability to perform the duties of the General Counsel of the Department of the Army?**

I am confident that I have the necessary legal and professional experience, analytic skills, and leadership abilities to be the General Counsel of the Department of the Army. If I am confirmed, I will establish and maintain close and professionally cooperative relationships with the talented and dedicated attorneys in the Office of the General Counsel, with The Office of The Judge Advocate General of the Army, and with other offices dealing with matters of mutual interest in order to provide the best possible legal services to all members of the Department of the Army.

**Assuming you are confirmed, what duties and functions do you expect that the Secretary of the Army would prescribe for you?**

If I am confirmed, I will be ready to execute the responsibilities of the General Counsel set forth in the General Order prescribing the duties of each principal officer of Headquarters, Department of the Army. In addition to these duties, I anticipate that the

Secretary of the Army will expect me to manage the Office of General Counsel efficiently and effectively, ensuring that it provides accurate and timely legal advice. I also anticipate that the Secretary will expect me to work collaboratively with The Judge Advocate General, the General Counsels of the Department of Defense, the other Military Departments, and the Defense Agencies, and the legal staff of other federal agencies.

**In carrying out your duties, how will you work with the General Counsel of the Department of Defense?**

While the General Counsels of the Army, Navy and Air Force serve as the chief legal officers of their respective departments, the General Counsel of the Department of Defense is the chief legal officer and final legal authority for the entire Department of Defense. If confirmed, I intend to continue the close professional relationship I have with Mr. Robert Taylor, the Acting General Counsel of the Department of Defense, by meeting regularly and collaboratively working in furtherance of the best interests of the Department of Defense.

**Major Challenges**

**In your view, what are the major challenges that will confront the General Counsel of the Department of the Army?**

The General Counsel of the Department of the Army must provide accurate and timely legal advice on the full spectrum of matters that arise in the Army. In a time of shrinking budgets, the General Counsel will be confronted with significant legal matters related to balancing and transitioning the Army. In addition, I expect that the General Counsel will confront significant challenges related to the prevention of, and response to, sexual assault, military and civilian personnel policies, acquisition, and compliance with environmental law.

**Assuming you are confirmed, what plans do you have for addressing these challenges?**

If confirmed, I plan to prioritize legal issues consistent with the Secretary of the Army's priorities, and to work closely with the Secretary, the Chief of Staff, The Judge Advocate General, and the attorneys in the Office of the General Counsel to provide timely, accurate, and candid legal advice. If confirmed, I will also ensure that the Office of the General Counsel is appropriately resourced and staffed to address those priorities.

**What do you see as the most significant legal issues the Army will face in the coming year?**

In an environment of declining resources, the Army is facing difficult policy choices and a period of significant transition. Those efforts to rebalance and reform the Army will invariably involve significant legal questions. Although it is difficult to predict exactly what other significant legal issues will arise in the coming year, if confirmed, I will work

closely with the talented team of attorneys and judge advocates in the Office of the General Counsel to address those issues.

**Does the Army Office of the General Counsel have the resources to deal with these problems?**

At this time, I believe the Office of the General Counsel has the resources needed to address the many difficult legal issues confronting the Army today. If I am confirmed, I will be in a better position to evaluate this important management and leadership issue.

**What broad priorities will you establish in terms of issues which must be addressed by the Office of the General Counsel of the Department of the Army?**

If confirmed, I plan to carefully examine the structure and functioning of the Office of General Counsel to ensure that it continues to appropriately address the needs of the Army as changes are made to the Army's operating framework. To provide high-quality, timely legal advice, the Army legal community must be integrated into the broader Army community and involved at all stages of the decision-making process. If confirmed, I also intend to carefully review programs for attorney recruitment and retention to ensure that the Office has the skills and capacity to address the challenges of the future.

**Relationships**

**What is your understanding of the formal and informal relationship between the General Counsel of the Army and the following offices?**

**The General Counsel of the Department of Defense**

I understand that the Acting General Counsel of the Department of Defense, Mr. Robert Taylor, has worked closely with the General Counsels of the Military Departments. If confirmed, I intend to continue the professional relationship I have with Mr. Taylor, which will include routine consultation, communication, and cooperation on matters of mutual interest, furthering the best interests of the Department of the Army and the Department of Defense.

**The Secretary of the Army**

As the head of the Department of the Army, the Secretary of the Army is responsible for all affairs of the Department. If confirmed, my primary responsibility will be to provide the Secretary with clear, concise, and correct legal advice and counsel, and to perform the duties and functions he has assigned. In order to execute these responsibilities to the highest standard, I intend to establish a strong relationship with the Secretary of the Army that will enhance my ability to communicate with him directly and candidly on all matters.

### **The Chief of Staff of the Army**

The Chief of Staff of the Army is the senior military officer of the Department of the Army and a member of the Joint Chiefs of Staff. The Chief of Staff is directly responsible to the Secretary of the Army on all matters except those related to his role as a member of the Joint Chiefs of Staff. If confirmed, I will work closely with The Judge Advocate General to continue the excellent relationship between the Army General Counsel, the Chief of Staff, and the Army Staff.

### **The Assistant Secretaries of the Army**

I understand that the five Assistant Secretaries of the Army perform the duties and responsibilities assigned to them in statute and prescribed by the Secretary of the Army. In broad terms, the Assistant Secretaries formulate and oversee policies and programs within their functional areas. As the chief legal officer of the Department of the Army, the General Counsel is responsible for providing legal advice, counsel, and guidance to the Assistant Secretaries and their staffs. If confirmed, I will seek to establish strong, productive relationships with each of the Assistant Secretaries and ensure that the Office of the General Counsel continues to provide timely and correct legal advice to their respective staffs.

### **The Judge Advocate General of the Army**

In coordination with the Army General Counsel, I understand The Judge Advocate General serves as military legal advisor to the Secretary of the Army and the primary legal advisor to the Chief of Staff of the Army, members of the Army Staff, and members of the Army generally. Additionally, I recognize that The Judge Advocate General has the primary responsibility for providing legal advice and services regarding the Uniform Code of Military Justice (UCMJ) and the administration of military discipline. A close, professional relationship between the civilian and uniformed members of the Army's legal community is critical. If confirmed, I will work collaboratively with The Judge Advocate General to provide the best possible legal support to the Army.

### **The Inspector General of the Department of Defense**

The Inspector General of the Department of Defense is responsible for advising the Secretary of Defense on criminal investigative matters and all other matters relating to the prevention and detection of fraud, waste, and abuse within the Department of Defense. If confirmed, I will work with the Inspector General of the Department of Defense on matters related to the Department of the Army to ensure that Army interests are fully and fairly represented and to ensure Army actions taken as a result of Department of Defense Inspector General recommendations are executed in compliance with applicable law, directives, and regulations.

### **The Inspector General of the Army**

The Inspector General of the Army reports directly to the Secretary of the Army regarding the discipline, efficiency, and economy of the Army, and on other matters specifically assigned by the Secretary. If confirmed, I anticipate maintaining a close and professional relationship with The Inspector General to ensure that he and his staff have the legal advice and support they require for mission success.

### **The General Counsels of the other military departments**

Like the General Counsel of the Army, the General Counsels of the other Military Departments serve and act under the authority, direction, and control of the Secretaries of their respective Departments. If confirmed, I would expect to work closely with them on matters of mutual interest. I know that the Acting General Counsel of the Department of Defense, Mr. Taylor, facilitates this effort in order to best use the legal services across the Department of Defense. I look forward to participating in this effort.

### **The Attorney General and the Department of Justice**

The Attorney General is the chief legal officer of the Executive Branch and may issue controlling guidance on certain legal issues. I also know the Attorney General and the Department of Justice represent the Department of the Army in litigation before Federal district courts and State courts. I view a strong relationship between the Army and the Department of Justice to be critical to success, and if confirmed, I will work in conjunction with The Judge Advocate General and the General Counsel of the Department of Defense to ensure the continuation of the Army's current cooperative relationship with the Attorney General and the Department of Justice.

### **Relationship with the Judge Advocate General**

#### **In carrying out your duties if you are confirmed, how will you work with the Judge Advocate General of the Army?**

It is essential that the Army General Counsel maintain a close and cooperative relationship with The Judge Advocate General. A productive and positive relationship sets the tone and the direction for the effective delivery of legal services to the Army at all echelons. I know The Judge Advocate General shares this view, and if confirmed, we will work together to ensure the Offices of the General Counsel and The Judge Advocate General work closely together in the spirit of teamwork to deliver the best possible legal services to the members of the Army.

#### **How are the legal responsibilities of the Department of the Army allocated between the General Counsel and the Judge Advocate General?**

The Army General Counsel serves as the chief legal officer for the Department of the Army. As a component of the Army Secretariat, the Office of the Army General Counsel is charged to provide advice to the Secretary of the Army and other Secretariat officials on any subject of law and on other matters as directed by the Secretary of the Army. The

Army General Counsel is authorized to provide the controlling legal opinion in any matter for the Army. The Judge Advocate General is the chief legal advisor to the Chief of Staff of the Army, members of the Army Staff, and members of the Army generally. In coordination with the Army General Counsel, The Judge Advocate General serves as the military legal advisor to the Secretary of the Army. The law prohibits interference with the ability of The Judge Advocate General to provide independent legal advice to the Secretary of the Army, which I fully support. The Judge Advocate General provides supervision over the delivery of a wide-range of legal services across the Army. The Judge Advocate General also has primary responsibility for providing legal advice and services regarding the Uniform Code of Military Justice and the administration of military discipline. The Offices of the Army General Counsel and The Judge Advocate General have a well-developed and supportive working relationship in their respective responsibilities. If confirmed, I will work to continue this productive partnership for the benefit of the Army.

**If confirmed, how would you ensure that legal opinions of your office will be available to Army attorneys, including judge advocates?**

I understand the respective offices of the General Counsel and The Office of The Judge Advocate General have a longstanding routine and cooperative working arrangement. Open lines of communication and collaboration are essential to ensure legal views and opinions issued by the Office of the Army General Counsel and the Office of The Judge Advocate General are readily available to all Army attorneys, both civilian attorneys and judge advocates. If confirmed, I will support this relationship in a positive manner.

**In response to attempts within the Department of Defense to subordinate legal functions and authorities of the Judge Advocates General to the General Counsels of the Department of Defense and the military services, Congress enacted legislation prohibiting any officer or employee of the Department of Defense from interfering with the ability of the Judge Advocates General of the military services and the legal advisor to the Chairman of the Joint Chiefs of Staff to provide independent legal advice to the Chairman, service secretaries, and service chiefs.**

**What is your view of the need for the Judge Advocate General of the Army to have the authority to provide independent legal advice to the Secretary of the Army and the Chief of Staff of the Army?**

I believe it is essential that the expertise of The Judge Advocate General be available to the Secretary of the Army and the Chief of Staff of the Army. I fully support the law, in both principle and in spirit, empowering The Judge Advocate General of the Army to provide independent legal advice honed by years of experience and informed judgment on military affairs to the Secretary of the Army and the Chief of Staff of the Army.

**What is your view of the responsibility of Army judge advocates to provide independent legal advice to military commanders?**

Army commanders are charged with the responsibility to maintain discipline and to ensure the lawful conduct of the forces under their control, in addition to the proper functioning of their unit or organization. Army Judge Advocates at all levels provide valuable aid to commanders and leaders to maintain discipline and to help avoid a myriad of legal pitfalls in the day-to-day business of command. A Judge Advocate's ability to provide candid legal advice to a commander and staff, both openly and in confidence as needed, is absolutely critical. Army commanders need and deserve the best legal advice and judgment available. This is best achieved when Judge Advocates are empowered to provide commanders with independent legal advice, supported by appropriate guidance from supervising attorneys.

**If confirmed, would you propose any changes to the current relationships between the uniformed judge advocates and the Army General Counsel?**

If confirmed, I will always look for opportunities to improve and to strengthen the relationships between the uniformed judge advocates and the staff of the Office of the General Counsel. At this time, I am not aware of any need for change, and my understanding is that the current relationship works well.

**Are legal opinions of the Office of the Army General Counsel binding on all Army lawyers?**

Because the Army General Counsel is the chief legal officer for the Department of the Army as directed by the Secretary of the Army, legal opinions issued by the Office of the Army General Counsel are controlling throughout the Department of the Army. As a general matter, however, I understand that opinions are typically drafted in collaboration with The Judge Advocate General. If confirmed, I would ensure that significant legal opinions are informed by the expertise of both civilian attorneys and judge advocates.

**How will you ensure that such legal opinions are available to Army lawyers?**

Written opinions of the Office of the General Counsel for the Department of the Army are distributed in the ordinary course of business, using normal departmental distribution processes. If confirmed, I expect to continue this practice.

**If confirmed, are there specific categories of Army Counsel legal opinions that you expect to reconsider and possibly revise? If so, what categories?**

I am not aware of any specific categories of Army General Counsel legal opinions in need of reconsideration or revision. If confirmed, however, as the need arises, I would review opinions warranting revision consistent with contemporary law in consultation with the appropriate attorneys and subject matter experts within the Army and elsewhere as appropriate.



**Article 6 of the Uniform Code of Military Justice gives primary jurisdiction over military justice to the Judge Advocates General of the Army, Navy, and Air Force.**

**How do you view the responsibilities of the Army General Counsel in the performance of military justice matters with regard to the Judge Advocate General of the Army?**

The Judge Advocate General's responsibilities to ensure the proper administration of the military justice system require direct and independent advice to the Secretary of the Army. If confirmed, I look forward to supporting The Judge Advocate General on military justice matters with consultation, advice, and assistance, as needed.

### **Attorney Recruiting and Retention Issues**

**If confirmed, how do you assess your ability to hire and retain top quality attorneys and provide sufficient opportunity for advancement?**

I believe my background and experience have prepared me to meet the challenges of recruiting and retaining top quality attorneys and providing meaningful and rewarding opportunities for those attorneys to advance. Nevertheless, I believe the Army will face significant challenges in the coming years as we compete with the private sector and other federal employers for quality attorneys, while shrinking resources will force us to demand more from the highly qualified attorneys we already have. If confirmed, I will work to ensure the Army allocates sufficient resources to attract and select only the best qualified candidates for military and civilian attorney positions. In doing so, I will work closely with the Office of The Judge Advocate General to retain the best attorneys to provide first-rate legal services to the Army, its commanders, Soldiers, and family members.

**In your view, does the Department of the Army have a sufficient number of civilian and military attorneys to perform its missions?**

My understanding is the Army General Counsel has a sufficient number of civilian attorneys to perform its mission, and the Judge Advocate General's Corps (JAG) has enough military and civilian attorneys to meet its current requirements. To address emerging requirements, however, including special victim capabilities (required by the FY2013 National Defense Authorization Act) and special victim counsel (required by the FY2014 National Defense Authorization Act), the Army JAG Corps is planning to grow. Recognizing that as the Army draws down, legal support requirements may increase, I will closely monitor these emerging requirements and ensure they are resourced appropriately.

**In your view, what incentives to successful recruiting and retention of attorneys, if any, need to be implemented or established?**

I understand the legal market is projected to become increasingly competitive over the next several years, with fewer students graduating from law school and a likely increase in hiring by private sector law firms. In my view, it is crucial that the Army renew our commitment to funding current incentive programs, like student loan repayment and career retention bonuses, notwithstanding the current fiscal challenges. These programs are needed to attract and retain the highest quality attorneys.

### **Detainee Issues**

**What role do you expect to play, if confirmed, in addressing legal issues regarding detainees?**

Although issues relating to the treatment of detainees most often arise in combatant commands, there are many Army judge advocates serving in those combatant commands, and the General Counsel of the Army may in some circumstances have an appropriate role in assisting those judge advocates with legal issues regarding detainees.

**Section 1403 of the National Defense Authorization Act for Fiscal Year 2006 provides that no individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.**

**In your view, is the Section 1403 prohibition in the best interest of the United States? Why or why not?**

Yes, I believe this prohibition is in the best interest of the United States and is fully consistent with protecting our national security.

**Do you believe that the phrase “cruel, inhuman, or degrading treatment or punishment” has been adequately and appropriately defined for the purpose of this provision?**

The Detainee Treatment Act of 2005 and the Military Commissions Act of 2009 define “cruel, inhuman, or degrading treatment or punishment” as the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution. I think this definition provides a clear standard for ensuring that detainees in the custody of the U.S. Government are treated in a humane manner.

**What role do you believe the General Counsel of the Army should play in the interpretation of this standard?**

The General Counsel should play an independent role in advising the Secretary of the Army and those who fall under his command on the standards governing the treatment of persons detained by the U.S. Army, including any interpretation of this legal standard.

**What role do you believe the Judge Advocate General of the Army should play in the interpretation of this standard?**

The Judge Advocate General of the Army should be intimately involved in the interpretation of legal standards governing the treatment of detainees and should provide independent legal advice to the Secretary of the Army. The Judge Advocate General and the lawyers she leads – many of whom have served multiple deployments – bring experience and an important perspective to these and many other operational matters. If confirmed, and if called on to offer any guidance on this standard, I would expect to work collaboratively with The Judge Advocate General to provide clear advice to the field.

**Do you support the standards for detainee treatment specified in the revised Army Field Manual on Interrogations, FM 2-22.3, issued in September 2006, and in DOD Directive 2310.01E, the Department of Defense Detainee Program, dated September 5, 2006?**

Yes, I support the requirements in revised Army Field Manual on Interrogations, FM 2-22.3, issued in September 2006, and DOD Directive 2310.01E, reissued on August 14, 2014, that all detainees and detained personnel be treated humanely and with respect for their dignity.

**Section 2441 of title 18, United States Code, as amended by the Military Commissions Act of 2006, defines grave breaches of common Article 3 of the Geneva Conventions, including torture and cruel and inhuman treatment.**

**In your view, does section 2441 define these terms in a manner that provides appropriate protection from abusive treatment to U.S. detainees in foreign custody and to foreign detainees in U.S. custody?**

I believe section 2441 provides an appropriate standard for protecting both U.S. detainees in foreign custody and foreign detainees held in our custody.

**Section 812 of title 10, United States Code states: “No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or foreign nationals not members of the armed forces.”**

**Consistent with the statute, what recommendations would you provide the Secretary of the Army, if confirmed regarding the possible holding of foreign detainees at DOD Regional Corrections Facilities and Disciplinary Barracks?**

In the event that the Secretary of the Army sought my advice on such a matter, I would ensure that my advice was consistent with applicable law, including section 812.

**What types of modifications would be needed at military detention facilities to ensure they are compliant with domestic and international law as well as**

**meeting the special security considerations necessary for the safe detention of foreign law of war detainees?**

At this time, I am not familiar with what modifications, if any, would be needed to ensure that a military detention facility complies with domestic and international law.

**If confirmed, what recommendations would you have for addressing the safety and security of the general public living near these facilities?**

If confirmed, I would defer to law enforcement experts about what measures would be necessary to ensure the safety and security of the general public living near these facilities, and would work closely with them to ensure that safety issues are appropriately and lawfully addressed.

**In November 2012, the US Government Accountability Office (GAO) published a report titled: Guantanamo Bay Detainees: Facilities and Factors for Consideration if Detainees Were Brought to the United States. That report noted that only one DOD facility, the US Disciplinary Barracks at Fort Leavenworth, Kansas, currently holds “inmates with sentences exceeding 5 years as well as inmates sentenced to death.” The report also stated: “in order to conform with international law and DOD policies...” detainees are to be “protected from public curiosity (for example, pictures of detainees’ faces are not disseminated publicly).”**

**In your view, what steps would need to be taken in the handling of law of war detainees in order to comply with international law and DOD regulations, including the “public view” prohibition raised by GAO?**

The Department of Defense takes seriously its obligation to comply with the Geneva Conventions and other legal requirements relating to the treatment of detainees, including the requirement not to hold detainees out for public curiosity. If confirmed, I would ensure any advice I provide regarding law of war detention is consistent with those requirements.

### **Criminal Jurisdiction over Contractors on the Battlefield**

**The Military Extraterritorial Jurisdiction Act (MEJA) was enacted in 2000 to extend the criminal jurisdiction of the U.S. courts to persons employed by or accompanying the Armed Forces outside the United States.**

**In your view, does MEJA provide appropriate jurisdiction for alleged criminal actions of contractor employees in Iraq, Afghanistan, and other areas of combat operations?**

I believe that the Military Extraterritorial Jurisdiction Act of 2000 (MEJA) does provide appropriate criminal jurisdiction over contractor employees in areas of combat operations. Although these types of prosecutions are rare, MEJA is an effective tool to

hold contractors and Department of Defense civilian employees accountable for serious criminal acts. All people supporting our Armed Forces, regardless of their location, should be held accountable for their actions, and MEJA can be an effective means of achieving that end.

**What changes, if any, would you recommend to MEJA?**

My understanding is that MEJA is sufficient in its current form.

**What role would you expect to play, if confirmed, in developing Administration recommendations for changes to MEJA?**

If confirmed, I expect to be actively involved in any effort to develop Administration recommendations for changes to MEJA. Because MEJA applies to civilian personnel working across the Department of Defense and its contractors, I would certainly work with officials in other agencies and military departments on any recommended changes to MEJA.

**Section 552 of the National Defense Authorization Act for Fiscal Year 2007 extended criminal jurisdiction of the military courts under the Uniform Code of Military Justice to persons serving with or accompanying an armed force in the field during time of declared war or a contingency operation, such as our current operations in Afghanistan.**

**In your view, does the UCMJ provide appropriate jurisdiction for alleged criminal actions of contractor employees in Afghanistan and other areas of combat operations?**

Yes. The UCMJ provides appropriate jurisdiction for alleged criminal actions of contractor employees in Afghanistan and other areas of combat operations. Civilians serving with or accompanying our Armed Forces overseas who commit crimes should be held appropriately accountable. While it is difficult to prepare for every scenario that may arise in a deployed environment, Article 2 of the UCMJ provides a means to address the misconduct of civilians accompanying the force in areas of combat operations.

**What is your view of the procedures agreed upon by the Department of Defense and the Department of Justice to reconcile jurisdictional responsibilities under MEJA and the UCMJ?**

If confirmed, I am prepared to examine, from an Army perspective, the relationship between the Department of Justice and the Department of Defense and to give thought to whether it reflects the appropriate balance.

**What changes, if any, would you recommend to the UCMJ to ensure appropriate jurisdiction for alleged criminal actions of contractor employees?**

I have no recommendations for any such changes to the UCMJ at this time. If confirmed, and if after further review I perceive a need, I will recommend any changes I believe to be warranted.

### **Identification of Potential Extremist Views**

**In your view, do current Army policies limit the ability to include information about extremist views in official records that may assist in the identification of potential threats?**

No. To my knowledge, current Army policy does not limit the ability to include this type of information in official records. The Army maintains several types of records that may help identify individuals whose extremist views could pose a threat. These official records include, but are not limited to, records managed by several U.S. Army commands, such as the U.S. Army Human Resources Command, the U.S. Army Criminal Investigation Command, and the U.S. Army Intelligence and Security Command.

**Do current Army procedures hinder the ability to share this type of information with other official agencies charged with identifying and monitoring potential extremist or terrorist activities?**

My understanding is that Army procedures do not prohibit sharing this type of information with other official agencies where appropriate. Documents collected in official records are available to individuals or organizations that have a “need to know,” which includes appropriate law enforcement agencies.

**What is your understanding of how the Army balances the need to identify and respond to potentially harmful extremist views held by soldiers against individual privacy and respect for the right of soldiers to hold and express personal beliefs?**

Commanders are responsible for building healthy and positive social climates based on dignity and respect for treatment of one another, and maintaining good order and discipline. As such, the Army emphasizes the exercise of calm and prudent judgment to achieve the proper balance between security and the need to preserve a Soldier’s right of expression. I understand that the Army gives commanders discretion and latitude to balance the mission of safeguarding the security of the United States while preserving the constitutional right of expression.

**Do you see a need for a change in this balance?**

I do not currently see a need for change, but I am prepared to examine this issue if confirmed.

## **Religious Guidelines**

**In your view, do Department of Defense policies concerning religious accommodation in the military appropriately accommodate the free exercise of religion and other beliefs, including individual expressions of belief, without impinging on those who have different beliefs, including no religious belief?**

I believe the Department of the Army and the Department of Defense's policies support the goals of religious tolerance and mutual respect. If confirmed, in this area as well as other areas, I would ensure all Army policies uphold the Constitutional tenets of the Free Exercise and Establishment clauses of the First Amendment.

**In your view, do existing policies and practices regarding public prayers offered by military chaplains in a variety of formal and informal settings strike the proper balance between a chaplain's ability to pray in accordance with his or her religious beliefs and the rights of other service members with different beliefs, including no religious beliefs?**

I have been advised that under current Army policy, when participating in mandatory official events, chaplains are not compelled to offer prayers that are inconsistent with their personal beliefs or faith, but they are expected to remain sensitive to the pluralistic Army and society they serve. Given the diversity of religious views in the Army, this policy appears to strike the proper balance.

**Section 533 of the FY13 National Defense Authorization Act (P.L. 112-239), as amended by section 532 of the FY14 National Defense Authorization Act (P.L. 113-66) protects rights of conscience of members of the armed forces and chaplains and prohibits, so far as possible, use of such beliefs as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment. Members of some religious denominations have sincerely held beliefs in opposition to same-sex marriage.**

**In your view, may a member of the armed forces who has a sincerely held belief in opposition to same-sex marriage be subject to adverse personnel action or similar other adverse action, if he or she shares those personal views on the subject in a personal capacity?**

If Soldiers wish to express their personal views about this issue in an open forum and caveat those as such, it is within their right to do so, and they will not be subject to adverse personnel action or similar other adverse action for expressing those views. This is a fundamental right, and if confirmed, I will ensure that all Army policies protect this and similar rights.

## **Role in the Officer Promotion and Confirmation Process**

**What is your understanding of the role of the General Counsel of the Department of the Army in ensuring the integrity and proper functioning of the officer promotion process?**

I understand the Secretary of the Army is responsible for the proper functioning of the Department of the Army's promotion selection process. The Army General Counsel is responsible for ensuring that the conduct of the board process conforms to all legal requirements; this includes reviewing all Memoranda of Instruction and selection board reports to ensure they comport with statutory standards. The Office of the Army General Counsel works closely with the Office of The Judge Advocate General to advise the Secretary of the Army of any case in which a selection board report or selection board process fails to adhere to the statutory standards and to provide counsel on appropriate corrective action.

**Do you see a need for change in this role?**

I have been advised that the current process is working well; however, if I am confirmed and determine that a change is necessary and proper, I would work closely with the Assistant Secretary of the Army (Manpower and Reserve Affairs), The Judge Advocate General, and the Deputy Chief of Staff, G-1, to effect such change. Proper execution of this process is essential to maintaining the trust of the Army Officer Corps, the Congress, and the American people.

**General Officer Nominations**

**Under DOD Instruction 1320.4, adverse and alleged adverse information pertaining to general and flag officers must be evaluated by senior leaders in the Services and in the Office of the Secretary of Defense prior to nomination for promotion and certain assignments.**

**If confirmed, what role, if any, would you play in the officer promotion system, particularly in reviewing general officer nominations?**

I have been informed that for all Army officer promotions, including general officer promotions, the Office of the Army General Counsel, in coordination with The Office of The Judge Advocate General, plays an active role in the officer promotion system, to include reviewing Memoranda of Instruction that govern the conduct of promotion selection boards and subsequent promotion selection board reports.

**What is your understanding of the role of the General Counsel of the Department of the Army in ensuring the legal sufficiency of statutory selection board processes?**



I understand the Secretary of the Army is responsible for the proper functioning of the Department of the Army's promotion selection process. Prior to approval by the Secretary of the Army, all Memoranda of Instruction for officer promotion selection boards are reviewed by the Office of the Army General Counsel, in coordination with the Office of The Judge Advocate General, to ensure the Secretary's instructions conform to statutes and accurately reflect his guidance regarding attributes necessary for service in the next grade. All reports of promotion selection boards are processed through the Office of the Army General Counsel prior to final action on the report by the Secretary. The Army General Counsel must be satisfied that the Army has met applicable statutory standards and that individual selection board reports conform to the law. The Army General Counsel must advise the Secretary of the Army of any case in which a selection board report fails to adhere to the statutory standards, either generally or with regard to a particular officer being considered for promotion. In advising the Secretary of the Army and the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs), the Army General Counsel helps to ensure that Army promotion policies properly implement applicable laws and regulations and are fairly applied.

**What is the role, if any, of the General Counsel of the Department of the Army in reviewing and providing potentially adverse information pertaining to a nomination to the Senate Armed Services Committee?**

It is my understanding that under current Department of the Army practice, regarding General Officer nominations, the Office of the Army General Counsel reviews each selection board report, as well as departmental communications to the Committee, the President, and the Secretary of Defense, to ensure that the reports and communications comply in form and substance with law and applicable directives and regulation. The Office of the Army General Counsel gives special attention to cases of nominees with substantiated or potentially adverse information and cases with reportable information in order to ensure that such information is reported to the Senate Armed Services Committee in a timely, accurate, and comprehensible manner.

**Military Personnel Policy and Cases**

**In your view, what role, if any, should the General Counsel and civilian attorneys assigned to the Office of General Counsel play in military personnel policy and individual cases, including cases before the Board for Correction of Military Records?**

If confirmed, I will work with the Secretary of the Army, the Assistant Secretary of the Army (Manpower and Reserve Affairs), and other senior leaders to ensure that the Army properly develops and fairly applies military personnel policies. If I am confirmed and become aware that the Department did not fairly and lawfully apply military personnel policies, I will take appropriate action to ensure that the Army properly resolves the issue. I understand and fully respect the independent role that the Army Board for the Correction of Military Records (ABCMR) plays in the correction of military records, and if confirmed, I will coordinate with the Assistant Secretary of the Army (Manpower and

Reserve Affairs), who exercises overall responsibility for the Army Review Boards Agency regarding the legal sufficiency of ABCMR recommendations to the Secretary of the Army.

### **Sexual Assault Prevention and Response**

**The Fiscal Year 2013 Department of Defense Annual Report on Sexual Assault in the Military reflects that reports of sexual assaults in the Army increased by 51% from fiscal year 2012 to 2,149 reports of sexual assault in fiscal year 2013.**

#### **What is your assessment of this report?**

Although the Department of Defense did not conduct a study of the prevalence of sexual assault in fiscal year 2013, I understand there are indications that the increase in reporting in fiscal year 2013 reflects an increased willingness of victims to come forward rather than an increase in the number of sexual assaults. Nevertheless, there is still more to do to prevent and punish the crime of sexual assault. If confirmed, I intend to provide my full support in helping the Army achieve this goal.

#### **What is your assessment of the Army's sexual assault prevention and response program?**

I understand that the Army has taken substantial steps to addressing the issue of sexual assault. Through the combined efforts of military and civilian leaders at all echelons, I am informed that the Army has implemented an unprecedented number of program and policy initiatives to address this insider threat.

I support the Army's commitment to a holistic approach to change culture, prevent sexual assault and harassment in the ranks, support and advocate for victims, and hold offenders appropriately accountable.

#### **What is your view of the provision for restricted and unrestricted reporting of sexual assaults?**

I am informed that since implementing the restricted reporting option (which does not initiate a law enforcement investigation) in 2005, the number of total reports has continued to increase. The restricted reporting option gives victims time to understand the process, seek the counseling and care they need, and to consult with an attorney if they wish. I understand the conversion of restricted reports to unrestricted continues to increase, which I believe is an indication that victims are gaining more trust in the system. If confirmed, I will ensure that the Army continues to work to improve upon its response system and to enhance victim support.

#### **What is your view about the role of the chain of command in providing necessary support to the victims of sexual assault?**

I believe the chain of command has an important role to play in providing compassionate care and necessary support to victims of sexual assault. As a general matter, the commander—as well as the commander’s subordinate commanders and staff members—has a responsibility to care for Soldiers in the commander’s charge. I understand that the Army is working hard to foster a climate in which victims trust their chain of command to support them if and when sexual offenses occur.

**What is your understanding of the adequacy of Army resources and programs to provide victims of sexual assault the medical, psychological, and legal help they need?**

My understanding is that the Army is dedicated to providing Soldiers, civilians and eligible family members who are the victims of sexual assault with extensive medical, psychological, and legal support services. I am aware that sexual assault victims are offered the services of a Sexual Assault Response Coordinator (SARC) and a Victim Advocate (VA). When a victim of sexual assault comes to any Military Treatment Facility in the Army, his or her medical needs are managed by a Sexual Assault Clinical Provider and his or her behavioral health care is provided by the Sexual Assault Behavioral Health Provider. Victims of sexual assault are also entitled to the services of a Special Victim Counsel. The Army Special Victim Counsel program is staffed, resourced, and supported by the Department of the Army; the Army JAG Corps is currently growing to meet emerging requirements.

**What is your view of the steps the Army has taken to prevent additional sexual assaults both at home station and deployed locations?**

I understand that both the Secretary of the Army and the Chief of Staff of the Army have made the prevention of sexual assault a top priority and are providing resources consistent with that prioritization. As a result, leaders at every echelon and in every location must be committed to preventing sexual assaults and caring for victims, and the Army is working diligently to ensure that all Soldiers share these commitments.

**What is your view of the adequacy of the training and resources the Army has in place to investigate and prosecute allegations of sexual assault?**

I understand that the Army has invested substantial resources and training toward the investigation and response to allegations of sexual assault. As stated above, the Secretary of the Army and Chief of Staff have made the prevention of sexual assault a top priority and are providing resources consistent with that prioritization.

**What is your view on the value of the Army’s Special Victims Counsel Program? Has this program had an impact on the reporting and**

**prosecution of allegations of sexual assault in the Army? If so, what is that impact?**

My understanding is that the Special Victim Counsel Program has been successful for both victims and commanders. The feedback from victims is that this program is an invaluable resource as they navigate the administrative, medical and justice systems within the Army. Commanders indicate that they can now act with confidence that they understand the victim's position and preferences.

**What is your view about the role of the chain of command in changing the military culture in which these sexual assaults occur?**

I believe that commanders can drive change in culture. Commanders are responsible for everything their command does or fails to do, which includes training Soldiers on how to prevent sexual assault and holding all leaders accountable for creating a culture that does not tolerate sexual assault. As part of these responsibilities, commanders are responsible for fostering respect within their units, creating a climate in which sexual assaults and sexual harassment are not tolerated, holding offenders accountable, and cultivating an environment in which victims feel comfortable reporting all forms of misconduct.

**In your view, what would be the impact of requiring a judge advocate outside the chain of command to determine whether allegations of sexual assault should be prosecuted?**

I think it is difficult to fully assess the potential impact of such a significant change to the military justice system. Requiring a judge advocate outside the chain of command to determine whether allegations of sexual assault should be prosecuted would, in effect, create a separate justice system for sexual assault cases, with uncertain consequences. The Army must encourage a climate in which victims feel comfortable in reporting misconduct, perpetrators of sexual assault are held accountable for the crimes they commit, and all Soldiers believe the system to be fair and transparent. I believe that both commanders and judge advocates have important roles to play in all components of that effort.

**What additional steps would you take, if confirmed, to address the problem of sexual assaults in the Army?**

If confirmed, I will be an ardent supporter of the Army Sexual Harassment/Assault Response and Prevention Program and will work with the Secretary of the Army, the Chief of Staff of the Army, the Assistant Secretary of the Army (Manpower & Reserve Affairs), and the Deputy Chief of Staff, G-1 to ensure that eliminating sexual assault remains a top priority throughout the Army.

**Assignment of Women in the Military**

**In January 2013, Secretary of Defense Panetta rescinded the 1994 Direct Ground Combat Definition and Assignment Rule, excluding women from assignment to units and positions whose primary mission is to engage in direct combat on the ground. The Military Departments are required to develop detailed plans for implementation of this directive and to complete integration of women into newly opened positions and units as expeditiously as possible, considering good order and judicious use of fiscal resources, but no later than January 1, 2016. Any recommendation to keep an occupational specialty or unit closed to women must be personally approved by the Chairman of the Joint Chiefs of Staff and by the Secretary of Defense.**

**If confirmed, what role, if any, would you expect to play in the evaluation of the plans of the Department of the Army to integrate women into occupational specialties or recommendations to keep specific occupations or units closed to women?**

If confirmed, I would expect to provide legal advice regarding plans to integrate women into those occupational specialties.

### **Recommendations of the Response Systems to Adult Sexual Assault Crimes Panel**

**On June 27, 2014, the Response Systems to Adult Sexual Assault Crimes Panel (RSP) released its report fulfilling the requirements of section 576 of the Fiscal Year National Defense Authorization Act (P.L. 112-239). This report contained 132 recommendations in the areas of victim services, victim rights, the role of the commander in the military justice process, and the investigation, prosecution and adjudication of sexual assault.**

**If confirmed, what role, if any, would you expect to play in the evaluation of the recommendations of the RSP for possible implementation in the Department of the Army?**

If confirmed, I would expect to work closely with The Judge Advocate General to advise the Secretary of the Army about the RSP's recommendations and, where appropriate, how they should be implemented.

### **Whistleblower Protection**

**Section 1034 of Title 10, United States Code, prohibits taking retaliatory personnel action against a member of the armed forces as reprisal for making a protected communication. By definition, protected communications include communications to certain individuals and organizations outside of the chain of command.**

**If confirmed, what actions will you take to ensure that senior military leaders understand the need to protect service members who report misconduct to appropriate authorities within or outside the chain of command?**

The General Counsel has the primary role of advising the Secretary of the Army and those who fall under his authority on the standards governing treatment of service members reporting misconduct to any appropriate authority. I am fully committed to protecting those who report misconduct to appropriate authorities. Army policy provides for reporting and investigation of retaliatory actions, and for appropriate corrective and disciplinary action. Additionally, the Secretary of the Army, pursuant to the requirements of section 1034 of title 10, has a special obligation to ensure appropriate action is taken to correct the record of those who have been subjected to reprisal and to ensure appropriate disciplinary action is taken against those who engage in prohibited personnel actions against service members reporting misconduct. It is critical for senior Army leaders to be aware of legal requirements so as to avoid improper retaliatory actions against those who bring matters of interest to our attention. My staff and I will work to ensure statutory and policy requirements are understood and appropriately executed.

**Support to Army Inspector General**

**What role, if any, do you think the General Counsel of the Army should have in reviewing the investigations and recommendations of the Army Inspector General?**

The Inspector General is a key member of the Secretariat, and if confirmed, as counsel to all Secretariat officials, I will ensure the Office of the General Counsel of the Army continues its current professional relationship with The Inspector General. I personally intend this to include routine, direct, and candid communications. I have been advised that Army General Counsel's office routinely provide independent and objective legal advice to the Office of The Inspector General in regard to all matters that relate to Inspector General programs, duties, functions, and responsibilities. In coordination with The Judge Advocate General, I will oversee the provision of effective legal guidance to the Office of The Inspector General in conducting investigations and making recommendations. Additionally, based on the Army General Counsel's responsibility to review legal and policy issues arising from the Army's intelligence and counterintelligence activities, I will work closely with The Inspector General concerning proper reporting of the Army's intelligence oversight activities.

**Civilian Attorneys**

**Judge advocates in the armed forces benefit from an established career progression, substantial mentoring and training opportunities, and exposure to a broad spectrum of legal areas and leadership responsibilities. By contrast, civilian attorneys in the military departments normally do not have established career**

**programs and may do the same work for many years, with promotion based solely upon longevity and vacancies.**

**What is your understanding of the personnel management and career development system for civilian attorneys in the Army?**

Civilian career development is important to me, and it is my understanding that all civilian attorneys and paraprofessionals supporting Army legal services are now covered by a comprehensive career program that promotes and facilitates their recruitment, training, education, development, advancement and retention. To achieve these goals, a career program office was established. I have been informed that the career program office publishes two governing documents, which the Army terms “Army Civilian Education, Training, and Education Development System” plans. There are separate guides for civilian attorneys and paraprofessionals, but both are functionally tailored to the legal career field and combine formal training with developmental assignments.

**In your view does that system need revision? If so, what do you see as the major problems and what changes would you suggest?**

From what I have been told, the career program is still in its early stages of operation, and program evaluation is ongoing. If confirmed, I will serve as the career program’s functional chief, and will advocate for, or direct, revisions when appropriate.

**Client**

**In your opinion, who is the client of the General Counsel of the Department of the Army?**

The client of the General Counsel of the Department of the Army is the Department of the Army, acting through its authorized officials.

**Acquisition Issues**

**What role should the General Counsel play in ensuring that Army procurement programs are executed in accordance with the law and DOD acquisition policy?**

If confirmed, I will work closely with the Secretary of the Army, the Under Secretary of the Army, the Assistant Secretary of the Army for Acquisition, Logistics and Technology, the Chief Information Officer, the Director of Small Business Programs, and other senior Army officials to ensure that Army acquisition programs comply with applicable laws, regulations, and policies. The Army’s acquisition leadership must accomplish its primary mission of acquiring equipment and services for the Department while complying with an extensive framework of legal and policy requirements. Army lawyers best support this mission through early involvement in acquisition program and

procurements and through proactive assistance in identifying potential issues and shaping effective, legally-supportable business strategies throughout the acquisition life-cycle.

**What role should the General Counsel play in ensuring that Army acquisition officials understand flexibilities provided by Congress in the acquisition and financial statutes and can take advantage of those flexibilities to act in the best interests of the Army?**

I believe the legal community is uniquely suited to assist Army officials in this area. If confirmed, I will work closely with the Department's senior leadership to ensure that Army acquisition programs and financial operations comply with their governing legal and policy framework but also to question and modify program strategies that reflect an inaccurate or unduly restrictive interpretation of applicable authorities.

**What role should the General Counsel play in ensuring that ethics provisions on conflict of interest are followed both by Army personnel and by Army contractors?**

It is essential that the Department have well-understood business rules designed to avoid or mitigate organizational and personal conflicts of interest. Army lawyers play an important role in this area through robust programs for acquisition ethics training and proactive involvement in the Army's acquisition, logistics and technology programs and contracting operations. If confirmed, I will work closely with the Assistant Secretary of the Army for Acquisition, Logistics and Technology and other Army senior leaders to foster an organizational climate that is sensitive to the importance of avoiding conflicts of interest and that appropriately addresses specific situations that arise.

**Allegations of fraud and abuse during contingency contracting in Iraq and Afghanistan have been wide-spread.**

**What role should the General Counsel play in ensuring that Army personnel are properly trained in contingency contracting and are supervised in the performance of their duties?**

If confirmed, I will work closely with the Secretary of the Army, the Under Secretary of the Army, the Assistant Secretary of the Army for Acquisition, Logistics and Technology, and other senior officials to ensure that the Army legal community continues to support the contingency contracting initiatives adopted in response to the 2007 Report of the Commission on Army Acquisition and Program Management in Expeditionary Operations, also known as the "Gansler Commission Report." I would also work closely with The Judge Advocate General of the Army and other senior leaders in the Army legal community to ensure that an appropriate level of legal resources are allocated in support of contingency contracting.

### **Detecting Conflicts of Interest**



**Personal and organizational conflicts of interest have become a major concern. DOD's expanded use of private contractors being tasked to perform key functions that the services had formerly performed in-house and the new requirement to fill thousands of DOD civilian positions with experienced, qualified individuals present challenges in preventing conflicts of interest and the appearance of conflicts of interest.**

**What do you think the Army should do, and what should the General Counsel's role be, in ensuring that the Army identifies personal and organizational conflicts of interests and takes the appropriate steps to avoid or mitigate them?**

Because of their potential not only to result in an unfair competitive advantage, but also to damage the credibility of the institution, conflicts of interest are unacceptable in any organization. As the Army's Designated Agency Ethics Official (DAEO), the General Counsel is responsible for management and oversight of the Army Ethics Program. These duties include ensuring that Army personnel who are required to file financial disclosure reports do so at the appropriate time and that ethics counselors timely review these reports to prevent or mitigate conflicts of interest. In addition, if confirmed, I will help ensure that other circumstances of potential conflict of interest are addressed promptly, consistent with legal requirements.

**What is your understanding of the steps the Army takes to identify and address potential conflicts of interest during the hiring process?**

At this time, I am not aware of the steps the Army takes to identify and address conflicts of interest during the hiring process. If confirmed, I will look into that issue and ensure that appropriate safeguards exist.

### **Legal Ethics**

**What is your understanding of the action a Department of the Army attorney or an Army judge advocate should take if the attorney becomes aware of improper activities by a Department of the Army official who has sought the attorney's legal advice and the official is unwilling to follow the attorney's advice?**

If an Army attorney suspects that the Army official, either in exercising functions or in failing to do so, violates a law or standard of conduct, the attorney should immediately bring the matter to the attention of the attorney's supervisor. If not satisfactorily resolved at that level, the matter should be brought to higher level supervisory lawyers or authorities in the chain of supervision or command.

**Do you believe that the present limits on pro bono activities of government attorneys are generally correct as a matter of policy or does the policy need to be reviewed and revised?**

I understand the former Army General Counsel established a supportive and permissive pro bono legal practice policy for the Office of the Army General Counsel, consistent with statutory restrictions prohibiting federal employees from representing clients before the federal government, including the federal courts. Many rewarding pro bono activities are available to government attorneys in their private, non-official capacity in areas such as family law, consumer law, landlord-tenant disputes, and other civil and criminal law matters. If confirmed, I would review pro bono policies to determine whether any change would be appropriate.

**In your view, do the laws, regulations, and guidelines that establish the rules of professional responsibility for attorneys in the Department of the Army provide adequate guidance?**

Much of the value and respect for the law depends on the proper ethical conduct of lawyers. I believe that the laws, regulations, and guidelines establishing rules for attorney professional responsibility for the Department of the Army are well developed and adequate. The Army's ethical rules are based on the American Bar Association Model Rules of Professional Conduct. Both uniform and civilian Army attorneys are subject to state licensing authority ethical codes. By regulation, Army attorneys must remain, at all times, in good standing with a at least one licensing authority in the United States, including those of U.S. states, U.S. territories, the District of Columbia, or the Commonwealth of Puerto Rico. This complimentary system of ethical oversight is implemented on a day-to-day basis by the exercise of competent and conscientious supervision by experienced Army attorneys at all levels. If confirmed, I would consult and review the current professional responsibility policy and systems with The Judge Advocate General and, as appropriate, seek revisions and improvements.

**Litigation Involving the Department of the Army**

**What is your understanding of the relationship between the Department of the Army and the Department of Justice with respect to litigation involving the Department of Defense?**

Under section 516 of title 28 of the U.S. code, the authority to represent the military departments in litigation is reserved to the Department of Justice, under the direction of the Attorney General. It is my understanding the Department of Defense and the Department of the Army, along with the other military departments, have a positive and mutually supportive relationship with the Department of Justice. I understand coordination between the Department of Justice and the military departments is timely and consistent on every level. If confirmed, I will work collaboratively with The Judge Advocate General and the General Counsel of the Department of Defense to ensure the interests of the Army are fully understood and appropriately pursued with the Department of Justice in litigation.

**In your view, does the Department need more independence and resources to conduct its own litigation or to improve upon its current supporting role?**

In general, because of established close working relationships, I think the Department of Justice is effective in defending the interests of the Department of the Army. If confirmed, I will routinely consult with The Judge Advocate General and the General Counsel of the Department of Defense to determine whether adequate authority and resources are available to protect the full measure of the Army's interests in litigation.

**Congressional Oversight**

**In order to exercise its legislative and oversight responsibilities, it is important that this Committee and other appropriate committees of the Congress are able to receive testimony, briefings, and other communications of information.**

**Do you agree, if confirmed for this high position, to appear before this Committee and other appropriate committees of the Congress?**

Yes.

**Do you agree, if confirmed, to appear before this Committee, or designated members of this Committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the General Counsel of the Department of the Army?**

Yes.

**Do you agree to ensure that testimony, briefings and other communications of information are provided to this Committee and its staff and other appropriate Committees?**

Yes.

**Do you agree to provide documents, including copies of electronic forms of communication, in a timely manner when requested by a duly constituted Committee, or to consult with the Committee regarding the basis for any good faith delay or denial in providing such documents?**

Yes.