

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

BROCK STONE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, *et al.*,

Defendants.

Case 1:17-cv-02459-MJG

Hon. Marvin J. Garbis

**DEFENDANTS' REPLY IN SUPPORT OF THEIR
MOTION TO DISSOLVE THE PRELIMINARY INJUNCTION**

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INTRODUCTION

Plaintiffs' Opposition to Defendants' Motion to Dissolve the Preliminary Injunction mischaracterizes the nature of the military's new policy on service by individuals with gender dysphoria. Like the policy adopted by then-Defense Secretary Ash Carter ("Carter Policy"), the Department's new policy presumptively disqualifies individuals with the medical condition of gender dysphoria but contains multiple exceptions allowing some transgender individuals to serve. The two policies differ in the scope of their exceptions—a matter that is well within the discretion owed to the nation's senior military leadership. Applying the highly deferential standard owed to professional military judgments, the Department's new policy passes muster. Plaintiffs fail in their effort to cast doubt on the Department's process for developing this policy, which involved an independent, extensive review by a panel of military experts. Likewise, Plaintiffs fail in their attempt to place the opinions of their own experts on equal footing with the judgments of military leaders. The Constitution allocates military decision-making authority to the political branches, not to expert witnesses in lawsuits.

Nor will Plaintiffs suffer any harm if the preliminary injunction is dissolved. The *Karnoski* court recently expanded its preliminary injunction to cover the new policy on a nationwide basis, *see Karnoski v. Trump*, No. C17-1297, 2018 WL 1784464, at *14 (W.D. Wash. 2018), and although defendants disagree with that decision and have filed an appeal, while that injunction is still in place, dissolving the preliminary injunction here would have no practical effect on Plaintiffs. And, even if the Defense Department were to implement its new policy, Plaintiffs have failed to show that it would cause them any harm.

ARGUMENT

I. The New DoD Policy Moots Plaintiffs' Current Challenge.

A. Plaintiffs' opposition rests on the faulty premise that DoD's new policy is substantively the same as the policies allegedly set forth in the President's Twitter statement and Memorandum issued in 2017. *See* Pls.' Opp. 9-12; AR327-29 (2017 Mem.), Dkt. 133-4. Rather than engage with the substance of the new policy, Plaintiffs simply dismiss it as the implementation of the "transgender service member ban" purportedly set forth in the 2017 Memorandum, presumably in an attempt to argue that the military's judgment merits no deference. *See* Pls.' Opp. 6-12. Plaintiffs' argument echoes that of the *Karnoski* Court, which improperly dismissed the new policy as simply a more detailed version of "the 'Ban'" announced by the President last year. 2018 WL 1784464, at *1 n.1.

This simply is not the case. One cannot fairly maintain that DoD's new policy, which turns on the basis of a medical condition and its associated treatment and contains a nuanced set of exceptions allowing some transgender individuals to serve, is the same as, or even implements, the 2017 Memorandum, especially as that document was understood by this Court and Plaintiffs (at least before their latest complaint). Both this Court and Plaintiffs understood that Memorandum as "prohibit[ing] transgender individuals from entering or seeking a commission in the military solely on the basis of their transgender status." Op. 31, Dkt. 85; *see, e.g.*, Am. Compl. ¶¶ 40, 144-46, Dkt. 39. Likewise, this Court and Plaintiffs understood that those service members who relied on the Carter policy will be involuntarily "discharged on the basis of their transgender status." Am. Compl. ¶ 8; *see, e.g.*, Op. 30 (stating that the Retention Directive "subjects all of the individual Plaintiffs to the threat of discharge" (footnote omitted)). By contrast, the new policy, like the Carter policy before it, limits the service of only some transgender individuals on the basis of gender dysphoria, and permits those with gender dysphoria who relied on the Carter policy to continue to serve.

This understanding of DoD’s new policy is made plain by comparison to the long-standing policy that existed before the Carter policy. Unlike the new policy, the pre-Carter policy generally disqualified individuals on the basis of transgender status, not the medical condition of gender dysphoria. Report 10, 12–13, 20–21, Dkt. 120-2. Moreover, transgender individuals at that time were generally unable to serve in their preferred gender, while the new policy categorically permits some transgender individuals, including many Plaintiffs here, to do so. These differences explain why Secretary Mattis had to recommend that the President “revoke” his 2017 Memorandum to “allow[]” the military to implement its preferred framework. Mattis Mem. 3, Dkt. 120-1.

In the face of the new policy’s plain terms setting forth a framework that turns on gender dysphoria and its attendant treatment, Plaintiffs argue that the new policy “remains the Ban” that “categorically bans transgender people from serving,” and rely on the *Karnoski* Court’s erroneous conclusion that “[r]equiring transgender people to serve in their ‘biological sex’ does not constitute ‘open’ service in any meaningful way, and cannot reasonably be considered an ‘exception’ to the Ban.” Pls.’ Opp. 10 (quoting 2018 WL 1784464 at *6). But the Carter Policy treated transgender persons that had neither transitioned nor been diagnosed with gender dysphoria in the same manner as the new policy: such individuals could serve only in their biological sex. Report 15; *see* AR2416–17 (DoDI 1300.28), Dkt. 133-14 (“recogniz[ing] a Service member’s gender by the member’s gender marker in the DEERS,” which may be changed *only* after a “military medical provider determines that a Service member’s gender transition is complete”).

Plaintiffs stray further afield by failing to recognize that not all transgender service members who choose to meet the standards associated with their biological sex are being “force[d] . . . to suppress the very characteristic that defines them as transgender in the first place,” Pls.’ Opp. 10 (quoting *Karnoski*, 2018 WL 1784464 at *6), and arguing that “the only people able to serve openly under the [new policy] are people who are not transgender at all,” Pls.’ Opp. 11. To the contrary, as

the RAND Report explained, only “a subset” of transgender individuals “choose to *transition*, the term used to refer to the act of living and working in a gender different from one’s sex assigned at birth.” AR114 (RAND Report 6), Dkt. 133-3. In other words, transgender individuals “identify with a gender different from the sex they were assigned at birth,” but may not choose to live and work in accordance with that identity. *Id.* In asserting that the new policy categorically prohibits transgender military service, Plaintiffs conflate transgender with transition.

Plaintiffs also argue that the new DoD policy excludes individuals “who will have completed their transitions before enlisting.” Pls.’ Opp 20. But Plaintiffs fail to recognize that considering history of a medical condition is a standard military practice—and one used with respect to gender dysphoria under the Carter Policy—and that there are many medical conditions a history of which can be presumptively disqualifying. *See* AR210–61 (DoDI 6130.03), Dkt. 133-3 (setting “medical standards for appointment, enlistment, or induction in the military services”); *see also* Report 8–13 (discussing medical standards for accessions, including discussing disqualifying conditions, such as a history of chest or genital surgery or most mental health conditions).

B. Rather than address these differences between the pre-Carter framework and the new policy, Plaintiffs cite to statements by Secretary Mattis (1) directing the Deputy Secretary of Defense and Vice Chairman of the Joint Chiefs of Staff to assemble a Panel of Experts to “develop[] an Implementation Plan on military service by transgender individuals, to effect the policy and directives” in the 2017 Memorandum; (2) indicating that the DoD Panel of Experts was to conduct a study to “inform the Implementation Plan”; and (3) directing the Panel of Experts to “recommend updated accessions policy guidelines to reflect currently accepted medical terminology.” Pls.’ Opp. 6, 9–10; AR331 (Terms of Reference 2). Plaintiffs also rely on a statement from the 2018 Presidential Memorandum indicating that the Department’s Report was prepared “[p]ursuant to [the President’s] memorandum of August 25, 2017.” Pls.’ Opp. 6; (quoting 2018 Presidential Memo. 1, Dkt. 120-3).

In doing so, Plaintiffs carefully omit other statements by Secretary Mattis explaining that the Panel of Experts would engage in “an *independent* multi-disciplinary review and study of relevant data and information pertaining to transgender Service members,” AR331 (Terms of Reference 2); *accord* Report 17, and that the Panel was charged to provide its “best military advice . . . without regard to any external factors,” Mattis Mem. 1. Nor do Plaintiffs mention that “[t]he Panel made recommendations based on each Panel member’s independent military judgment,” Report 4; or that the new policy is, in Secretary Mattis’s words, the product of “the Panel’s professional military judgment,” “the Department’s best military judgment,” and his “own professional judgment,” Mattis Mem. 2. Plaintiffs discuss none of these statements, let alone explain why representations by senior military leadership, including the Secretary of Defense himself, should be called into question.

Instead, the statements Plaintiffs invoke simply reflect the fact, as Defendants have consistently explained, that the 2017 Memorandum directed the military to conduct “further study” and maintain the pre-Carter accession policy while doing so. AR327–28 (2017 Mem. §§ 1(a), 2(a)), Dkt. 133-4. As Secretary Mattis noted in recommending the new policy to the President, the 2017 Memorandum had “made clear that we could advise you ‘at any time, in writing, that a change to [the pre-Carter] policy is warranted,’” and that is exactly what he did. Mattis Mem. 1. In short, one could say that the military “implemented” the 2017 Presidential Memorandum by studying the issue and advising the President that a new and different policy was appropriate.

Although Plaintiffs similarly suggest that the new policy and the Department’s Report are simply a “vener of scientific-sounding analysis in an effort to shore up the conclusions President Trump reached last July,” Pls.’ Opp. at 11, and that the new policy and Report are an “attempt[] to provide post hoc justifications for the President’s uninformed actions,” Pls.’ Opp. 19, the facts do not bear this out. Indeed, DoD’s review process began at the initiative of Secretary Mattis based on the

recommendation of the Services *nearly a month before* the President made his statement on Twitter, see AR326 (Mattis Deferral Mem.), Dkt. 133-4; Mattis Mem. 1.

Nor should the Court be distracted by Plaintiffs' baseless contention that DoD's development of the new policy was not independent because "news reports" indicated that advocacy groups and the White House may have intervened in the process. Pls.' Opp. 11–12 & n.5. Plaintiffs can point to no support in the record for these assertions other than one internet news article, which is based entirely on anonymous sources, *see* Pls.' Opp. Exh. 8, Dkt. 139-8, and is therefore unreliable, *see In re Neustar Sec.*, 83 F. Supp. 3d 671, 686 (E.D. Va. 2015) (refusing to rely on anonymously sourced news article because the court had "no way to assess the credibility of anonymous sources quoted in the article, whether the sources have personal knowledge of the events described, and whether the sources were in a position to learn of such events personally.").

Likewise, Plaintiffs' claim that a DoD spokesperson described the policy as "a coordinated effort with the White House," Pls.' Opp. 12, is beside the point. As an initial matter, when read in context, the quotation from the DoD spokesperson concerns coordination between DoD and the White House over the *timing* of the posting of the new policy on DoD's website and the filing of Defendants' motions to dissolve the preliminary injunctions in four different cases in a single day.¹ In any event, even if there were discussions between DoD and the White House about the substance of the new policy, that is not in any way inconsistent with the express representation by both the Secretary of Defense and the President that the new policy represents the Department of Defense's independent

¹ *See* Pls.' Opp Exh. 6 at 10, Dkt. 139-7 ("Q: Is the secretary proud of the recommendations they made? Because generally if you put something out at 9:30 on a Friday, the impression is that it's being put out there because, you know, it's being hidden or something. And it was not easy to find the memo [on] the website, either. . . . A: The secretary was asked for [his] thoughts and he provided his recommendation. The way that this was done, it was a coordinated effort with the White House as well as the Department of Justice. *And because there were multiple filings done in different time zones, [it] drove the timing of the release.*" (emphasis added)).

military judgment—representations starkly confirmed by the fact that the Department’s new policy is materially different from the one set forth in the 2017 Presidential Memorandum. *See* 2018 Presidential Mem. 1 (“These documents set forth the policies on this issue that the Secretary of Defense, in the exercise of his independent judgment, has concluded should be adopted by the Department of Defense.”); Mattis Mem. 2 (“[I]n light of the Panel’s professional military judgment and my own professional judgment, the Department should adopt the following policies . . .”).

Plaintiffs also cite the dissenting opinion from Thomas Dee, a member of the Panel of Experts, to support their argument that the new policy is a “preordained conclusion.” *See* Pls.’ Opp. 2, 8, 20. But what the dissenting opinion shows is nothing more than that DoD’s study was a fully independent process in which the members of the Panel of Experts were free to express whatever view they felt best served military interests, and that both sides of the issue were considered. More fundamentally, the fact that one member disagreed with the view of the majority does not render the majority’s recommendation, or Secretary Mattis’s final decision, illegitimate or even suspect. By way of analogy, the fact that a law clerk disagrees with his judge’s ultimate decision and even memorializes that disagreement in a bench memo does not call that judicial decision into question. *Cf. United States v. Morgan*, 313 U.S. 409, 422 (1941) (“Much was made of his disregard of a memorandum from one of his officials who, on reading the proposed order, urged considerations [undercutting the Secretary’s final decision]. But the short of the business is that the Secretary should never have been subjected to this examination. . . . Just as a judge cannot be subjected to such a scrutiny, so the integrity of the administrative process must be equally respected.”) (internal citations omitted). In all events, none of these various attempts to cast doubt on DoD’s process changes the fact that the new policy differs significantly from both the pre-Carter framework and the 2017 Memorandum. *See supra* Part I.A.

C. Because the policy challenged in Plaintiffs’ amended complaint has been revoked and replaced with a new policy, the basis for the Court’s preliminary injunction is now moot. Plaintiffs

argue that the President’s revocation of his 2017 Memorandum “was not a revocation in any meaningful sense . . . but rather an acknowledgement that those directives had been successfully carried out,” and that the President’s revocation was “presumably in an effort to moot this case and other pending litigation.” Pls.’ Opp. at 10. However, as explained above, the differences between the pre-Carter policy and the new policy show why Secretary Mattis had to recommend that the President “revoke” his 2017 Memorandum in order to “allow[]” the military to implement its preferred framework. Mattis Mem. 3, Dkt. 120-1.

Nor does this challenge remain live under the voluntary cessation doctrine. *Contra* Pls.’ Opp. 13 (citation omitted). Aside from the fact that the new policy is substantially different from the 2017 Memorandum, this doctrine is of limited applicability when members of the Executive Branch change a policy in good faith. The presumption of regularity—the rule that “[e]very public officer is presumed to act in obedience to his duty, until the contrary is shown”—applies “*a fortiori*” to the President. *Martin v. Mott*, 25 U.S. (12 Wheat.) 19, 33 (1827) (Story, J.); *see generally Am. Fed’n of Gov’t Employees, AFL-CIO v. Reagan*, 870 F.2d 723, 727 (D.C. Cir. 1989) (“[The presumption of regularity] supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties.” (citation omitted)). It would be inconsistent with that heightened presumption, and inappropriate under the separation of powers, for courts to imply that the Head of the Executive Branch revoked an order to avoid judicial review, especially where, as here, there is no evidence to support such a charge, and where that order presumed that the military would develop its own policy.

Plaintiffs rely heavily on *Int’l Refugee Assistance Project (“IRAP”) v. Trump*, 883 F.3d 233 (4th Cir. 2018), to support their argument that the new policy does not reflect independent, professional military judgment because it is “taint[ed]” by the President’s Twitter statement and 2017 Presidential Memorandum and because “[a]s the President’s subordinate in a ‘unitary executive,’ Secretary Mattis

did his duty and developed a plan to faithfully implement his Commander-in-Chief's wish.” *See* Pls.’ Opp. 16–18 (quoting *IRAP*, 883 F.3d at 268 n.16). Plaintiffs’ reliance on *IRAP* is misplaced. The central issues in that case—including a similar “taint” theory—are currently under review by the Supreme Court, which granted certiorari in *IRAP*’s related case, *Trump v. Hawaii*, 138 S. Ct. 923 (2018), and will presumably issue a decision next month. This Court should not extend the reasoning of *IRAP* to the present dispute while *Hawaii* is under consideration by the Supreme Court.

In any event, Plaintiffs’ contention that the Defense Department’s process lacked independence because the President “telegraphed the expected recommendations” draws this Court into an improper inquiry. Pls.’ Opp. 11 (quoting *IRAP v. Trump*, 265 F. Supp. 3d 570, 624 (D.Md. 2017)). Plaintiffs essentially ask the Court to determine the purportedly “true” intentions of the leadership of the Department of Defense—a form of “judicial psychoanalysis of” government officials’ “heart of hearts” that the Supreme Court has rejected. *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 862 (2005). It also thrusts the Court into the untenable position of evaluating the “adequacy” and “authenticity” of the military’s judgments regarding matters of national defense. *Cf. Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491 (1999). More fundamentally, even conducting such an inquiry would be inconsistent with the presumption of regularity. There is no reason to doubt that DoD applied its considered, independent judgment to the issues at hand, as reflected in the new policy itself, Secretary Mattis’s memorandum, DoD’s 44-page report, and the substantial administrative record. Plaintiffs are free to attempt a challenge to that policy if they choose, but their fixation on now-superseded prior statements and a revoked memorandum makes little sense.

Because the basis for the Court’s preliminary injunction no longer presents a live controversy, the Court should dissolve the injunction and dismiss this case as well. *See* Fed. R. Civ. P. 12(h)(3);

Defs.' M. to Dismiss Pls.' Second Am. Compl., or, in the Alternative, Defs.' M. for Summary Judgment, Dkt. 158.

II. The New Policy Is Subject To A Highly Deferential Form Of Review.

The prior injunction should be dissolved for the additional reason that the new policy is subject to and satisfies a highly deferential standard of review. Specifically, because the new DoD policy rests—and draws lines—on medical considerations arising from gender dysphoria and medical issues arising from gender transition, under settled constitutional principles, it does not classify on the basis of a suspect classification and is subject to rational-basis review. *Bd. of Trustees of Univ. of Alabama v. Garrett*, 531 U.S. 356, 365–68 (2001).

Plaintiffs barely dispute that heightened scrutiny does not apply, and instead engage in an analysis under rational-basis review, *see* Pls.' Opp. at 5, 19, underscoring Defendants' point that heightened scrutiny is inappropriate here given the military context. *See* Defs.' Mot. to Dissolve Prelim. Inj. ("Defs.' Mot.") 11–16, Dkt. 120. In any case, Plaintiffs' minimal attempts to dispute the applicable standard of review fall short. They point out that in its earlier decision granting a preliminary injunction, the Court concluded that intermediate scrutiny was applicable. Pls.' Opp. 18 (quoting Order 43–44, Dkt. 85). However, that holding did not apply to the new DoD policy and rested on the Court's conclusion that deference to the Executive was inappropriate because the President's Twitter statement and 2017 Presidential Memorandum did not "identify any policymaking process or evidence demonstrating that the revocation of transgender rights was necessary for any legitimate national interest." Op. 43. Indeed, the Court stated that it "does not disagree" with Defendants' argument "that deference is owed to military personnel decisions and to the military's policymaking process." *Id.* At this stage, the new policy is the result of an extensive review process by senior military leaders and is based on the considered judgment of the Department of Defense.

Plaintiffs' bare citations to authorities for subjecting a military personnel policy to heightened scrutiny are inapposite. Pls.' Opp. 19. First, this Court should not follow the *Karnoski* Court's recent decision to subject the new policy to strict scrutiny, as that court did not cite a single example of another decision concluding that a policy that classified on the basis of transgender status was subject to strict scrutiny, let alone a military policy turning on gender dysphoria adopted after a substantial review process. See 2018 WL 1784464, at *11. Additionally, *United States v. Virginia*, 518 U.S. 515 (1996), did not even discuss military deference, and for good reason: the policy in that case was justified based on pedagogical interests, not military concerns. *Id.* at 549. And even if military concerns had been at issue, they would have been the concerns of Virginia, not of the political branches of the federal government, which, unlike the states, hold constitutional powers related to the regulation and command of the military. See *Goldman v. Weinberger*, 475 U.S. 503, 507 (1986); *Rostker v. Goldberg*, 453 U.S. 57, 67 (1981); see also *Thomasson v. Perry*, 80 F.3d 915, 924 (4th Cir. 1996) ("The Constitution assigns the conduct of military affairs to the Legislative and Executive branches. There is nothing timid or half-hearted about this constitutional allocation of authority."); Defs.' Mot. 12–17. And, neither *M.A.B. v. Bd. of Educ. of Talbot Cty.*, 286 F. Supp. 3d 704 (D. Md. 2018), nor *F.V. v. Barron*, 286 F. Supp. 3d 1131 (D. Idaho 2018), involved the military context at all.

Plaintiffs argue in a footnote that "Defendants' reliance on *Rostker v. Goldberg*, 453 U.S. 57 (1981) remains misplaced" because "[t]he policy in *Rostker* was not spontaneously announced by the President over Twitter and implemented behind closed doors under the cloak of 'deliberative process' privilege." Pls.' Opp. 18 n.9. In addition, according to Plaintiffs, the new policy is not entitled to deference because Defendants have withheld "thousands of documents related to DoD's deliberations" on the basis of privilege. Neither contention impacts the level of deference due to the new DoD policy. As in *Rostker*, DoD has advanced an extensive explanation and record in support of the new policy. Indeed, to the extent discovery remains appropriate at all in a case that should be

subject to record review under the Administrative Procedure Act, *see* Dkt. 121 at 5–6; Dkt. 146 at 5–6, Defendants have produced over 90,000 pages of documents to date and an approximately 3,000-page administrative record, in addition to the 44-page DoD Report. *See* Dkt. 133. Additionally, Plaintiffs have had the opportunity to participate in depositions of four witnesses from DoD and the Services, and Defendants are in the process of scheduling three more depositions, including that of the Chair of the Panel of Experts. Accordingly, Plaintiffs’ argument that deference does not apply based on a lack of information about the process, and their attempt to distinguish *Rostker* on this basis, are unavailing.

Finally, it is notable what Plaintiffs do not dispute. Plaintiffs do not even mention—let alone try to distinguish—*Goldman*, where the Supreme Court rejected a free-exercise challenge to the Air Force prohibiting a Jewish officer from wearing a yarmulke even though that claim would have triggered strict scrutiny at the time had it been raised in the civilian context. *See* Defs.’ Mot. 14–16. Nor do they dispute that, unlike in the civilian context, courts (1) defer to the military’s proffered purpose for a particular classification even if it may not have been the actual purpose for the policy at the time the policy was enacted, *see* Opening Br. 13–14; *Schlesinger v. Ballard*, 419 U.S. 498, 508 (1975); *Rostker*, 453 U.S. at 60–63, 74–75; (2) defer to the military’s evidentiary justifications even if there exists contrary evidence, including from former military officials, *see* Opening Br. 14–15; *Goldman*, 475 U.S. at 509–10; *Rostker*, 453 U.S. at 80–83; (3) give significant weight to military concerns of administrative convenience, *see* Opening Br. 15–16; *Rostker*, 453 U.S. at 81; (4) defer to the military’s choice among alternative means to further a particular military interest, *see* Opening Br. 16; *Rostker*, 453 U.S. at 71–72; and (5) defer to the military’s line-drawing efforts, *see* Opening Br. 16–17; *Goldman*, 475 U.S. at 509–510. In short, at no point do Plaintiffs effectively dispute the broad principle that military decisions are entitled to significant deference.

III. The Department's New Policy Satisfies Highly Deferential Scrutiny.

A. As the DoD Report demonstrates, the new policy is at least rationally related to the military's interests in ensuring military readiness; maintaining order, discipline, leadership, and unit cohesion; and minimizing military costs. Report 14–24. In response, Plaintiffs offer declarations from a former DoD appointee and a doctor in an attempt to selectively challenge parts of the Report and offer alternative opinions. Plaintiffs thus seek to have this Court substitute its own judgment for that of current military leaders on matters of military policy, including through consideration of expert opinion. But the fact that Plaintiffs and their amici, *see* Dkt. 151, can identify experts with opinions contrary to the military's judgment is irrelevant, *see Goldman*, 475 U.S. at 509 (“[W]hether or not expert witnesses may feel that religious exceptions to [a military policy] are desirable is quite beside the point.”). The Constitution commits military decisions “to the political branches directly responsible—as the Judicial Branch is not—to the electoral process,” *Gilligan v. Morgan*, 413 U.S. 1, 10 (1973), and nowhere suggests that disputes over military policy should be resolved through expert witnesses.

Even more out of place is Plaintiffs' suggestion that because their experts think differently, the Department's decision must have been pretextual. *See, e.g.*, Pls.' Opp. 22. Plaintiffs essentially ask the Court to declare the views of their experts so correct, and the judgments of the military so fundamentally wrong, that the military could not have been acting reasonably or in good faith. Such an approach cannot be squared with the Constitution's allocation of military decisionmaking authority or Supreme Court precedent. The relevant question is whether—taking into account the deference due to the military's judgment, evidence, and discretion to choose among alternatives—the Government has shown that the new policy is at least rationally related to the military's proffered interests. As outlined above and in Defendants' opening motion, the new policy is plainly an exercise

in reasoned judgment, even if others would reach a different policy outcome. *See Goldman*, 475 U.S. at 506–508; *Rostker*, 453 U.S. at 64–70.²

B. Plaintiffs’ remaining objections—those unrelated to the testimony of their experts—fall short. For instance, they argue that the Department’s conclusions related to deployability are “demonstrably false” or “ma[k]e no sense in light of how the [military] treat[s] other groups similarly situated in relevant respects” because service members with gender dysphoria are subject to the military’s generally applicable deployability requirements. Pls.’ Opp. 23 (citation omitted) (alteration in original). But the military’s general deployability standard applies in a neutral fashion with respect to specific medical conditions (of which gender dysphoria is one of many), which DoD has determined generally cannot be accommodated in a forward-deployed environment. *See, e.g.*, AR2584–2614 (USCENTCOM Minimal Deployment Standards), Dkt. 133-14.

Plaintiffs also contend that under the Carter policy, newly enlisted service members do not present a deployability problem because in order to access, they must establish that they are no longer transitioning. Pls.’ Opp. 24. But DoD judged that completing transition does not eliminate all deployability concerns. As DoD’s Report explains, “there is considerable scientific uncertainty

² When Plaintiffs’ declarants are not cherry-picking details, they are mischaracterizing the Report and the underlying evidence. While all of their counterpoints are disputable, one stands out: their claim that the Report mischaracterizes the Center for Medicare and Medicaid Services (“CMS) study and omitted that study’s finding that “surgical care to treat gender dysphoria is safe, effective, and not experimental” and the CMS report’s “endorse[ment of] individualized treatment plans to treat gender dysphoria.” Pls.’ Opp. 22 (citation omitted). To the contrary, the Report acknowledges that the “prevailing judgment of mental health practitioners is that gender dysphoria can be treated” with transition-related care and that numerous studies show that such treatments “can improve health outcomes for individuals with gender dysphoria[.]” Report 24. What the Report questions is whether the *extent* of the improvement in health outcomes and the *strength* of the scientific evidence are adequate to resolve or mitigate the various risks associated with gender dysphoria. How much risk the military is willing to bear with respect to a given medical condition is a matter of military judgment, and DoD has concluded—based on the independent findings of governmental and nongovernmental organizations that have assessed the literature on gender dysphoria treatments—that it should proceed cautiously. *See id.* at 24–27.

concerning whether [transition-related] treatments fully remedy ... the mental health problems associated with gender dysphoria,” Report 32, and “[i]n managing mental health conditions, while deployed, providers must consider the risk of exacerbation if the individual were exposed to trauma or severe operational stress. These determinations are difficult to make in the absence of evidence on the impact of deployment on individuals with gender dysphoria.” Report 34.

Further, Plaintiffs contend that because the military already has policies in place addressing histories of suicidality, depression, and anxiety, “[t]here is no rational basis for excluding transgender individuals who can demonstrate the same mental fitness as any other enlistee.” Pls.’ Opp. 23. But DoD could reasonably determine that gender dysphoria is “associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning,” Report 13 (quoting the DSM-V), and that a typical treatment for this condition—gender transition—is unlike any other form of treatment in that it requires a permanent exception from the standards that apply to the patient’s biological sex (and remains the subject of “considerable scientific uncertainty”), *id.* at 32. And, while gender dysphoria differs in significant ways from suicidality, depression, or anxiety, it is sufficiently associated with high rates of those conditions, even after treatment, to justify the risk-mitigating approach adopted by DoD. *Id.* at 21–26. Moreover, Plaintiffs’ argument that the new policy is unnecessary because the military has preexisting policies addressing suicidality, depression, and anxiety would apply with equal force to the Carter policy they prefer, which likewise limits accession based on gender dysphoria and transition.³

³ Plaintiffs reliance on *Cranford v. Cushman*, 531 F.2d 1114, 1123 (2d Cir. 1976) is also misplaced. *Cranford* rested on the untenable premise that “military decisions are accorded no presumption of validity in an inquiry on the merits,” and the Second Circuit has since rejected that premise in light of *Rostker*. *Mack v. Rumsfeld*, 784 F.2d 438, 439 (2d Cir. 1986) (per curiam); see also *id.* (noting that this “portion of *Cranford* . . . was specifically rejected by us”).

Plaintiffs also question DoD's reliance on its interest in maintaining sex-based standards, arguing that "in the civilian context, the courts have repeatedly found that those concerns had no actual basis in fact." Pls.' Opp. 27 n.15. However, as Plaintiffs appear to acknowledge, none of the cases they cite involved the military context. Plaintiffs nevertheless trivialize the military's concerns, asserting that "categorically banning a class of people who are fit to serve" is not "a reasonable solution to the problem of fairness in boxing competitions." *Id.* at 27 (emphasis omitted). Plaintiffs' argument misunderstands the nature of the military, where sex-based standards are necessary to maintain an integrated force and are integral to daily life, applying to, among others things, physical fitness and height and weight standards; berthing, showering, and restroom facilities; and contact sports and combat training. Report 28–29. Comparisons to experience in civilian life or to case law from the civilian context are inapposite.

Plaintiffs also assert that the Report lacks sufficient examples of problems arising related to sex-based standards, Pls.' Opp. 29, but they ignore its discussion of problems related to facilities and training, as well as dueling equal opportunity complaints under the Carter policy, Report 37–38; Defs.' Mot. 23. These examples "illustrate the significant effort required of commanders to solve [the] challenging problems posed by the implementation of the [Carter Policy]." Report 38.⁴

Plaintiffs also contest DoD's reliance on cost as a justification for the new policy. Pls.' Opp. 25–26. They complain that the Department did not "quantify the cost of care," Pls.' Opp. 26, and

⁴ Plaintiffs invoke news articles discussing congressional testimony by the Chief of Staff of the Army, the Chief of Naval Operations, and the Commandant of the Marine Corps explaining that they had not received reports of issues relating to unit cohesion or discipline arising from service by transgender service members. Pls.' Opp. 30. Secretary Mattis himself, however, later testified to Congress that reports of such issues would not have come up to the level of those officials due to limitations in the Carter policy on reporting information relating to transgender service members. *See* Exh. 1, Department of Defense Budget Posture, United States Senate Committee On Armed Services (April 26, 2018) at 63; *see also* Report 37 n.143.

that although the Department justifies the new policy in part based on the cost of transition treatment, some affected by the new policy will have already transitioned before seeking to enlist, Pls.' Opp. 25. But Plaintiffs miss that “[s]ince implementation of the Carter policy, the medical costs for Service members with gender dysphoria”—not just those that receive military-funded transition treatment—“have increased nearly three times” compared to other service members. Report 41.

Plaintiffs nevertheless cite to the RAND Report’s conclusion—made prior to adoption of the Carter policy—that the cost of transition-related treatment is small in comparison to the military’s total health care costs. Pls.’ Opp. 26. The Report explains, however, why this comparison is inapt: it ignores the *cost per capita* of accessing individuals with gender dysphoria. Report 14. By RAND’s logic, the Department would have no basis for considering the treatment cost of *any* medical condition so long as that condition were relatively rare. DoD should not be foreclosed from rationally concluding that its new policy furthers its interest in minimizing cost burdens. *See Rostker*, 453 U.S. at 81.

IV. The Equities Favor Dissolving The Preliminary Injunction.

The leadership of the Department of Defense concluded that absent implementation of the new policy, there will remain “substantial risks” that threaten to “undermine readiness, disrupt unit cohesion, and impose an unreasonable burden on the military that is not conducive to military effectiveness and lethality.” Mattis Mem. 2; *see also, e.g.*, Report 32–35, 41, 44. Such “specific, predictive judgments” from senior military officials, including the Secretary of Defense himself, “about how the preliminary injunction would reduce the effectiveness” of the military, merit significant deference. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 27 (2008).

In contrast, Plaintiffs face little risk of harm. The *Karnoski* Court recently expanded its preliminary injunction to cover the new policy on a nationwide basis. *See* 2018 WL 1784464, at *14. As a result, dissolving the preliminary injunction here would have no practical effect on Plaintiffs. *See, e.g.*, Order, Dkt. No. 143, *Pars Equality Center v. Trump*, No. 17-cv-0255-TSC (D.D.C. March 2, 2018)

(staying request for preliminary relief because another nationwide injunction “calls into question whether the harms Plaintiffs allege are actually imminent or certain—a prerequisite for a preliminary injunction.”); *Hawai’i v. Trump*, 233 F. Supp. 3d 850, 853 (D. Haw. 2017) (“[T]he Western District of Washington’s nationwide injunction already provides the State with the comprehensive relief it seeks in this lawsuit. As such, the State will not suffer irreparable damage”).

To be sure, the Government has appealed the *Karnoski* Court’s decision and moved to stay the district court’s extension of the preliminary injunction to the new DoD policy pending appeal. *See Karnoski v. Trump*, No. 18-35347 (9th Cir.), Dkt. 3-1. But regardless of the ultimate resolution of that stay motion and appeal, this Court should not leave its preliminary injunction in place. If, for example, the Ninth Circuit stays or dissolves the preliminary injunction, that would only further support Defendants’ motion to dissolve here. And if the stay is ultimately denied, the nationwide injunction in the *Karnoski* case would remain in place, thereby protecting Plaintiffs from any alleged harm.

Moreover, even if DoD implemented its new policy, the six original Plaintiffs who are current service members would qualify for the policy’s reliance exception—and thus would be able to continue serving in their preferred gender, obtain commissions if qualified, and receive medical treatment—because they received a diagnosis of gender dysphoria from a military medical provider while the Carter Policy was in effect. *See* Report 43; Defs.’ M. to Dismiss Pls.’ Second Am. Compl. 9–15.⁵

Plaintiffs respond by invoking the exception’s severability provision, arguing that the new policy “expressly threatens to withdraw the grandfathering provision based on what a future court

⁵ The *Karnoski* Court questioned whether the reliance exception would apply in that case, as it was not convinced that the currently serving plaintiffs there had been diagnosed with gender dysphoria by a military medical provider since the Carter Policy took effect. *See* 2018 WL 1784464, at *7 n.7. In doing so, it missed that service members could receive treatment under the Carter Policy—which all of the service member Plaintiffs both here and in *Karnoski* did—only if they had received a diagnosis of gender dysphoria by a military medical provider after that policy took effect. *See, e.g.*, Report 14.

might decide.” Pls.’ Opp. 13 (emphasis omitted). That provision, however, does not pose any imminent threat of injury. The severability provision simply states: “[S]hould [the] decision to exempt these Service members be used by a court as a basis for invalidating the entire policy, this exemption is and should be deemed severable from the rest of the policy.” Report 43. Thus, for Plaintiffs to be discharged from the military on the basis of their gender dysphoria, the following would have to occur: First, a court would have to rule that (1) the entire DoD policy was unlawful due to the reliance exception, (2) the entire DoD policy would be lawful but for that exception, and (3) that exception should therefore be severed from the rest of the policy. Second, that decision would have to be upheld upon any further judicial review. Third, with the reliance exception gone, officials within DoD would then have to make the independent decision to discharge current service members who have been diagnosed with gender dysphoria. Finally, these six Plaintiffs would have to be processed for discharge on that basis. Given that a highly attenuated chain of events would have to occur before Plaintiffs were discharged, they cannot establish imminent, let alone irreparable, harm. *See Winter*, 555 U.S. at 22 (mere “possibility” of harm insufficient for preliminary relief); *see also Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 413–14 (2013); Defs.’ M. to Dismiss Pls.’ Second Am. Compl. 9–12.⁶

Plaintiffs’ remaining arguments are makeweight. They object that the new policy’s guarantee that they “may continue to receive all medically necessary care” is vague and will somehow lead to them being denied care, but this is another speculative assertion of harm. Pls.’ Opp. 15 n.7. Plaintiffs also argue that they have been stigmatized because they “will be serving pursuant to a special

⁶ Even if DoD’s new policy were implemented and as a result Plaintiffs were somehow subject to separation, that separation would not amount to irreparable injury sufficient to warrant injunctive relief. *See Guerra v. Scruggs*, 942 F.2d 270, 274 (4th Cir. 1991) (“[T]he prospect of a general discharge [from the military] under honorable conditions is not an injury of sufficient magnitude to warrant an injunction.” (quoting *Chilcott v. Orr*, 747 F.2d 29, 34 (1st Cir. 1984)); *see also Hartikka v. United States*, 754 F.2d. 1516, 1518 (9th Cir. 1985) (damage to reputation as well as lost income, retirement, and relocation pay resulting from less-than-honorable discharge not irreparable).

‘exemption,’ in a military that broadcasts the message that they and persons like them are undesirable and ‘create disproportionate costs.’” Pls.’ Opp. 15. But that sort of stigmatic injury causes harm “only to those persons who are personally denied equal treatment.” *Allen v. Wright*, 468 U.S. 737, 755 (1984) (citation omitted). Plaintiffs have not shown that they themselves have been subject to discriminatory treatment, because they have not identified “some concrete interest with respect to which [they] are personally subject to discriminatory treatment.” *Id.* at 757 n.22. No such interest exists here, so nor does any injury, irreparable or otherwise. *See In re Navy Chaplaincy*, 534 F.3d 756, 760–61 (D.C. Cir. 2008); Defs.’ M. to Dismiss Pls.’ Second Am. Compl. 14–15.

CONCLUSION

For the foregoing reasons, this Court should dissolve the preliminary injunction it issued on November 21, 2017. Given DoD’s judgment that maintaining the Carter Policy poses substantial risks to military readiness, Defendants respectfully request a ruling as soon as possible and no later than May 23, 2018. If the Court denies this motion, however, Defendants respectfully request that it stay the application of the preliminary injunction to DoD’s new policy pending any appeal.

Dated: May 11, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2018, I electronically filed the foregoing Defendants' Reply in Support of Their Motion to Dissolve the Preliminary Injunction using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: May 11, 2018

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Exhibit 1

**Department of Defense Budget Posture
United States Senate Committee On Armed Services
April 26, 2018**

Stenographic Transcript
Before the

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

HEARING TO RECEIVE TESTIMONY ON THE DEPARTMENT OF DEFENSE
BUDGET POSTURE IN REVIEW OF THE DEFENSE AUTHORIZATION
REQUEST FOR FISCAL YEAR 2019 AND THE FUTURE YEARS DEFENSE
PROGRAM

Thursday, April 26, 2018

Washington, D.C.

ALDERSON COURT REPORTING
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1 HEARING TO RECEIVE TESTIMONY ON
2 THE DEPARTMENT OF DEFENSE BUDGET POSTURE
3 IN REVIEW OF THE DEFENSE AUTHORIZATION REQUEST
4 FOR FISCAL YEAR 2019 AND
5 THE FUTURE YEARS DEFENSE PROGRAM

6
7 Thursday, April 26, 2018

8
9 U.S. Senate
10 Committee on Armed Services
11 Washington, D.C.

12
13 The committee met, pursuant to notice, at 9:29 a.m. in
14 Room SH-216, Hart Senate Office Building, Hon. James M.
15 Inhofe, presiding.

16 Committee Members Present: Senators Inhofe
17 [presiding], Wicker, Fischer, Cotton, Rounds, Ernst, Tillis,
18 Sullivan, Perdue, Cruz, Graham, Sasse, Scott, Reed, Nelson,
19 McCaskill, Shaheen, Gillibrand, Blumenthal, Donnelly,
20 Hirono, Kaine, King, Heinrich, Warren, and Peters.

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1 OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S.

2 SENATOR FROM OKLAHOMA

3 Senator Inhofe: Our meeting will come to order.

4 The committee today meets to receive testimony on the
5 budget posture of the Department of Defense and the fiscal
6 year 2019 request and the future years defense program.

7 We welcome our witnesses: Secretary of Defense Mattis,
8 Under Secretary Norquist, and the Chairman of the Joint
9 Chiefs, General Dunford.

10 Secretary Mattis, we wish to commend you for your work
11 in developing a strategy that correctly prioritizes the
12 current threats that we face. Now comes the more difficult
13 task and that is implementing the strategy. We agree on the
14 strategy, but it has got to be implemented.

15 One of Chairman McCain's priorities has been
16 considering if the Department is properly structured to take
17 on this huge task. And as the committee looks toward the
18 upcoming NDAA process, we welcome your thoughts about what
19 we can do to help you.

20 In the end, we must recognize that even if we get the
21 strategy and structure exactly right, you cannot be
22 successful if Congress does not deliver the resources needed
23 to implement this strategy. We know how damaging that can
24 be and has been, as we have time and again failed to do our
25 job by passing appropriations bills, instead passing CR

1 after CR. We welcome your testimony about exactly how this
2 would impact it. In fact, that will be one of my first
3 questions as to what would happen if we had not done this
4 and what will happen if we do not do it again for 2020 and
5 ensuing years.

6 This is especially important because we are not yet out
7 of the woods on sequestration. Although we did come to a
8 budget agreement for this year and the next, we still have
9 to go back and try to take care of the problems that will be
10 in 2020 and ensuing years after that.

11 We cannot dig ourselves out of the current readiness
12 crisis in just 2 years. It will take much longer to undo
13 the damage that has been done in the past 8 years to our
14 military, and the lack of any real growth in the future
15 years defense program exemplifies this.

16 So we look forward to your testimony and thank you for
17 being here and for the great job that you continue to do
18 year after year.

19 Senator Reed?

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1 STATEMENT OF HON. JACK REED, U.S. SENATOR FROM RHODE
2 ISLAND

3 Senator Reed: Thank you very much, Mr. Chairman.

4 And I want to join you in welcoming the Secretary of
5 Defense, the Chairman of the Joint Chiefs of Staff, and the
6 Comptroller. Thank you, gentlemen for your service to the
7 nation over many, many years -- your continued service.

8 Today we are considering the fiscal year 2019 budget
9 for the Department of Defense, which seeks \$617 billion in
10 base funding and \$69 billion for overseas contingency
11 operations. Fortunately, we find ourselves in a moment of
12 budget stability, having passed an agreement in February
13 that removed the threat of sequestration for fiscal years
14 2018 and 2019 and added funding for both defense and non-
15 defense programs. However, additional challenges loom on
16 the horizon, as the caps and sequestration will be back in
17 force for fiscal year 2020. As the chairman mentioned, we
18 still have to focus on that issue.

19 Secretary Mattis, I commend you for the careful and
20 thoughtful and hard work that went into the National Defense
21 Strategy, or NDS. It accurately recognizes that the central
22 challenge facing our nation is the reemergence of long-term
23 strategic competition with Russia and China. I am also
24 pleased to see that the President's budget reflects the
25 beginnings of investment in some of the technologies we will

1 need for this competition, such as hypersonics and
2 artificial intelligence.

3 However, the perennial challenge facing any Secretary
4 of Defense is preparing for the future while reacting to the
5 present. And unfortunately, there are many urgent
6 situations not delineated in the NDS that will require our
7 attention in the coming weeks and months.

8 At the present time, the White House is attempting to
9 focus its efforts on negotiating an agreement to
10 denuclearize North Korea. Given where we were a few months
11 ago when the administration was threatening limited strikes
12 on North Korea, I am relieved to say we have come a long
13 way, but we still have a long, hard road ahead.

14 We all hope that President Trump's summit with the
15 North Korean leader presents us with an opportunity to craft
16 a comprehensive negotiated settlement. However, we must
17 recognize that if the negotiations fail and if that happens,
18 we could find ourselves in a more challenging position than
19 before the negotiations with a renewal of dangerous rhetoric
20 about war with North Korea, but now more supercharged by
21 those advocating for military action, claiming that
22 diplomacy has failed.

23 While working through these issues with a depleted
24 diplomatic corps, the President must also decide by May 12
25 whether to continue to waive nuclear-related sanctions on

1 Iran as required by the Joint Comprehensive Plan of Action,
2 or JCPOA. I support preserving the JCPOA. The United
3 States and the world is safer with it. By all accounts, the
4 JCPOA is working as intended, and Iran is verifiably meeting
5 its commitments under the deal. If not for this agreement,
6 Iran would likely be a nuclear power today, and withdrawing
7 from it could accelerate Iran's path to nuclear weapons and
8 make America less safe.

9 Furthermore, withdrawing from the deal could be a
10 devastating blow to our efforts at diplomacy with North
11 Korea and, for that matter, any further diplomatic efforts
12 to contain aggressive or destabilizing behavior by our
13 adversaries. Why would any nation engage with us in serious
14 dialogue to resolve differences if they fear we will later
15 withdraw unilaterally and without cause? Furthermore,
16 abandoning the JCPOA would isolate the United States
17 diplomatically from the international community at the very
18 time we need worldwide cooperation to address the threat
19 posed by North Korea.

20 Additionally, President Trump's mixed messages about
21 our military commitment to Syria could accelerate the
22 declared intentions of Israel to conduct more sustained
23 attacks against Iranian forces and proxies in Syria and
24 Lebanon. The level of violence and Iran's reaction are
25 unlikely to be restricted to Syria and a confrontation

1 including Iraq, Saudi Arabia, and others in the region is a
2 real risk.

3 If any of these situations becomes a crisis, it is
4 going to take all the attention and resources of the
5 Department of Defense. So I am interest in hearing more
6 about how you plan to balance the present and the future.

7 Turning back to the NDS, when we think about great
8 power competition, we tend to think and plan for
9 conventional conflict. But I believe we must take into
10 account that much of the threat already posed by China and
11 Russia is asymmetric.

12 The growing Russian asymmetric threat below the level
13 of military conflict continues to target the United States,
14 our allies, and partners. Russia attacked the heart of our
15 democracy in the 2016 presidential election through a
16 Kremlin-directed hybrid warfare campaign using all tools of
17 national power. Because we have failed to impose sufficient
18 costs for this assault, not only has Russia not been
19 deterred, it has been emboldened and we are already seeing
20 Russian attempts to interfere with the 2018 midterm
21 elections. I am interested in hearing what is being done to
22 harden our defenses and develop a whole-of-government
23 approach that utilizes both the military and non-military
24 tools in our arsenal to counter this Russian aggression.

25 We should also keep in mind that by next spring, the

1 Congress will be debating whether to raise sequestration
2 caps once again, as the chairman mentioned. I have learned
3 from my time in Congress that if you show me your budget, I
4 will tell you your strategy. But what will happen to the
5 NDS if we return to the Budget Control Act caps? This
6 debate will be colored by concern about the debt, which was
7 made worse by the \$1.5 trillion deficit-financed tax cuts
8 passed last year. In CBO's recent projection, debt held by
9 the public rises from 78 percent of GDP, or \$16 trillion, at
10 the end of 2018 to 96 percent of GDP, or \$29 trillion, by
11 2028. That percentage would be the largest since 1946 and
12 well more than twice the average over the past 5 decades.

13 The growing deficit and impending sequestration will
14 have severe consequences. They will constitute a major
15 distraction from thoughtful debate and responsible action on
16 the issues of national security. They will likely lead to
17 stopgap measures like recurring continuing resolutions that
18 disrupt planning at DOD and every other federal agency and,
19 ironically, add cost and inhibit readiness and
20 modernization. If our nation's fiscal strategy does not
21 take into consideration the need for revenue, deficit-driven
22 measures like these will likely make it exceedingly
23 difficult to follow through with a long-term strategy with
24 regard to any serious challenge facing us from the
25 international arena.

1 Secretary Mattis and General Dunford, you have been
2 consummate professionals. You have served in tumultuous
3 times. We face many difficult decisions ahead. We are all
4 gratified and, indeed, grateful that you are where you are.

5 I look forward to working with you and all of my
6 colleagues in a bipartisan fashion to help you and help us
7 all resolve these issues.

8 Thank you very much, Mr. Chairman.

9 Senator Inhofe: Thank you, Senator Reed.

10 For our panel, all of your statements will be a part of
11 the record, but you are recognized for your opening
12 statement, General Dunford. Let us start with Secretary
13 Mattis.

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1 STATEMENT OF HON. JAMES N. MATTIS, SECRETARY OF
2 DEFENSE; ACCOMPANIED BY HON. DAVID L. NORQUIST, UNDER
3 SECRETARY OF DEFENSE, COMPTROLLER

4 Secretary Mattis: Senator Inhofe, Ranking Member Reed,
5 and distinguished members of the committee, I appreciate
6 this opportunity to testify in support of the President's
7 budget request for fiscal year 2019.

8 And General Dunford and I are joined by Mr. David
9 Norquist, the Department's Comptroller and Chief Financial
10 Officer.

11 And thank you for accepting my written statement for
12 the record, Chairman.

13 I am now in my second year as Secretary of Defense.
14 And with your help, we have made steady progress during the
15 past 14 months. I must note today's absence of Chairman
16 McCain, a longstanding, respected, even revered member of
17 this committee and one whose influence is deeply felt and
18 echoed in our National Defense Strategy.

19 In January, the Department published that strategy, the
20 first in a decade. Framed within President Trump's National
21 Security Strategy, the 2018 National Defense Strategy
22 provides clear direction for America's military to restore
23 its competitive edge in an era of reemerging long-term great
24 power competition.

25 The Department next released the 2018 Nuclear Posture

1 Review, which calls for America's military to provide a
2 safe, secure, and effective nuclear deterrent that is
3 modern, robust, flexible, resilient, ready, and
4 appropriately tailored to deter 21st century threats and
5 reassure our allies.

6 In South Asia and Afghanistan, uncertainty in the
7 region has been replaced by the certainty of the
8 administrations' South Asia Strategy. Concurrently in the
9 Middle East, we have dramatically reduced ISIS' physical
10 caliphate using a coordinated, whole-of-government approach
11 that works by, with, and through our allies and partners to
12 crush ISIS' claim of invincibility and to deny them a
13 geographic haven from which to plot murder.

14 Last month, thanks to the bipartisan support and
15 political courage of Congress and the dedication of this
16 committee, President Trump signed the omnibus spending bill
17 that funds the government for the remainder of this fiscal
18 year. This law, along with the 2-year budget agreement
19 passed as part of February's Bipartisan Budget Act, finally
20 freed us from the inefficient and damaging continuing
21 resolution funding process, now providing the predictable
22 and sufficient funding needed to continue implementing the
23 2018 National Defense Strategy.

24 Our fiscal year 2019 budget requests the resources
25 necessary to fulfill the Department's enduring mission, to

1 provide the combat-credible military forces needed to deter
2 war and, if deterrence fails, to win in any conflict. These
3 forces reinforce America's traditional tools of diplomacy,
4 ensuring that the President and our diplomats negotiate from
5 a position of strength.

6 To restore our nation's competitive military edge, the
7 fiscal year 2018 budget funds our National Defense
8 Strategy's three overarching lines of effort: first, to
9 build a more lethal force; second, to strengthen our
10 traditional alliances while building new partnerships; and
11 third, reform the Department's business practices for
12 performance and affordability.

13 Our first line of effort is to build a more lethal
14 force. All our Department's policies, expenditures, and
15 training must contribute to the lethality of our military.
16 We cannot expect success fighting tomorrow's conflicts with
17 yesterday's thinking, yesterday's weapons, or yesterday's
18 equipment. As President Washington said during his first
19 State of the Union address, "to be prepared for war is one
20 of the most effectual means of preserving peace," and today
21 our lethal military arm will enhance our diplomats'
22 persuasiveness.

23 The paradox of war is that an adversary will move
24 against any perceived weakness. So we cannot adopt a single
25 preclusive form of warfare. We must be able to fight across

1 the entire spectrum of combat. The nation must field
2 sufficient capable forces to deter conflict, and if
3 deterrence fails, we must win. Following this logic, we
4 must maintain a credible nuclear deterrent so these weapons
5 are never used and a decisive conventional force that
6 includes irregular warfare capability.

7 Preserving the full range of our nation's deterrent
8 options requires the recapitalization of our Cold War legacy
9 nuclear deterrent forces, as initiated during the previous
10 administration. Modernizing the nation's nuclear deterrent
11 delivery systems and our nuclear command and control is the
12 Department's top priority, and these programs are fully
13 funded in the fiscal year 2019 budget.

14 The 2019 budget further funds enhancements to the U.S.
15 missile defense capabilities to defend the homeland, our
16 deployed forces, allies, and partners against an
17 increasingly complex missile threat. In accordance with the
18 soon to be released 2018 Missile Defense Review, this budget
19 requests continued robust support for missile defense
20 capacity and capability to keep pace with advancing threats.

21 The proposed budget will modestly increase the end
22 strength for the Army, Navy, Air Force, and Marine Corps to
23 restore readiness, adding 25,900 to the active and reserve
24 force. The budget will also continue to invest in the
25 military's most important asset, its warfighters, with a 2.6

1 percent military pay increase.

2 The 2019 budget continues to increase procurement of
3 preferred and advanced munitions, a necessity due to the
4 ongoing operations in the Middle East and the need for war
5 reserves. Ten combat ships and eight support ships are
6 funded, arresting the downward trajectory of our Navy's size
7 and lethality. We will continue production of 77 F-35's and
8 24 F-18's, evaluating the performance of both to determine
9 the most appropriate mix moving forward.

10 This budget requests funds for systems to enhance
11 communications and resiliency in space, addressing overhead
12 persistent infrared capabilities, positioning, navigation,
13 and timing, plus space-launched systems.

14 Our 2018 National Defense Strategy also prioritized
15 investing in technological innovation to increase lethality,
16 and that continues in this budget. Cyber, advanced
17 computing, big data analytics, artificial intelligence,
18 autonomy, robotics, miniaturization, additive manufacturing,
19 directed energy, and hypersonics are the very technologies
20 we need to fight and win wars of the future.

21 Every investment in the strategy-driven fiscal year
22 2019 budget is designed to contribute to the lethality of
23 our military, ensuring that subsequent secretaries of
24 defense inherit a military force that is fit for its time.
25 Those seeking to threaten America's experiment in democracy

1 should know if you challenge us, it will be your longest and
2 worst day.

3 Our 2018 National Defense Strategy second line of
4 effort is continued this year to strengthen our traditional
5 alliances while building new partnerships. In the past, I
6 had the privilege of fighting many times in defense of the
7 United States, but I never I fought in a solely American
8 formation. It was always alongside foreign troops. Easier
9 said than done, Winston Churchill noted the only thing
10 harder than fighting with allies is fighting without them.
11 History proves that we are stronger when we stand united
12 with others. Accordingly, our military will be designed,
13 trained, and ready to fight alongside allies. Working by,
14 with, and through allies and partners who carry their fair
15 share remains a source of strength for the United States.

16 Since the costly victory in World War II, Americans
17 have carried a disproportionate share of the global defense
18 burden while others recovered. Today the growing economic
19 strength of allies and partners has enabled them to step up,
20 as demonstrated by the 74 nations and international
21 organizations participating in the Defeat ISIS campaign and
22 again in the 41 nations standing shoulder to shoulder in
23 NATO's Resolute Support mission in Afghanistan. This year,
24 every NATO ally has increased defense spending, and 15 NATO
25 allies are increasing their defense budget as a share of the

1 gross domestic product, giving credence to the value of
2 democracies standing together. Further, our Pacific
3 partners are also strengthening their defenses.

4 Our third line of effort is the urgent reform of the
5 Department's business practices to provide both solvency and
6 security. We will continue to establish a culture of
7 performance where results and accountability matter on every
8 expenditure to gain full benefit from every single taxpayer
9 dollar spent on defense. We are committed to exercising the
10 utmost degree of financial stewardship and budget discipline
11 within the Department. In this regard, this year we will
12 deliver our Department's first full financial audit in
13 history. We will find the problems it reveals and take
14 swift action to correct our deficiencies, thereby earning
15 the trust of Congress and the American people.

16 I am confident we have the right leaders in place to
17 make meaningful reform a reality: Pat Shanahan as Deputy
18 Secretary of Defense, Jay Gibson as Chief Management
19 Officer, Ellen Lord as Under Secretary of Defense for
20 Acquisition Sustainment, Michael Griffin as Under Secretary
21 of Defense for Research and Engineering, Bob Daigle as
22 Director of Cost Assessment and Program Evaluation, and
23 David Norquist who joins us here today, as the Department's
24 Chief Financial Officer. Each brings the intellect, the
25 energy, and experience required to implement and sustain

1 meaningful reform, ensuring the Department provides
2 performance and affordability for the American taxpayer.

3 The Department is transitioning to a culture of
4 performance and affordability that operates at the speed of
5 relevance. We will prioritize speed of delivery, continuous
6 adaptation and frequent modular upgrades. With your
7 continued critical support, we will shed outdated management
8 and acquisition processes while adopting American
9 industries' best practices. Our management structure and
10 processes are not engraved in stone. They are a means to an
11 end. If current structures inhibit our pursuit of
12 lethality, I have directed service secretaries and agency
13 heads to consolidate, eliminate, or restructure to achieve
14 their mission.

15 Here I will note that I have also issued direction
16 about a particular cancer in our ranks: sexual assault.
17 Unit cohesion built on trust and mutual respect is what
18 holds us together under stress and keeps our forces combat
19 effective against daunting odds. This Department is
20 committed to assertively preventing and swiftly responding
21 to any sexual assault in our ranks. While battlefield
22 casualties are a reality of war, we will accept no
23 casualties due to sexual assault in our military family. I
24 personally discussed this with all senior Department
25 leaders. Earlier this month, I issued a memo making this

1 clear to all members of the Department. I ask that it also
2 be submitted for the record.

3 Senator Inhofe: Without objection.

4 [The information referred to follows:]

5 [COMMITTEE INSERT]

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1 Secretary Mattis: The 2018 National Defense Strategy's
2 three primary lines of effort, building a more lethal force,
3 strengthening our alliances, and reforming our business
4 practices, will restore our competitive military advantage
5 ensuring we are prepared to fight across the full spectrum
6 of combat both now and in the future.

7 I want to thank this committee for your strong,
8 spirited bipartisan collaboration. While our trajectory is
9 going in the right direction, our work has just begun. This
10 is a year of opportunity and a chance to continue to work
11 together building on a strong start as we turn the National
12 Defense Strategy into action.

13 The points I need to emphasize in this hearing are that
14 this budget, which is designed to execute the defense
15 strategy, is building a more lethal force and it is also
16 building for the future by improving our military
17 technological competitive edge, and we will reform the
18 Department's business processes to establish that culture of
19 performance and affordability to ensure security and
20 solvency. The strategy is the guidepost for all our
21 actions, including this year's strategy-driven budget
22 request, driving meaningful reform to establish an enduring
23 culture of performance, affordability, and agility.

24 I cannot appear before you without expressing my
25 gratitude to the men and women of our Department. They are

1 the ones who must ultimately turn the National Defense
2 Strategy into action. Every day more than 2 million service
3 members and nearly 1 million civilians do their duty
4 honoring previous generations of veterans and civil servants
5 who have sacrificed for their country. It is a privilege
6 for me to serve alongside them, and I thank them for their
7 tireless efforts and unyielding standards in defense of our
8 nation.

9 General Dunford is prepared to discuss the military
10 dimensions of the budget.

11 [The prepared statement of Secretary Mattis follows:]

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1 Senator Inhofe: Thank you, Mr. Secretary. An
2 excellent statement.

3 General Dunford?

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1 STATEMENT OF GENERAL JOSEPH F. DUNFORD, JR., USMC,
2 CHAIRMAN OF THE JOINT CHIEFS OF STAFF

3 General Dunford: Senator Inhofe, Ranking Member Reed,
4 distinguished members of the committee, thank you for the
5 opportunity to join Secretary Mattis and Under Secretary
6 Norquist here today. It is an honor to represent your men
7 and women in uniform. And I join the Secretary in
8 acknowledging Senator McCain's leadership and support.

9 We are here for a candid discussion of the challenges
10 we face. I want to begin by assuring you that the U.S.
11 military has a competitive advantage over any potential
12 adversary today. I am confident we can deter a nuclear
13 attack, defend the homeland, meet our alliance commitments,
14 and prevail in any conflict. But as we previously
15 discussed, after years of sustained operational commitments,
16 budgetary instability, and advances by our adversaries, our
17 competitive advantage has eroded and our readiness has
18 degraded.

19 Driven by the National Defense Strategy and building on
20 the fiscal year 2017 and 2018 appropriations, the 2019
21 budget submission supports rebuilding the lethal and ready
22 joint force that the nation needs. The Secretary has
23 addressed their defense strategy that recognizes Russia and
24 China as the priority while also meeting the immediate
25 challenges posed by rogue regimes and violent extremist

1 organizations. China and Russia continue to invest across
2 the full range of nuclear, cyber, space, and conventional
3 capabilities. Both states are focused on limiting our
4 ability to project power and undermining the credibility of
5 our alliances. They are also increasingly adept, as Senator
6 Reed has pointed out, at advancing their interests through
7 coercive, competitive activity below the threshold of armed
8 conflict.

9 North Korea has been on a relentless pursuit of nuclear
10 and missile capability, and they have been clear these
11 capabilities are intended to threaten the United States and
12 our allies in the region.

13 Iran continues to spread malign influence and create
14 instability across the Middle East.

15 And while we have made a great deal of progress over
16 the past year, we are still grappling with the challenges of
17 violent extremism, including ISIS, al Qaeda, and associated
18 movements.

19 Defending our homeland and our allies and advancing our
20 interests in the context of these and other challenges
21 requires us to maintain a balanced inventory of ready,
22 lethal, and flexible forces that are relevant across the
23 range of military operations.

24 Fortunately, with your support, we have begun to arrest
25 the erosion of our competitive advantage and we are on a

1 path towards developing the force that we need. This year's
2 budget again builds on the readiness recovery that we
3 started in fiscal year 2017 and accelerates our efforts to
4 develop the capabilities we need for both today and
5 tomorrow.

6 In requesting your support for this year's budget, I,
7 along with all the senior leaders in the Department, are
8 making a commitment to you that we will make every dollar
9 count. We fully support the auditing initiative led by
10 Secretary Norquist who is with us here today and will
11 maintain an ongoing dialogue with you about the return that
12 you are getting on your investment.

13 To restore our competitive advantage and ensure our men
14 and women never find themselves in a fair fight, the U.S.
15 military requires sustained, sufficient, and predictable
16 funding. The funding in this budget is sufficient. I look
17 forward to working with Congress to make sure that it is
18 sustained and predictable in the future.

19 Thank you again for your support and the opportunity to
20 be here today.

21 [The prepared statement of General Dunford follows:]

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1 Senator Inhofe: Thank you, General Dunford.

2 Do you have a statement, Secretary Norquist?

3 Mr. Norquist: I have no prepared statement.

4 Senator Inhofe: All right. Well, thank you very much.

5 There are some basic questions that are going to be
6 asked, and I was going to get those out of the way first,
7 one having to do with the INF. You know, when you get out
8 of Washington and you talk to more normal people back home,
9 the question is China is not a signatory to the INF. Russia
10 is but they violate it. We are and we do not violate it. I
11 would ask you, Secretary Mattis, do you think that that
12 currently as it stands becomes a unilateral limitation on
13 the United States and our capabilities?

14 Secretary Mattis: Senator Inhofe, it could become a
15 unilateral limitation on us. However, at this point, we are
16 trying to bring Russia back into compliance with the INF.
17 That does not address the entirety of your question, of
18 course, being that there are only two countries that have
19 signed this.

20 Part of the reason we are taking some of the steps
21 outlined in the Nuclear Posture Review are to put Russia in
22 a position to see a benefit to themselves to coming back in
23 compliance. We will have to look more broadly at arms
24 control, and I believe that as we modernize the nuclear
25 deterrent, that will put our diplomats in a good position to

1 initiate those discussions with the other countries that are
2 not signatories.

3 Senator Inhofe: Now, if Russia does not come back,
4 though, as we are hoping that they will, into compliance,
5 what situation would we be in then?

6 Secretary Mattis: Senator, when nations do not live up
7 to treaties, treaties are not sustainable. We would have to
8 deal with that if we are unsuccessful.

9 Senator Inhofe: That answers the question. I
10 appreciate that.

11 On end strength, one of the most critical parts of this
12 budget -- I am sure that Secretary Norquist would agree with
13 that. As you point out, fiscal year 2018 -- it is going to
14 be 9,500. Then in 2019, 15,600, and up to 2023, up to
15 56,000. Now, it is already a problem in recruiting. So I
16 would like to ask either you or the Secretary or General
17 Dunford are you confident we are going to meet these goals
18 because it seems to me like you can only do it through two
19 ways, either retention or recruiting. What are your
20 thoughts about meeting these goals? Pretty ambitious.

21 Secretary Mattis: They are ambitious, Senator,
22 especially in light of the improving U.S. economy. It is a
23 totally volunteer force. We even call it a totally
24 recruited force. Our recruiters have to be very assertive
25 in getting out there and selling the military. I would tell

1 you right now that the U.S. Army's retention has allowed
2 them to actually lower their recruiting goal for this year
3 because they are retaining more than they anticipated, which
4 is a good sign. So I am confident, without lowering our
5 quality standards, that we can maintain this modest increase
6 of troops.

7 I will pass it over to the Chairman for any thoughts he
8 has on that.

9 General Dunford: Senator Inhofe, I was going to
10 highlight that I think the Army is a bellwether for all of
11 us. And we just actually had a conversation with the Army
12 this week to talk about their reduction of their recruiting
13 efforts as a result of high retention. But I think at the
14 end of the day what the Secretary said is what we are all
15 focused on and that is making sure that we are recruiting
16 and retaining a high quality force.

17 My judgment is right now from getting out and visiting
18 the force, as well as discussing it with the chiefs, that
19 today we are recruiting and retaining a high quality force.
20 We do not take that for granted particularly in a
21 competitive economic environment, but I think the size of
22 the force right now can be sustained with quality people.

23 Senator Inhofe: Do you agree with those numbers from
24 now through fiscal year 2023?

25 General Dunford: I do, Senator, because the focus in

1 the budget this year and last year has been to make sure
2 that the force we have is capable and lethal. And so these
3 numbers that we are increasing really are filling holes to
4 make the units that we have complete.

5 Senator Inhofe: Now, lastly on the budget, the 2-year
6 budget for fiscal year 2018 and 2019, I have to say it was a
7 lousy budget. And it was a very difficult thing for me to
8 vote for, and the only reason I did is the same reason that
9 we are here meeting about this morning.

10 So what I would like to have each of you do, primarily
11 you, General Dunford -- what would have happened instead of
12 what we did, if we just went the normal CR route and since
13 we are going to have to face this in the future and now is
14 the time to start working for it because we are talking
15 about fiscal year 2020 and beyond -- what will happen if we
16 are successful in our goals for fiscal years 2018 and 2019
17 and we do not have the same opportunities to continue that
18 for fiscal year 2020?

19 General Dunford: Senator, thanks for that question.

20 One of the things I think we all talk about a lot is
21 our overall competitive advantage. And I think back in
22 2000, 2001, we could take it for granted that we had a
23 competitive advantage over any potential adversary. And
24 that was particularly in our ability to project power
25 anywhere in the world we needed to to advance our interests.

1 What has happened over time is that competitive
2 advantage has eroded, and if we had not had the budget in
3 2017, 2018, and 2019 and the projections that we have beyond
4 2017 and 2018 and 2019, I think what really is at risk
5 overall is our competitive advantage over any potential
6 adversary. I think that adversely affects the relationship
7 we have with allies and partners. It adversely affects the
8 deterrence against our potential adversaries, and clearly it
9 would affect our ability to respond in the event that
10 deterrence fails. I mean, I really there is -- in addition
11 to the readiness issues and some of the other important
12 issues that we discuss, the overall strategic impact of
13 sequestration and not getting the budget that we had in 2017
14 and 2018, I think really is our ability to project power and
15 address all those areas I mentioned, assurance, deterrence,
16 and responsiveness.

17 Senator Inhofe: So from 2020 on, it would be a crisis
18 if we did not --

19 General Dunford: If we return to the Budget Control
20 Act and sequestration levels, we would not have completed
21 the recovery that we have been on. As you pointed out in
22 the beginning, Senator Inhofe, the challenges that we have
23 right now took us 10 or 15 years to develop. It is going to
24 take us more than 2 or 3 years to recover from those
25 challenges.

1 Senator Inhofe: I understand that.

2 You agree, I assume.

3 Secretary Mattis: I agree, Senator, 100 percent, and
4 as the ranking member pointed out, we have future
5 capabilities we must develop now if we are going to carry
6 out our responsibilities to those who sit before this
7 committee in the years ahead. So the dangers we can see
8 growing, and I think that we are going to have to maintain
9 ourselves at the cutting edge of technology, organization,
10 and combat lethality.

11 Senator Inhofe: I agree, and I think we need to be
12 starting to talk about that now.

13 Senator Reed?

14 Senator Reed: Well, thank you very much, Mr. Chairman.

15 Mr. Secretary, in the wake of the annexation of Crimea
16 and the activity in Ukraine, Congress in the 2015 NDAA
17 prohibited bilateral military cooperation with Russia, which
18 at the time seemed to make perfectly good sense. At this
19 moment, when we are in a very challenging situation in many
20 areas of the world, would it make sense to review those
21 provisions and give you more flexibility and ways in which
22 you could conduct military-to-military dialogue with Russia
23 in certain situations?

24 Secretary Mattis: Yes, Senator Reed, it would. And
25 let me be very specific here. There is no national security

1 waiver to what is referred to as the CAATSA act, the
2 specific act that says that if another nation buys military
3 equipment from Russia, then we will not sell them ours.
4 There are nations in the world who are trying to turn away
5 from formerly Russian-sourced weapons and systems like this.
6 We only need to look at India, Vietnam, and some others to
7 recognize that eventually we are going to paralyze
8 ourselves.

9 And so what we ask for is the Senate and the House pass
10 a national security waiver in the hands of the Secretary of
11 State. I am not asking for myself. Foreign policy is
12 driven from Foggy Bottom. So if he has the waiver authority
13 and I can go to him and show it is in our best interests and
14 we get an internal management of this process, then it keeps
15 us from being boxed in by the Russians.

16 Senator Reed: Well, thank you, Mr. Secretary.

17 Let me turn my attention now to Iran. At your
18 confirmation hearing, Mr. Secretary, you indicated that when
19 America gives her word, we have to live up to it and work
20 with our allies, which was in my view confirmation of the
21 strategic needs to stay within the confines of JCPOA. What
22 is your position today, Mr. Secretary?

23 Secretary Mattis: Senator, I can assure you there has
24 been no decision made on any withdrawal from JCPOA. The
25 discussions are ongoing in the National Security staff and

1 those of us who are charged with that responsibility of
2 giving the President advice, and it is going on today as we
3 speak. There are obviously aspects of the JCPOA, of the
4 agreement, that can be improved upon. We are working with
5 our European allies on it at this time. And again, the
6 decision has not been made whether we can repair it enough
7 to stay in it or if the President is going to decide to
8 withdraw from it.

9 Senator Reed: I appreciate this, Mr. Secretary. The
10 issue of repairing it, though, is unlikely to be fully
11 accomplished by May 12th. Is it your position that if there
12 is an ongoing effort to make such fixes to the agreement
13 that we should stay within the bounds?

14 Secretary Mattis: Yes, sir. We would have to look at
15 what degree of fix we anticipate are achievable and then put
16 that alongside America's broader interests and decide if it
17 is worthy or not.

18 Senator Reed: Thank you.

19 And, Mr. Chairman, General Dunford, you similarly
20 indicated that there would be consequences with withdrawing
21 from JCPOA in many dimensions. One would be our allies
22 would be less likely to cooperate with us countering
23 destabilizing activities in the region. And you seem to
24 indicate a preference for remaining within JCPOA. Is that
25 still your position?

1 General Dunford: Senator Reed, when I look at it
2 through the military dimension, the thing that I have been
3 bringing to the debate is making sure that whatever we do,
4 we have a framework for dealing with all of the elements of
5 the challenges we face from Iran. So it is the nuclear
6 threat. It is the missile threat. It is the cyber threat.
7 It is the maritime threat. And it is the sponsorship of
8 proxies. So at the end of the day, it will be the
9 President's decision as to what the framework is for dealing
10 with all those challenges. My role is to try to highlight
11 those challenges and to make sure that whatever decision is
12 made addresses them as effectively as we can.

13 Senator Reed: Thank you, General.

14 Mr. Secretary, there has been an unfortunate escalation
15 of the cycle of violence between Israel and Iran and their
16 proxies in Syria beginning in February with the shooting
17 down of an Iranian drone over Israeli airspace, which is
18 appropriate, and then strikes against targets within Syria
19 which seem to be Iranian Hezbollah cooperative endeavors
20 that could pose a danger to Israel.

21 Is there a significant risk of escalation at this
22 moment that would not only engulf Syria but spread
23 throughout the region?

24 Secretary Mattis: A complex question. I believe the
25 short answer is yes, Senator. I can see how it might start.

1 I am not sure when or where. I think that it is very likely
2 in Syria because Iran continues to do its proxy work there
3 through Lebanese Hezbollah there and over into Lebanon. And
4 so I could imagine this sparking something larger.

5 Senator Reed: One other, if I may, just quickly. The
6 Assad regime continues to consolidate its position. One
7 area which is still under the control of rebel forces is the
8 southern border against Jordan. If they move there, which
9 some people indicate they might, would that be another sort
10 of pressure point in terms of not only Jordanian but Israeli
11 counter-reaction?

12 Secretary Mattis: Assad's continued presence and his
13 forces' presence in light of what they have done over
14 several years to their own people, and then when you look at
15 them hosting Lebanese Hezbollah, any kind of position like
16 that along the southern border is a direct threat against
17 Jordan, against Israel, and it is something we are going to
18 have to address. We are trying to do that through the
19 diplomatic process, the UN process, which is referred to as
20 the Geneva process, but to date that has not been availing.

21 Senator Reed: Thank you very much.

22 Senator Inhofe: Thank you, Senator Reed.

23 Senator Wicker?

24 Senator Wicker: Mr. Secretary, just a quick follow-up
25 on a question Senator Reed asked. Can you give us any

1 guidance as to when a decision might be made about the
2 JCPOA?

3 Secretary Mattis: Yes, Senator. I believe it will be
4 made before the 12th of next month.

5 Senator Wicker: Thank you.

6 Mr. Secretary, the Ships Act makes the 355-ship Navy
7 the official policy of the United States of America. This
8 enacts in statute a requirement that came down to us from
9 the admirals and generals, not something that we arrived at
10 here at the congressional level. Do you agree that the 355-
11 ship requirement is now the official policy of the United
12 States?

13 Secretary Mattis: I do, Senator.

14 Senator Wicker: And in terms of getting there, the
15 target date was an unacceptable period in the 2050s.
16 Recently a decision was made to extend the lives of some
17 destroyers. That moves it to the 2030s. What do you need
18 from us, and what are the plans in the Pentagon for moving
19 that date even earlier?

20 Secretary Mattis: Well, as we try to balance the
21 force, sir, if you gave me all the money in the world, I
22 would go for it in the next 5 years, of course. Right now,
23 we are trying to balance inside the administration. But for
24 right now, we are trying to balance solvency and security
25 because solvency is critical to the long-term national

1 security of our nation. But at the same time, we are asking
2 for this year 3.1 percent of GDP, and we believe the nation
3 can afford that and perhaps even increase that. That would
4 depend, of course, on the level of taxation you are willing
5 to put in because we should not be growing the national debt
6 further, but at the same time, what part of that tax base
7 you are going to commit to national defense. I believe we
8 are moving toward a more maritime strategy in terms of our
9 military strategy to defend the country. It is the nature
10 of our time, and so I would be supportive if the Senate
11 found a way to increase the shipbuilding budget.

12 Senator Wicker: Work with us on ideas about getting
13 there, sir.

14 Let me just ask you then my final question. The RAND
15 reports concluded actually some very alarming verbiage, that
16 the United States military would have difficulty deterring
17 and defeating a Russian conventional attack in the Baltics.
18 The committee has previously received testimony that U.S.
19 ground forces are outranged, outgunned, and overmatched.
20 Our own General Scaparrotti, the Commander of U.S. European
21 Command, has testified that, quote, the ground force
22 permanently assigned to EUCOM is inadequate to meet the
23 combatant command's directed mission to deter Russia from
24 further aggression.

25 Now, the Chairman of the Joint Chiefs just testified

1 that we still have a competitive advantage over any
2 adversary and that our strategy is designed to keep that
3 strategy from eroding.

4 So I do not want to scare the American public, and I do
5 not want to alarm our allies. But is General Scaparrotti
6 correct? Is the RAND report correct? Is it a little more
7 alarming than our Chairman of the Joint Chiefs just said
8 about an eroding competitive advantage?

9 Secretary Mattis: Senator, I believe that we can all
10 see the growing threat that Russia has chosen to be. It has
11 chosen to be a strategic competitor. NATO opened the door
12 to a partnership of sorts. I still remember Russian marines
13 and U.S. marines training in Camp Lejeune for UN
14 peacekeeping missions back in the late 1990s-early 2000s.
15 That is a long distant memory as they have chosen to do what
16 they have done in the Ukraine and Crimea, with cyber against
17 our elections. I can go on, as you know. And you have seen
18 significant expulsion of diplomats, sanctions put on Russia
19 by this administration.

20 I believe we do have a competitive advantage today. It
21 is important we expand it over the Russians. They have a
22 geographic advantage that my geographic combatant commander
23 is rightly looking at. But looking at it more broadly, as
24 we address this, America is more capable than any nation of
25 expanding the competitive space against something like a

1 ground attack into the Baltics. And there are a number of
2 ways, symmetrical and asymmetrical, we can make this a very,
3 very tough problem for the Russians. We do that by, with,
4 and through the NATO alliance, by, with, and through our
5 whole-of-government effort, everything from the Treasury
6 Department to the State Department.

7 So I think you have to look beyond the geography is my
8 point, Senator Wicker, to get the whole understanding of the
9 situation. I am not dismissing any of General Scaparrotti's
10 concerns, but we have strengths.

11 Senator Wicker: Thank you, sir.

12 And thank you, Mr. Chairman.

13 Senator Inhofe: Thank you, Senator Wicker.

14 Senator McCaskill?

15 Senator McCaskill: Thank you, Mr. Chairman.

16 Sometimes I feel like a broken record on contracting.

17 I am going to try to keep my blood pressure down during my
18 questioning today because today we are issuing a report from
19 the minority staff on the Committee of Homeland Security and
20 Government Affairs looking into another egregious
21 contracting problem at the Pentagon. I would ask that this
22 report, Fast Cars, Easy Money, be entered into the record,
23 Mr. Chairman.

24 Senator Inhofe: Without objection.

25 [The information referred to follows:]

1 [COMMITTEE INSERT]

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1 Senator McCaskill: I first would like a commitment
2 from you, General Dunford, that you will read this report in
3 its entirety.

4 General Dunford: I will do that, Senator. And I am
5 familiar with the report and with your engagement and what
6 the Army has done as a result of your engagement.

7 Senator McCaskill: Secretary Mattis, will you read the
8 report, please?

9 Secretary Mattis: I have no reservations. I am a
10 voracious reader of these kinds of things.

11 Senator McCaskill: I know you are.

12 Secretary Norquist?

13 Mr. Norquist: I always enjoy reading audit reports,
14 Senator.

15 [Laughter.]

16 Senator McCaskill: You and I have that in common. And
17 if the audit reports had been read on a timely basis, we
18 would not have taxpayer money paying for a Bentley, Alpha
19 Romeo, Aston Martin, Porsches for executives of a
20 subcontractor on the legacy contract in Afghanistan. We
21 would not have the CEO and the COO's wives getting salaries
22 averaging \$190,000 a year with absolutely no evidence of
23 them doing any work.

24 You would know, if you had read all the audit reports,
25 as my staff has, and asked the questions, that in fact the

1 subcontractor not only directed the Pentagon towards this
2 contract, they got most of the work under the contract, and
3 that there was involvement in the Pentagon in helping steer
4 this contract to the subcontractor. You would know that
5 they figured out a way to find a contracting vehicle that
6 they would not have to compete.

7 And the insulting thing about this is they found a
8 contracting vehicle that was for R&D, asking for hard
9 science proposals. Hard science proposals. In a 150-page
10 solicitation for hard science proposals, the HUMINT was
11 mentioned one time, one word, human intelligence. They used
12 that one word to pretzel that proposal into an ongoing
13 mentoring program for Afghan intelligence capabilities in
14 theater. Hundreds and millions of dollars. And audit after
15 audit has said they cannot even find any metrics that they
16 made any progress.

17 I know there are criminal investigations going on. But
18 the question I have to ask, as I have asked repeatedly in
19 this committee, is what is wrong with the debarment process.
20 This is the whip cream and cherry on top of this incredible
21 scandal. They are still a contractor. They are getting
22 taxpayer money as we speak. Why in the world, when you have
23 audit evidence of this kind of egregious -- I do not know at
24 what point it becomes criminal or just gross mismanagement
25 by the Pentagon. I do not know at which point it is

1 criminal activity or not. But I do know this that there is
2 enough evidence in the audit reports, Secretary Norquist and
3 Secretary Mattis and General Dunford, that these people
4 should not be anywhere near one dime of taxpayer money.

5 So I would like somebody to respond to me why in the
6 world we are still doing business with these crooks.

7 Secretary Mattis: Senator, I will not take issue with
8 a single word you said. The contract was awarded in 2012.
9 The SIGAR report that alerted at least at the secretarial
10 level was released in 2017. There is the ongoing
11 investigation, and because it may result -- will likely
12 result in criminal charges, we cannot go into a lot of
13 detail in public because we are not supposed to when
14 something is under an investigation. But there is not a
15 word you just said that I would take issue with.

16 Senator McCaskill: I really appreciate that, Secretary
17 Mattis. There are two things I would ask of you, of all of
18 you, and I would hope that I could get answers on those as
19 quickly as possible, and if it has to be in a setting where
20 we can talk about the criminal investigation, one, is how
21 quickly they can be debarred because there is nothing in the
22 law prohibiting you from debarring them right now. There is
23 nothing in the criminal investigation that requires a wait
24 for debarment. So I want to know how quickly they can be
25 debarred.

1 And secondly, I want to know a list of everyone who
2 currently works for the United States military who should
3 have hands on this and did not, whether it is a COERs
4 representative or whether it is somebody at this office that
5 this bizarre contract came out of. But clearly, somebody
6 over there said, hey, we can use this and we can get you the
7 money.

8 These guys have burrowed in. They have burrowed in at
9 the Pentagon. I have seen this before, and you guys know
10 what happens. Somebody builds a relationship and before you
11 know it, hundreds of millions of dollars are flying around,
12 and frankly nobody is paying close enough attention.
13 Somebody's head has got to roll on this, and I need a list
14 of people that are going to be held accountable for this
15 happening.

16 Secretary Mattis: I just got to be careful saying
17 individually before the investigation is done --

18 Senator McCaskill: I understand.

19 Secretary Mattis: -- because that could end up --

20 Senator McCaskill: I understand. I have confidence in
21 you, Secretary Mattis, that we will get to the bottom of it.

22 Secretary Mattis: I know.

23 Senator McCaskill: But I will tell you I am not going
24 to shut up about this until somebody is held accountable for
25 people driving Bentleys. We are losing soldiers. Families

1 are sacrificing. We are worried about their benefits and
2 their pay. And some jerk is driving a Bentley in the UK on
3 taxpayer money. If it does not make everybody upset, then
4 something is wrong with them. So let us get busy on this
5 and figure out whose head needs to roll because if somebody
6 is not held accountable for letting this happen, it is going
7 to keep happening.

8 Secretary Mattis: Senator, 100 percent with you on
9 this. You will notice last year when I came up here for
10 confirmation, I talked about business reform. This year,
11 alongside business reform, is accountability. I have
12 learned the lesson since I got there, and that is now right
13 alongside business reform is accountability for every
14 dollar. So we are with you. I wish I had been in the job
15 in 2012 is all I can tell you.

16 Senator McCaskill: Thank you.

17 Thank you, Mr. Chairman.

18 Senator Inhofe: Thank you, Senator McCaskill.

19 Senator Cotton?

20 Senator Cotton: Thank you, gentlemen, for your
21 appearance here today and for your continued service to our
22 country.

23 Secretary Mattis, I want to return to a few points you
24 made in your opening statement about the budget picture,
25 about the budget levels and certainty. So this Congress

1 passed a 2-year budget a couple months ago. We passed a
2 spending bill that implemented the first year of that
3 budget. That means we have 1 more year on that 2-year
4 budget to pass.

5 How important is it to the Department of Defense that
6 the Congress pass a DOD appropriations bill in a timely
7 fashion this summer as opposed to having a continuing
8 resolution as we approach the end of this fiscal year on
9 September 30th?

10 Secretary Mattis: Senator Cotton, one of the ways we
11 avoid the situation that Senator McCaskill just brought up
12 is having a methodical approach to reviewing every dollar
13 going out. Obviously, the narrower the window to spend the
14 money, the increased workload during that period. So it is
15 critical, and I think that budget certainty also
16 reverberates into American industry as we try to rearm the
17 country with the modern capability. They cannot do that in
18 their responsibility to their shareholders unless we give
19 them that predictability.

20 Senator Cotton: Thank you.

21 Well, since we have the top line number for fiscal year
22 2019, I hope that we will have the cooperation to pass a DOD
23 appropriations bill this summer in a timely fashion rather
24 than see the filibusters that have occurred in the past.

25 Looking out a little bit further, that 2-year budget

1 deal only lasts 2 years. We are now less than 18 months
2 away from fiscal year 2020, in which case the Budget Control
3 Act caps and potential sequestration return. How important
4 is it to the Department of Defense that we act now to
5 eliminate the prospect hanging over your head that the BCA
6 caps and sequestration may return in October of 2019?

7 Secretary Mattis: Again, we need that predictability,
8 sir, so that we can actually put a strategy into effect. It
9 was noted in opening comments by the committee if you do not
10 have a budget that reflects the strategy, it does not work.

11 I like quantifying problems to the degree possible. If
12 this were to go into effect, the first cut would be \$85
13 billion in fiscal year 2020. That means the strategy is not
14 sustainable. The strategy is designed to protect America
15 and our interests. I cannot provide you the same strategy.
16 I would have to go back and rewrite it. There would be
17 reductions in what we are able to do.

18 Senator Cotton: Thank you.

19 I want to turn now to a question that Senator Reed
20 raised about the Countering America's Adversaries Through
21 Sanctions Act and the specific point about a national
22 security waiver. As you mentioned, two specific countries,
23 India and Vietnam, that have legacy Russian systems -- they
24 might face real challenges going cold turkey, so to speak,
25 under CAATSA. So you are suggesting the national security

1 waiver as a way that this Congress can empower soon to be
2 Secretary Pompeo to address the concerns that you have with
3 those two countries. Is that right?

4 Secretary Mattis: That is correct. And there are
5 other countries. Indonesia, for example, is in the same
6 situation trying to shift to more of our airplanes, our
7 systems, but they have got to do something to keep their
8 legacy military going.

9 Senator Cotton: How urgent is it that Congress pass
10 that kind of waiver?

11 Secretary Mattis: Sir, every day Russia is in a
12 position basically to checkmate us with what they are doing.
13 It is urgent.

14 Senator Cotton: Would you recommend that we try to do
15 so in this year's National Defense Authorization Act?

16 Secretary Mattis: Absolutely.

17 Senator Cotton: And there are only so many countries
18 in the world, and only so many of those use Russian legacy
19 systems that are defense partners. Should we just have a
20 list of countries that soon to be Secretary Pompeo might
21 want to consider? Is there a certain degree of criteria
22 that we should use instead?

23 Secretary Mattis: Sir, I would just put in a reporting
24 requirement that we keep the Congress informed every time we
25 exercise it. I would not make it where we have to come back

1 to Congress in order to add to it. In the dynamics of
2 today, issues can shift countries very, very quickly,
3 Senator Cotton, as you know, and we want to move when we see
4 the opportunity at the speed of relevance.

5 Senator Cotton: Thank you.

6 I want to turn now to the Nuclear Posture Review and an
7 exchange you and I had in a classified setting. There is
8 nothing classified about my question or your answer, though.
9 I simply want to have it on the record here.

10 The Nuclear Posture Review did not include a
11 foreswearing no first use doctrine, which we have never done
12 in our nuclear history going back to 1945. It also
13 advocates for a new sea-launched cruise missile, which we
14 had as recently as 8 years ago, for a low-yield sea-launched
15 warhead. We have numerous low-yield warheads currently in
16 our inventory.

17 The bottom line, Secretary Mattis, is there any concept
18 doctrine or capability in the new Nuclear Posture Review
19 that is novel or inconsistent with 73 years of nuclear
20 doctrine and practice for the United States?

21 Secretary Mattis: No, sir. It is a continuity of our
22 nuclear deterrent framework that you see, but it is also an
23 adaptation so that that deterrent is fit for anyone who
24 thinks that they have created something that they could then
25 give us the option of either surrender or suicide. We want

1 to make certain the deterrent works against any attempted
2 use of these weapons.

3 Senator Cotton: Thank you.

4 Senator Inhofe: Thank you, Senator Cotton.

5 Senator Shaheen?

6 Senator Shaheen: Thank you, Mr. Chairman.

7 And thank you, Secretary Mattis, General Dunford, and
8 Secretary Norquist, for being here and for the work that you
9 do every day for this country.

10 Secretary Mattis, the National Defense Strategy
11 deemphasizes the importance of counterterrorism and
12 counterinsurgency operations. There have been, however, a
13 number of reports lately that have suggested that we are
14 actually expanding our special operations footprint in
15 Africa, a report over the weekend about the drone base that
16 is being built in Niger.

17 Can you talk about what the long-term mission of our
18 troops in Niger is and how we are going to measure the
19 success in accomplishing this mission? I think it is
20 particularly timely given that the report on the deaths of
21 our four service men in Niger is coming out this week.

22 Secretary Mattis: While at the same time we are
23 deemphasizing irregular warfare, counterinsurgency is the
24 primary challenge to us as the realities of other nations
25 that are choosing to be strategic competitors raise their

1 game. At the same time, as we pointed out, the paradox of
2 war is the enemy always moves against your weak area. So in
3 terms of counterinsurgency in particular, we are going to do
4 this fight by, with, and through allies because most of the
5 time they know the terrain better. It is an intensely, I
6 would call it, fight among innocent people in many cases.
7 It is a fight where cultural understanding is important.
8 our special forces are ideally suited for that sort of
9 thing, working with foreign forces, what we call foreign
10 internal defense.

11 The last administration in Africa began the airfield
12 construction, and you need to understand here that had the
13 French not moved when they did in Mali, if they had waited
14 -- as President Hollande put it in those days, if they wait
15 for the international community, Mali is going to fall. So
16 they moved quickly and since that time, the last
17 administration and this administration, by, with, and
18 through our allies, support the French leadership. They
19 have over 4,000 troops there. The number we have there has
20 grown. Many of them are construction troops that are
21 constructing the airfield. They will come out when that
22 construction is done. And we will continue to support the
23 French leadership of the African nations that are fighting
24 Boko Haram, al Qaeda in the Mahgreb, forces like that in
25 what we call the trans-Sahel.

1 Senator Shaheen: And so do you see us continuing to
2 expand the footprint in Africa and sending more troops
3 there?

4 Secretary Mattis: I do not see any significant
5 increase. There could be temporary increases as we work
6 with a counterterrorism force in one of the countries that
7 needs to be brought up to a higher level of capability
8 because the enemy is trying to move out of the trans-Sahel
9 into their area. As you know, it is a transnational enemy.
10 So we have to be able to react. But I do not see a
11 significant upgrade. Again, it is by, with, and through
12 allies. That is not something that calls for large numbers
13 of U.S. troops. The French, for example, are providing by
14 far the bulk of the troops in that part of the world.

15 Senator Shaheen: I understand that NATO is not going
16 to rule out invoking article 5 of its charter should one or
17 more member nations find themselves under a serious cyber
18 attack. Can you clarify under what circumstances article 5
19 might be invoked in the case of a cyber attack?

20 Secretary Mattis: It would be a hypothetical, as you
21 understand, Senator. But I think that as we come to grips
22 with cyber, if they get to the point of having a massive
23 attack with cyber, I mean, one that threatens life, that
24 shuts off the power to hospitals and communities in the
25 middle of winter, obviously that would be a significant

1 attack. But it would have to be weighed against all the
2 other things that could be done too. Even then, it does not
3 mean the only response is military. There might be better
4 economic responses to whoever did it. As you know,
5 attribution is always a challenge in these things. So we
6 would have to make sure we are firing on the right target,
7 whether it be with economic sanctions, with military
8 responses, or whatever it took. But to go into the article
9 5 arena, it would have to be very significant.

10 Senator Shaheen: Thank you.

11 There have been a number of comments made by the
12 President in the last month or so about withdrawing troops
13 from Syria. If we withdraw our troops from Syria now, will
14 we have finished the fight against ISIS?

15 Secretary Mattis: Right now, Senator, we are not
16 withdrawing. You will see a reenergized effort against the
17 middle Euphrates River valley in the days ahead and against
18 the rest of the caliphate, the geographic caliphate. You
19 will see increased operations on the Iraq side of the
20 border. And the French have just reinforced us in Syria
21 with special forces here in the last 2 weeks. And this is
22 an ongoing fight right now.

23 Senator Shaheen: So we need to stay there in order to
24 finish the fight against ISIS.

25 Secretary Mattis: We are there with the other 70 -- I

1 think it is 73 nations and international organizations,
2 NATO, Arab League, INTERPOL, plus 70 of the most important
3 nations on earth in terms of capability. We are continuing
4 the fight. We are going to expand it and bring in more
5 regional support is probably the biggest shift we are making
6 right now.

7 Senator Shaheen: Thank you.

8 Thank you, Mr. Chairman.

9 Senator Inhofe: Thank you, Senator Shaheen.

10 Senator Sullivan?

11 Senator Sullivan: Thank you, Mr. Chairman.

12 And, gentlemen, thank you for your exceptional service.

13 I think it gives us a lot of confidence on some of the big
14 challenges we have before us.

15 In particular, I want to commend you, Mr. Secretary and
16 General Dunford on the National Defense Strategy. As you
17 probably see here from Senator Reed's comments and others,
18 there is a strong bipartisan support for that document. I
19 think that is a really important achievement. So thank you
20 for that.

21 In particular, the emphasis on allies in the National
22 Security Strategy document is very important, certainly as
23 you mentioned time and time again, Mr. Secretary, one of our
24 most important strategic advantages. We are an ally-rich
25 nation and most of our adversaries or potential adversaries

1 are ally-poor. Are we in Congress doing enough? And is the
2 Trump administration doing enough to deepen our current
3 alliances and expand them, as you so frequently talk about?
4 What more could we do if we are not?

5 Secretary Mattis: Right. The most immediate effort is
6 what Senator Cotton brought up here about the CAATSA and
7 getting a national security waiver so that we can embrace
8 new allies or partners when they are ready basically to see
9 the way forward alongside us. That would be a critical
10 enabler.

11 Are we doing enough? Some journalist, who did not have
12 a very rich nightlife, called and she told me that I used
13 the word "allies" 124 times in the National Defense
14 Strategy.

15 Senator Sullivan: We noticed.

16 Secretary Mattis: Yes, sir. It is not subtle. It is
17 not meant to be subtle. We are going to do, whether it be
18 the fighting in Africa, by, with, and through them. I think
19 anything you can do to make it an open door for allies --
20 and I realize sometimes those allies do not share all of our
21 values. But if they are security allies, if they are allied
22 with us on security, and if you look at our record over many
23 years of creating democracies and reinforcing democratic
24 impulses when our troops are engaged -- I need only point to
25 South Korea and the very vibrant democracy they are today.

1 Yet, there was at one time a move to keep us away from South
2 Korea, to pull us out of South Korea because it was a
3 dictatorship. I think we have got to be willing to work
4 with imperfect allies while being never reticent about what
5 our values are and what we stand for. And your support in
6 that area would be very helpful, Senator.

7 Senator Sullivan: Thank you.

8 Let me turn -- you have some difficult challenging
9 decisions ahead of you. The whole administration does on
10 the JCPOA, North Korea. Let me just mention a few things to
11 consider, and if you would like to comment on them. You
12 know, Senator Reed mentioned a number of things about
13 America giving her word.

14 There was a number of us who thought this was such an
15 important document that it should have come to a Senate as a
16 treaty. It did not come that way. And interestingly a
17 bipartisan majority of U.S. Senators actually did not
18 approve of the JCPOA. A bipartisan majority of House
19 members did not approve of the JCPOA. As a matter of fact,
20 it is the first time in U.S. history that an agreement of
21 this magnitude was approved, quote/unquote, by the Congress
22 by a partisan minority of Senators and House members. So I
23 think it is important to caveat the idea of America's
24 credibility when this body -- our credibility is not on the
25 line.

1 Similarly, everybody talks about our allies and how
2 important it is to our allies. But as you know, Mr.
3 Secretary, a lot of our key allies, Israel, Gulf Arab
4 nations, were also not supportive.

5 And let me mention one other thing that I know you two
6 in particular have some, unfortunately, firsthand experience
7 with. The issue of what degree we can trust the Iranian
8 leadership I think should also be considered. Chairman
9 Dempsey was here 2 years ago I believe and testified. I
10 forgot the exact number, but the sophisticated IEDs that
11 were supplied to Iraqi Shia militias by the Iranians killed
12 or wounded over 2,000 American troops in Iraq. You
13 gentlemen were witness to this carnage during your military
14 service.

15 Have senior Iranian leaders ever admitted this? And
16 can we trust a country that does not admit this and was
17 responsible for the deaths of so many of our finest young
18 men and women that they have never admitted?

19 I know I have thrown a lot of things: allies,
20 credibility, trust. But they are all things that we think
21 are very important to consider and I do not think get the
22 attention they deserve when the JCPOA is being reexamined.

23 Secretary Mattis: Well, we all recognize the JCPOA was
24 an imperfect arms control agreement.

25 Senator Sullivan: And was not supported by the

1 Congress.

2 Secretary Mattis: Yes, sir. I understand, Senator.

3 And I think that their use of denial and deception to
4 hide their nuclear weapons program -- not their nuclear
5 program, their nuclear weapons program -- over many years
6 have them in a position of being suspect. I have read it
7 now three times, all 156 pages or whatever it is, including
8 since I got into this job, I was able to read the short
9 classified protocol. And I will say that it is written
10 almost with an assumption that Iran would try to cheat. So
11 the verification -- what is in there is actually pretty
12 robust as far as our intrusive ability to get in, IAEA to
13 get in, that sort of thing. Whether or not that is
14 sufficient I think is a valid question.

15 I also recognize that some people point out that this
16 could impact on the North Korea negotiations. But I would
17 say in that case, in light of Kim's family and himself
18 breaking very international treaty, every agreement they
19 have ever made, whether it be with the Republic of Korea or
20 with the United States, I am less concerned with that ripple
21 effect right now. I think we need to focus on what is in
22 the best interest of Middle East stability and the threat
23 that Iran poses, as the chairman pointed out, with this
24 nuclear program if it does not get extended and maintain the
25 verification, intrusive verification that we need, but also

1 look at what they are doing with their support for terrorism
2 from Bahrain to Yemen, from Syria to Lebanon and elsewhere,
3 their maritime threat, their cyber threat. We have got to
4 look at all these things, sir, as a whole, but at the same
5 time focus on this imperfect arms control agreement and
6 determine if that is in our best interest.

7 Senator Sullivan: Trust factor?

8 Secretary Mattis: I think trust but verify would be an
9 exaggeration. I think it is distrust and verify.

10 Senator Sullivan: Thank you.

11 Senator Inhofe: Thank you, Senator Sullivan.

12 Senator Gillibrand: Thank you, Mr. Chairman.

13 General Dunford, your fellow chiefs have told me that
14 they are not aware of any instances of issues with unit
15 cohesion, morale, and discipline as a result of open
16 transgender service. Have you heard of any such incidents?

17 General Dunford: Senator, thanks. I would not
18 typically hear of individual cases of cohesion or discipline
19 issues.

20 And maybe just a comment on transgender. For me, the
21 issue with transgender has never been about cohesion or
22 discipline anyway. It was just about any individual,
23 regardless of circumstances, being able to meet the physical
24 and mental qualifications of being worldwide deployable. So
25 if an individual is serving without accommodation, then I do

1 not think I would expect to see discipline or cohesion
2 issues in that unit.

3 Senator Gillibrand: During our last discussion on this
4 topic, you said that you would treat all service members,
5 including transgender service members, with dignity and
6 respect.

7 The recommendations on transgender service and the
8 accompanying panel report were released as part of the DOJ's
9 filing on Friday night. Service members found out in the
10 news that the Department had submitted a report that cast
11 dispersions on their fitness to serve, implied they could
12 harm the lethality of the force, and left their futures in
13 the military up in the air.

14 Do you think this rollout accords transgender service
15 members with the dignity and respect they deserve?

16 General Dunford: Senator, one thing we have tried to
17 clarify for our men and women that are current serving is
18 that -- and I cannot talk about any changes in the policy.
19 But one thing that did not change was the status of the men
20 and women that are currently serving.

21 Senator Gillibrand: That is not the impression the
22 report leaves.

23 Do you know whether this has created anxiety among
24 these troops? Have you met with any transgender troops
25 given this report?

1 General Dunford: I have not since the report was
2 released, Senator.

3 Senator Gillibrand: I recommend that you do so so you
4 are more informed.

5 Secretary Mattis, one of the things that struck me
6 about your panel's report was its claim that, quote, unlike
7 past reviews, the panel's analysis was informed by the
8 Department's own data and experience obtained since the
9 Carter policy took effect. That is why I have been asking
10 the chiefs about unit cohesion. In fact, General Milley put
11 it with regard to the Army as precisely zero instances of
12 units with less unit cohesion, morale, and discipline.

13 I am very concerned about this report because it says
14 that there is, quote, scientific uncertainty surrounding the
15 efficacy of transition-related treatments for gender
16 dysphoria. Yet, the American Medical, Psychological, and
17 Psychiatric Associations have all said the report
18 misrepresents what is the scientific consensus when it comes
19 to gender dysphoria and transition. In fact, despite the
20 report's stated concerns about deployability of transgender
21 service members because of gender dysphoria or associated
22 medical care, a report being issued today by the Palm Center
23 here, which I am going to give to you so you can read in
24 full, says that, quote, out of 994 service members diagnosed
25 with gender dysphoria in 2016 and the first half of 2017, 40

1 percent deployed in support of Operation Enduring Freedom,
2 Operation Iraqi Freedom, or Operation New Dawn, and only one
3 had an issue during that deployment.

4 It appears that this report that your Department has
5 issued is not based on the Department's data or science but
6 rather, quote, potential risks that the authors cannot back
7 up. And in fact, this seems to me to be the same uninformed
8 and unfounded concerns that led to the opposition of
9 repealing don't ask/don't tell, integrating women into the
10 military, integrating African Americans into the military.
11 And I think you need to do a lot more work on this topic to
12 inform yourselves.

13 What is so different about transgender service that
14 makes you think that though the data and medical science do
15 not justify it, transgender service will harm the readiness
16 and lethality of our force?

17 Secretary Mattis: Well, Senator, I regret the way you
18 characterize it. I would remind you that when I came into
19 this job, I said I do not come in with a preordained or
20 agenda to change something. I am in to carry three lines of
21 effort forward. One of them was to create a more lethal
22 military. And I believe that service in the military is a
23 touchstone for patriotic Americans. The military protects
24 all Americans' freedom and liberty to live as they choose,
25 and we are proud of that.

1 71 percent of 18 to 24-year-old men and women in this
2 country do not qualify for medical, legal, behavioral,
3 intellectual reasons to enlist as a private in the U.S.
4 Army. 71 percent.

5 In this case, I was meeting with the service chiefs and
6 the Chairman -- not the Joint Chiefs, the service chiefs --
7 last spring, and they were asking me questions because we
8 were coming up on the advent of the induction of
9 transgender. And they wanted to know how they were going to
10 deal with certain issues about basic training, about
11 deployability. I said, did you not get all of this when the
12 policy came out? The Carter policy we call it. They said
13 no. And I said, well, did you have input? They said no,
14 they did not.

15 So I convened that panel. That panel was made up of
16 combat veterans, the vice chiefs of the services, and the
17 under secretaries. And they called together transgender
18 troops. They brought in commanders of transgender troops,
19 and they brought in and listened to civilian and military
20 medical experts who have provided care for transgenders both
21 in the military and outside. And I gave my 44-page advice.
22 I would like to have it entered, Chairman, for the record.

23 [The information referred to follows:]

24 [COMMITTEE INSERT]

25

1 Senator Gillibrand: And a list of all experts you
2 consulted, please.

3 Secretary Mattis: Pardon?

4 Senator Gillibrand: I would like a list of all the
5 experts, medical experts, that were consulted for that
6 report, please.

7 Secretary Mattis: Right now, this is under litigation.
8 I will see what I can provide or when I can provide it. I
9 will do that, Senator.

10 But at the same time, basically my responsibility is to
11 give the best advice I can for making a lethal force. And I
12 think that right now the Carter policy is still in effect,
13 and we have the four cases being litigated.

14 Why these issues like this would not come to the
15 service chief level during this was a very, very, I would
16 call it, newsworthy situation. And the reason is that under
17 the Carter policy, the reporting is opaque. We cannot
18 report that a problem emanated from a transgender. We
19 cannot under the Carter policy do that. So the question you
20 have asked the service chiefs and the Chairman are ones that
21 right now the Carter policy prohibited that very information
22 from coming up because it is private information. And it is
23 specifically called out in his policy statement. So it is
24 impossible for them to have responded to you.

25 And I would just say that right now we look at medical

1 conditions. If gender dysphoria has anxiety or it has some
2 kind of depression, we do not allow anyone in with that. I
3 would have to make a special category that said you can have
4 these disqualifying factors only if you are transgender, and
5 then we can bring you in. I think you understand why we
6 have not chosen to do that.

7 Senator Inhofe: Thank you.

8 Senator Fischer?

9 Senator Fischer: Thank you, Mr. Chairman.

10 Secretary Mattis, in last year's NDAA, Congress
11 required the Department to evaluate whether existing cruise
12 missile systems could be converted into a ground-launched
13 version as part of our response to Russia's violation to the
14 INF Treaty. The Department's response, which was a letter
15 from Under Secretary Lord, was sent to the committee 2 weeks
16 ago. And it states that DOD is in the early stages of
17 identifying the system requirements and is therefore unable
18 to conduct an assessment at this time.

19 I know the Department is moving forward on a broader
20 effort beyond just a ground-launched cruise missile, but I
21 am concerned about the urgency of our response because, as
22 we both know, we can spend the next 3 years defining
23 requirements and analyzing alternatives and not conduct any
24 actual research and development.

25 So I would just ask, what is your expected timeline for

1 moving forward on this, and have you set any kind of
2 internal goals to ensure that we do not spend years in this
3 preliminary stage?

4 Secretary Mattis: It is a very applicable question.
5 What we are doing right now -- as you know, we once had a
6 sea-launched nuclear cruise missile. We took those off
7 after the Berlin Wall and the years afterwards, off the Navy
8 ships. So by going back to a weapon that we had before,
9 there is a fair amount of already sunk technology costs that
10 we will not have to redo, will not have to come back up and
11 ask for again.

12 I need to get back to you on the specific timeline.
13 But remember what we are trying to do here, Senator, is to
14 put our diplomats in the strongest position to force the
15 Russians back into compliance. I have been personally
16 engaged with a high-ranking Russian on this issue, and I
17 would just tell you that the NATO allies are also
18 increasingly taking this message to Moscow. But we are
19 going forward with this, and I will have to get back to you
20 with a timeline. It is a very good question. I do not have
21 the answer but I will get it.

22 Senator Fischer: I would really appreciate your sense
23 of urgency because, as we all know, the Russians were in
24 violation 4 years ago on that treaty. And I agree with you
25 and obviously Congress agrees with you as well that a

1 response is necessary. The administration has also stepped
2 forward on that. So thank you.

3 Also, Russia continues to expand the scope of its
4 malign activities in Syria. It is building up
5 installations. It is aiding the regime. It is expanding
6 its footprint in the country. And recent reports have also
7 suggested that Russian forces are jamming U.S. unmanned
8 aerial vehicles. They are conducting electronic warfare
9 operations against the EC-130 aircraft.

10 Are the Russian forces actively harassing American
11 forces in Syria? And what do you believe is an appropriate
12 response, if you agree that they are?

13 Secretary Mattis: I cannot target the responsibility
14 to the Russians right now. As you know, it is a crowded
15 battlefield, and it has also got Iranians there and, of
16 course, the regime forces as well.

17 But you notice as we go forward with the -- we have so
18 far sanctioned 189 individuals in Russia, and we are looking
19 at those who have -- we have also, as you know, thrown six
20 of their diplomats out. And economic sanctions are going to
21 be, obviously, looked at for future violations as well. So
22 we have an asymmetric way, an indirect way of going back
23 after them and making them pay.

24 Right now, in Syria, we have an odd and somewhat open
25 and never interrupted deconfliction communication line that

1 has worked pretty well to make certain we do not run afoul
2 of one another's forces or one another's operations. They
3 are not coordinated. They are deconflicted in either time
4 or space, mostly in space, the river, for example. The
5 Euphrates divides our activities in some cases.

6 Senator Fischer: Did you use that deconflicted line
7 and communication with the Russians when it was reported in
8 February that there were large numbers of Russian irregular
9 forces that had attacked U.S. forces?

10 Secretary Mattis: It was used, Senator. The Russian
11 high command in Syria assured us it was not their people,
12 and my direction to the Chairman was the force then was to
13 be annihilated. And it was.

14 Senator Fischer: Thank you.

15 Senator Inhofe: Thank you, Senator Fischer.

16 Senator Heinrich?

17 Senator Heinrich: Thank you, Chairman.

18 Secretary, in response to Senator McCaskill's
19 contracting concerns, you said that the best way to avoid
20 these kinds of problems was, quote, having a methodical
21 review for every dollar going out. And I could not agree
22 more.

23 So I want to ask you about a particular RFP coming up.
24 The Pentagon has announced that it intends to bring all of
25 its computing services under one cloud in a \$10 billion

1 single award contract. The Department issued an RFI last
2 month which received over 1,000 questions and comments from
3 industry and leading technology experts who, for the most
4 part, believed that the current proposal is deeply
5 misguided. Yet, the Department seems to be rushing ahead to
6 issue an RFP in early May and intends to issue an award as
7 early as September.

8 What is the rush here, and why is the Pentagon moving
9 forward so quickly despite the concerns of both Congress and
10 technology leaders?

11 Secretary Mattis: Senator, the rush right now is that
12 we have too many data banks that the front line commanders
13 cannot swiftly draw information from. So what we have been
14 looking at right now is how do we get faster access for the
15 young folks on the front lines and displaying the
16 information they need, not all the information in the world.
17 The cloud is what they need. So that is the driving
18 impetus. It is the lethality. It is not a sole source and
19 there is no pre-select.

20 Senator Heinrich: But it is a single award.

21 Secretary Mattis: It will be for 2 years for about --
22 I want to say --

23 Senator Heinrich: It is a single award for a \$10
24 billion contract.

25 Mr. Norquist: The first contract is a single award.

1 It has I think a 2-year base, and then some options.

2 Current technology makes it --

3 Senator Heinrich: It is a big plum. That is why it
4 deserves attention. I do not want to quibble with you about
5 sole source, but I think it deserves some oversight. And we
6 included language in the omni that requires you to submit a
7 full justification for executing a single award -- not sole
8 source, single award contract -- instead of a multi-cloud
9 approach. Are you going to be able to submit that
10 justification as required by law? And will it happen before
11 or after the RFP?

12 Secretary Mattis: We always align ourselves with the
13 law, Senator. When is it going to be brought in?

14 Mr. Norquist: Both reports will actually be submitted
15 at the time the first report is due. So there is normally a
16 gap. We are going to get them both in on May 7th, and that
17 will be before the RFP.

18 Senator Heinrich: Fantastic.

19 So to be perfectly clear, there are people speculating
20 that this is tailor-made for a single vendor. And I would
21 just ask you to assure me that those concerns are not
22 justified.

23 Secretary Mattis: Sir, our goal is to get the best
24 possible service for the front line. I am aware that some
25 people in industry perhaps believe that this should be an

1 equal opportunity thing where everybody gets a piece of the
2 pie. We have got to go forward in a defensible way where
3 you can go to your constituents and say they did the right
4 thing ethically, as well as legally, in order to carry out
5 the best possible support for our front line troops. If we
6 cannot do that --

7 Senator Heinrich: I want to just get the best deal for
8 the best product for the people who actually use it on the
9 front lines.

10 Secretary Mattis: Yes.

11 Senator Heinrich: I hate to go back to cyber
12 deterrence, but it is an endless topic.

13 So, General Dunford, Secretary Mattis, we keep hearing
14 from combatant commanders appearing before this committee
15 that we need a cyber doctrine. We hear a common refrain
16 that this requires a whole-of-government approach, which we
17 have heard so many times that now it is starting to sound
18 more like it is someone else's job. Our adversaries do not
19 see any significant consequences at this point for their
20 cyber actions, and we need to demonstrate an effective,
21 credible deterrent.

22 When are we going to have that national cyber doctrine
23 to address this issue?

24 Secretary Mattis: I can tell you we are working on it,
25 sir. Inside the Department of Defense, we have got cyber

1 orders out. We have got 130 or 133 cyber teams already
2 manned. There is more training going on. We have got to
3 get in place a persistent cyber training environment to
4 bring them to the top of their game. So we are organizing
5 for the defend the nation effort, which I think is what you
6 are referring to, Senator. You know we are in support of,
7 obviously, the Secretary of Homeland Security.

8 That said, this is a very challenging effort, and I
9 believe that congressional guidance will be necessary as we
10 weigh life and liberty right out of Constitution and what
11 role do you want the military to play inside the United
12 States in a defense mode. I think this is something that
13 you need to lead us on because this is not our normal
14 operating location. Unless there is, as you know, a forest
15 fire or insurrection, we do not do this stuff. We stay
16 focused overseas.

17 So I think the more clarity we get from the Congress,
18 the better, and I think we have to work with the executive
19 branch, all of us there, including the Secretary of
20 Treasury, for example, and the Secretary of Energy. It is a
21 very big issue right now. We are going to have to break it
22 down into bite-sized pieces, and from the authorities that
23 start here in the spirit of Congress to guide us, we can go
24 forward on this.

25 Senator Heinrich: We need to get started then,

1 Chairman.

2 Senator Inhofe: Thank you.

3 Senator Perdue?

4 Senator Perdue: Thank you, Mr. Chair.

5 I would like to echo the Secretary's opening comments
6 about expressing our gratitude to our folks in uniform
7 around the world. The best of the best is out there on the
8 wall.

9 General Dunford, in your testimony, you now are calling
10 space a contested domain. In your words, potential
11 adversaries view our alliance on this domain as a
12 vulnerability they can exploit, and they are increasingly
13 challenging our competitive advantage in space.

14 You know, for the last few decades, we have used space
15 as a scientific endeavor where our potential adversaries in
16 the last decade have been using it as a potential military
17 domain, obviously.

18 China in 2007 conducted an ASAT, anti-satellite missile
19 test, that was successful and threw thousands of pieces of
20 debris into that orbit. In 2016, they put up a so-called
21 space debris clearer that could clear that in supposed
22 terms, but also could potentially wreak havoc on our
23 satellites. Even DNI Coats talks about any future conflict
24 that would occur with Russia and China would see this
25 potentially be -- the first opening salvo would be an

1 attempt to take out our satellite capabilities.

2 We now see China with a snuggler satellite capability
3 that is being talked about publicly.

4 In DNI Coats' words, of particular concern, Russia and
5 China could continue to launch experimental, in parentheses,
6 satellites that conduct sophisticated on-orbit activities,
7 at least some of which are intended to advance counter-space
8 capabilities.

9 And yet, with our advanced battle management system, it
10 seems to me that over the last several months we have been
11 briefed on the future direction -- I am talking about 10
12 years out in the future plan is that we have a strong
13 dependence on our space capabilities. In the interim term,
14 can you give us some comfort that the military is moving to
15 protect any dependence we have on this space capability?
16 And then give us a little of your thinking about moving more
17 capability from the air, land, and sea domains to the space
18 domain.

19 General Dunford: Senator, I can. And you raise a good
20 issue. I think it is important to just go back and look at
21 the assumption that we made when we started to leverage
22 space for our command and control, for our intelligence,
23 surveillance, reconnaissance, for our navigation, for the
24 precision weapons we had. We made an assumption that space
25 would be uncontested. And many of the systems that we put

1 into space were not resilient, and so they were not able to
2 survive against the anti-satellite technology and other
3 capabilities that the enemy now has to either jam or destroy
4 our space capabilities.

5 In the budget this year and really starting last year,
6 we have started to invest in broadly the category we call
7 space resilience, which is a variety of things. It is
8 hardening some of the capabilities we have in space today,
9 making sure that new capabilities have in the requirements
10 documents the right requirements to make sure they are
11 resilient to the challenges we expect in the future, and
12 then also ideas of more satellites, leveraging commercial
13 satellites and so forth and perhaps smaller satellites so
14 that all of our capabilities are not in one single
15 satellite.

16 With regard to characterization of debris and so forth
17 and command and control, by no means am I suggesting where
18 we need to be. But, frankly, starting back a few years ago
19 under General Hyten, who is now at Strategic Command -- he
20 was formerly at Space Command in the United States Air Force
21 -- we started an initiative to establish a more effective
22 command and control. A key piece of that command and
23 control in our Joint Space Operations Center is the ability
24 to characterize debris in space and to be able to make
25 adjustments in our operating concepts to accommodate that

1 debris in space.

2 So this is absolutely an area of focus in the
3 Department. I think the budget this year reflects that in
4 2019. It reflects it in 2018. And for me from a
5 warfighting perspective, we have to solve this problem. We
6 have built a force that is dependent on space.

7 Now, on the other side, in our exercises, we are also
8 now increasingly making sure that we are able to operate in
9 a space-denied or degraded environment and make sure that we
10 can accommodate degradation to the capabilities that we have
11 today that leverage space.

12 But all of those things are very much on our mind,
13 Senator. I appreciate you raising it because I think in the
14 areas that we are concerned about -- we say there is not a
15 war in space. There is a war that involves the capabilities
16 that we have in space.

17 Senator Perdue: I am about out of time, but would you
18 quickly just comment on the Israeli-Iran potential
19 cataclysmic confrontation potential that they are seeing
20 there in Syria with Iran. The Persian Empire throughout
21 history had a land bridge when they were at their height all
22 the way to the Mediterranean. It sure looks like everything
23 Iran is doing right now is trying to reestablish that land
24 bridge through Iraq and Syria and Lebanon into the
25 Mediterranean.

1 But right now, we see a really dangerous crossfire with
2 U.S. and Russia forces in the area and also now between
3 Israel and Iran. You have talked publicly about this, but
4 give us some indication about the way you are thinking about
5 this right now.

6 Secretary Mattis: Senator, very quickly, the Iran
7 regime, the Tehran regime, not the Iranian people, are
8 clearly in strength using their proxies in Syria. We have
9 seen them trying to bring advanced weaponry in through Syria
10 on its way to the Lebanese Hezbollah in southern Lebanon.
11 Israel is not going to wait until those missiles are in the
12 air.

13 Will it be cataclysmic? I hope not. I hope Iran pulls
14 back.

15 Senator Perdue: Is there a nuclear threat in that
16 potential confrontation?

17 Secretary Mattis: A nuclear threat?

18 Senator Perdue: Yes, sir.

19 Secretary Mattis: No, sir, not at this time.

20 Senator Perdue: Thank you.

21 Thank you, Mr. Chairman.

22 Senator Inhofe: Thank you, Senator Perdue.

23 Senator Warren?

24 Senator Warren: Thank you, Mr. Chairman.

25 For over 3 years, a Saudi Arabia-led coalition has been

1 bombing Yemen to counter Iranian-backed Houthi militia. The
2 United States military has been providing intelligence, mid-
3 air refueling, and munitions to the Saudis. In other words,
4 we have been helping and helping a lot.

5 Our refueling assistance to the Saudi-led coalition is
6 governed by something called the Acquisition and Cross-
7 servicing Agreement, or ACSA I think. The United States has
8 such an agreement with both Saudi Arabia and the United Arab
9 Emirates. The Secretary of Defense is authorized to enter
10 into these agreements with any non-NATO country, and it must
11 notify Congress 30 days before it signs such an agreement.

12 Secretary Mattis, can you give me a ballpark number for
13 how many acquisition and cross-servicing agreements that the
14 United States has entered into with other countries?

15 Secretary Mattis: I will have to take it for the
16 record and I will get back. I think I can get back to you
17 very quickly on that, Senator Warren. This was, as you
18 know, a decision by the previous administration we
19 inherited, reviewed, and endorsed.

20 [The information referred to follows:]

21 [COMMITTEE INSERT]

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25

1 Senator Warren: What I am trying to get at, though, is
2 how many of these agreements. You do not even have a
3 ballpark for what the number is?

4 Secretary Mattis: I do not, Senator.

5 Senator Warren: Okay.

6 You know, after an ACSA is signed, the Defense
7 Department is required to report to Congress. Or let me
8 ask, is the Defense Department required to report to
9 Congress on a regular basis about the type of defense
10 assistance that is provided or to report on any changes in
11 the ACSA?

12 Secretary Mattis: I am going to have to get back to
13 you, Senator. I know we have many times testified about
14 this, as did people sitting in these chairs in the last
15 administration from President Obama's administration. You
16 did characterize it correctly what this one is about,
17 however.

18 [The information referred to follows:]

19 [COMMITTEE INSERT]

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1 Senator Warren: And I think you will find that there
2 is no regular report required. And last month, I joined a
3 letter with Ranking Member Reed and Senator Blumenthal to
4 the Defense Department asking for details about the
5 acquisition and cross-servicing agreements that we have with
6 Saudi Arabia and the UAE as they continue their bombing
7 campaign in Yemen.

8 Now, the DOD responded with copies of the congressional
9 notifications for these agreements. One was dated February
10 1988 and the other July 1992. Those are pretty old
11 notifications, given that we signed defense agreements with
12 Saudi Arabia in 2016 and the UAE in 2006.

13 Now, I am concerned that these agreements have existed
14 not just with Saudi Arabia and the UAE, but with many other
15 countries and with very little oversight from Congress
16 during the administration of both parties. And I think that
17 needs to change.

18 There is another question I want to ask about,
19 Secretary Mattis, and that is the National Defense Strategy
20 which says that, quote, long-term strategic competitions
21 with China and Russia are the principal priorities for the
22 Department of Defense. The strategy stresses the need to
23 modernize existing equipment, to invest in advanced
24 capabilities, and to enhance the readiness of joint forces
25 for a high-end fight.

1 Many analysts have said that a conflict on the Korean
2 Peninsula could bog us down for years, degrading our
3 equipment and potentially resulting in thousands of
4 casualties to our allies and to our own troops.

5 So my question, Secretary Mattis, is what would be the
6 impact of a long-term conflict on the Korean Peninsula on
7 our ability to prepare for a high-end conflict like those
8 described in the defense strategy.

9 Secretary Mattis: As you have seen, Senator, the full
10 court press has been for the last year on a diplomatic
11 initiative that is now bearing fruit. It has taken a long
12 time, and I think it can be fruitful. Obviously, we are
13 hopeful but we are just going to see how it works. Every
14 effort is being made that any resort to war is the last
15 resort, as we --

16 Senator Warren: I appreciate that, Secretary Mattis,
17 but the my question is if we get bogged down in a long-term
18 ground conflict in Korea, what I am asking about is what
19 would be the impact on our ability to prepare for a high-end
20 conflict like those that are described in the defense
21 strategy.

22 Secretary Mattis: War is such an such an unpredictable
23 phenomenon, Senator. I would not subscribe that we would
24 get bogged down. In other words, it might go a lot faster.
25 Neither you nor I can tell if it is going to take 2 years or

1 2 months.

2 Senator Warren: So I am going to try a third time. If
3 there is a long-term conflict on the Korean Peninsula, what
4 impact would that have on our ability to prepare for a high-
5 end conflict like the kind described in the defense
6 strategy?

7 Secretary Mattis: It would be distracting, Senator.

8 Senator Warren: More than distracting?

9 Secretary Mattis: Well, if you look at what has
10 happened over the irregular fights over the last 15 years,
11 you get a sense of what happens when you are distracted over
12 that time from focusing on the primary threat. But we are
13 not going to do that. The Congress has reorganized the
14 Department, and we now have an Under Secretary who focuses
15 on nothing but research and engineering for the future. So
16 he will continue what he is doing. The Department will
17 continue those efforts. Obviously, this will be a
18 distraction of enormous proportions.

19 Senator Warren: You know, I will point out that last
20 week I asked the nominee for Pacific Command, Admiral Philip
21 Davidson, the same question, and he put it differently. He
22 said any long-term conflict has significant financial costs
23 and costs around the globe and people costs within the armed
24 services.

25 So I am concerned about what would happen if we were in

1 a position with both. But let me --

2 Secretary Mattis: So I am, Senator.

3 Senator Warren: Good. I am very glad to hear about
4 your commitment to a diplomatic solution with North Korea
5 and that we not get bogged down into a long-term conflict
6 there. Thank you, Mr. Secretary.

7 Secretary Mattis: We have been committed the entire
8 administration's time, ma'am.

9 Senator Warren: Thank you, Mr. Secretary.

10 Senator Inhofe: Senator Ernst.

11 Senator Ernst: Thank you, Mr. Chair.

12 Gentlemen, thank you very much for your continued
13 service to our country.

14 Secretary Norquist, thank you and your team very much
15 for sitting down with me not all that long ago to review the
16 DOD audit and your progress there. I am very glad that you
17 enjoy reading those audit reports. So thank you for your
18 work on that.

19 Mr. Norquist: And, Senator, I appreciate your interest
20 in the subject. Thank you.

21 Senator Ernst: Thank you very much.

22 General Mattis, the Truman carrier strike group just
23 recently departed from Norfolk, and we wish them well.
24 Recent reports suggest that they may remain in the European
25 theater, which is breaking with tradition, rather than

1 deploying to the Middle East as they have during deployments
2 of the past.

3 Can you speak about the need to make our military less
4 operationally predictable and how we can posture our joint
5 force to truly make our adversaries counter us in the multi-
6 domain?

7 Secretary Mattis: Yes, I can, Senator. Naval forces
8 by their very makeup, very composition are naturally agile
9 forces that can be deployed anywhere. In the past, we have
10 focused on simply maintaining a forward presence. Now, with
11 the National Defense Strategy saying that we are going to
12 focus on large power or great power competition, it means
13 that without breaking the families, without breaking the
14 fleet or the field forces of the Army, the Air Force,
15 whatever, we are going to make certain they are capable of
16 deploying and fighting at a higher level of capability.
17 What that means is the Chairman, under his global integrator
18 role where I have given him the authority with my oversight,
19 civilian oversight, to maneuver forces around in a manner
20 that makes us strategically reliable as an ally to our
21 allies but operationally unpredictable to our adversaries --
22 and this is part of making certain that we get out of acting
23 with our Navy like we are shipping line and get back into
24 acting like a Navy.

25 Senator Ernst: And I greatly appreciate that. Thank

1 you. I think anything we can do to keep our adversaries off
2 kilter, we need to do that. So thank you.

3 As well, we have been talking a lot about the National
4 Defense Strategy. And, General Mattis, it does reference,
5 quote, expanding the competitive space. Russia has been
6 very, very successful in competing with the United States
7 below the threshold of actual conflict in what we call the
8 gray zone. They have been very aggressive through their
9 military posturing. They have used political influence.
10 They have done information operation campaigns.

11 What does expanding the competitive space mean for
12 competitions with Russia?

13 Secretary Mattis: We are going to have to be able to
14 compete across all the domains of warfare, and we had two of
15 them on this planet, land and sea, for several thousand
16 years. In the last 100 years, we added the air component,
17 and in the last 10 years now or 5 years, we are really
18 focused in on the cyber domain and the outer space domain.
19 We are going to have to be able to compete there.

20 But there is more than that. America is still a great
21 beacon of hope to people who want to run their own lives.
22 We support sovereignty and territorial integrity. We do not
23 believe nations should be requiring tribute from other
24 nations using the statement of One Belt, One Road. We do
25 not believe that Russia has a veto authority over the

1 countries along its periphery or has any right to change
2 international borders through the force of arms. And so we
3 are going to have to be able to compete across diplomatic,
4 economic, information, energy lines, and we are engaged in
5 that on a routine basis in the sit room in the White House
6 as we orchestrate and integrate this effort.

7 Senator Ernst: Very good. Thank you very much. And
8 thanks for the reference to DIME as well. I think it is
9 really important.

10 And then the fiscal year 2018 NDAA included a provision
11 to provide assistance to our partner forces to support U.S.
12 special operations combating irregular warfare threats.
13 Have you identified additional resources or new authorities
14 that will help support those lines of effort, especially
15 when we are trying to counter malign Russian influence?

16 Secretary Mattis: I have not seen where we do not have
17 the authorities we need, whether it be through the NATO
18 support that you are aware of and you fund. We are
19 expanding the special operations forces, mostly niche
20 capabilities. It is not a wholesale everything with respect
21 to forces being expanded.

22 But let me just ask the Chairman to weigh in on this,
23 Senator.

24 General Dunford: There is, Senator, in the European
25 Defense Initiative a special operations component to

1 training and exercises as well, if you are talking specific
2 to the European theater.

3 Senator Ernst: Yes, absolutely. Thank you.

4 Thank you, gentlemen. My time has expired. I
5 appreciate your continued service. Thank you.

6 Senator Inhofe: Thank you, Senator Ernst.

7 Senator Peters?

8 Senator Peters: Thank you, Mr. Chairman.

9 And, gentlemen, once again thank you for your testimony
10 here today.

11 Secretary Mattis, you and I have spoken on many
12 occasions about advanced technologies, particularly
13 artificial intelligence and how those types of technologies
14 will radically change warfare and how we fight wars in the
15 future. And we also know that our near-peer adversaries are
16 working very aggressively on acquiring these as well. It is
17 certainly critical for us to be working on it with a great
18 deal of attention.

19 So my question to you, though, Secretary Mattis, is
20 that I know the Department is working on establishing a
21 joint artificial intelligence center. Could you talk a
22 little bit about that and give us some detail as to what you
23 are thinking about?

24 Secretary Mattis: I can, Senator Peters. Like you
25 say, we have discussed these issues many times, and this is

1 probably one of the leading efforts we have. But we also
2 have these kind of efforts going on on big data, on
3 computing, and hypersonics.

4 In this case that you are asking about here what we are
5 doing, we are finding a number of efforts in the Department
6 that are funded separately. Some of them are making some
7 good progress. Some have not achieved what I would call
8 outputs yet. The Deputy Secretary, the Chief Management
9 Officer are pulling this together, and we are going to try
10 to get a synergy going so that all the money going into this
11 is purposeful, it is going for objectives. And we are not
12 talking about 3 years from now. We are talking 3 months, 6
13 months from now, what are we doing to get these processes
14 underway to deliver capability in the near term.

15 Senator Peters: Is there something this committee can
16 do to help you in your efforts?

17 Secretary Mattis: I need to come back to you once we
18 have got it organized, sir. Believe it or not, it has taken
19 me several months just in order to identify everything we
20 have got going on in this regard. Once we have it aligned,
21 I will be back to you, I am sure, saying what we need.
22 Right now, I think we need to get our act together.

23 Senator Peters: I appreciate that. I look forward to
24 working with you as you continue down that road.

25 The other question that I have relates to the

1 procurement process. Yesterday the Government
2 Accountability Office released its 16th annual assessment of
3 DOD weapon systems acquisitions, which tracks the \$1.6
4 trillion portfolio over 86 weapon systems. And the report
5 emphasized a troubling trend, that too many programs are
6 proceeding without, as they call it, key knowledge essential
7 to good acquisition outcomes. In fact, if I look at the
8 summary here, basically the Comptroller General states, as
9 we first observed in 2017, production is the acquisition
10 phase most closely associated with cost growth where a lot
11 of these projects are now moving into. Consequently, DOD's
12 continued willingness to accept knowledge gaps in these
13 newer programs, now over 8 years after the implementation of
14 acquisition reforms, indicates that reforms have not yet
15 taken hold to the extent that Congress intended.

16 Secretary Mattis, could you respond to that finding?
17 And anyone else on the panel, it would be appreciated.

18 Secretary Mattis: I believe the finding is accurate.
19 This is why a year ago, when I came in, I talked about
20 reforming business practices. Today I come back with the
21 same words, and then I add "accountability." We believe
22 this is a problem.

23 Now, there are specific processes to get at this. One
24 of them is make certain you keep people who are running
25 programs in the program long enough that you really get a

1 result from what they learn from the first year and they are
2 not leaving the second or third year.

3 The second point is you have to get the requirements
4 right up front, sir. Now, in some of these, I would call
5 it, new technology areas, that can be a challenge. And you
6 understand that when we come back in and say, well, we found
7 something through basic research that we did not know
8 before. But we have got to do better at getting the
9 requirement right up front and then do not have requirement
10 growth midway. Specifically on this, we cannot bring
11 technology in that is not at a mature level. If we do that
12 before we prototype it -- and I realize that can create a
13 time lag, but that is where we have seen some of this growth
14 come from.

15 So as we define the problem, it is people, it is
16 processes, and then there are actual technical reasons that
17 we have got to correct, and that is leadership's
18 responsibility. Thus, we have assigned accountability for
19 each of these programs as a co-equal priority.

20 Senator Peters: Thank you, Secretary.

21 In my remaining time -- and it is low -- I would just
22 like to ask a brief question about Yemen. All of you know
23 that Yemen remains a humanitarian disaster, disease, famine,
24 unsafe drinking water, violence, killing hundreds of Yemenis
25 every day. I previously asked General Votel about this

1 issue, and he attributed some of the civilian casualties
2 that we see associated with Saudi strikes as related to the
3 competence of the forces that were operating, referring to
4 the Saudis there.

5 Secretary Mattis, General Dunford, briefly could you
6 comment on that? Has the competence of these forces
7 operating in Yemen increased? And what can we expect in the
8 future?

9 Secretary Mattis: Sir, I will let the Chairman hit on
10 a couple things we have actually done to reduce the number
11 of innocents being hit. This is a tragedy. It is a
12 catastrophe humanitarian-wise. I will tell you that now, as
13 of about 3 weeks ago, we have for the first time I believe a
14 United Nations envoy, a very experienced British diplomat,
15 Michael Griffin. I have met with him. The State Department
16 has met with him. We are going to give him full support as
17 we did his predecessor. For the first time I think we have
18 someone with the force of personality and the experience to
19 help drive this to a close and end it.

20 There are some specific things we have done to address
21 the innocent casualties.

22 General Dunford: Senator, I think mitigating the risk
23 of civilian casualties with strikes is probably two issues.
24 There is a cultural issue, and then there is a technical
25 issue. And I think we have had a positive impact with the

1 Saudis in both regards by the advising and assisting we have
2 been doing. We are collocated with them in their operation
3 centers to help them develop the techniques and tactics that
4 will allow them to conduct strikes while mitigating civilian
5 casualties. And I also think there has been a positive
6 effect of the relationship that we built with the Saudis
7 over time and the training to effect the changes and the
8 culture that would have them take that into account when
9 conducting military operations. So it is a long plodding
10 process, in many cases with the countries we are working on,
11 addressing those two issues. But I think it is paying
12 dividends over time.

13 Senator Peters: Thank you, gentlemen.

14 Senator Inhofe: Thank you, Senator Peters.

15 Senator Tillis?

16 Senator Tillis: Thank you, Mr. Chairman.

17 Gentlemen, thank you for being here.

18 I have got one quick question and it has to do with the
19 budget. The President's budget calls for a 2.6 percent pay
20 raise, another boost to military spending. One concern that
21 I have, if you see the trajectory for pay over time, we are
22 going to end up seeing some of that money to sustain that
23 added expense probably somewhere I think in the \$47 billion
24 range.

25 So how are you going to be able to sustain -- how are

1 you going to continue to do what we should do, which is
2 continue to try and keep up with the cost of living and the
3 competition you all mentioned earlier in terms of retaining
4 people with a growing economy and then deal with the erosion
5 of resources that would otherwise go to other priorities
6 within the Department? And General Mattis, or Secretary
7 Mattis, I will start with you.

8 Secretary Mattis: Senator Tillis, one difference about
9 the way we look at people in the military, we look at them
10 as an investment not as part of our overhead. We educate
11 them. We train them. We screen them. We screen them again
12 and again and again. And the idea is that we have best of
13 breed going up and we are pretty good at promoting the right
14 people and keeping an elite force. Part of this is making
15 certain that the sacrifice of military life that can never
16 be mitigated --

17 Senator Tillis: No question.

18 Secretary Mattis: This is one way to do it.

19 Senator Tillis: But, Mr. Secretary, how do you deal
20 with the erosion? If you continue the trend line, how do
21 you deal with the erosion based on other DOD priorities?

22 Secretary Mattis: I believe we have to look at this as
23 America can afford survival, Senator. We are 3.1 percent of
24 GDP. If we can do better on our health care, in other
25 words, reduce personnel costs outside the pay raise, if we

1 can do better in our contracting so we are getting better
2 return on the dollar, we are looking at finding those
3 savings inside the Department and making the argument to you
4 that we get to keep them and apply them to the very
5 direction that you are concerned with and rightly so.

6 Senator Tillis: Thank you.

7 General Dunford, did you have something?

8 General Dunford: Senator, I would just say I think, as
9 you know, that the pay raise this year was benchmarked
10 against a pretty consistent index that we have used over
11 time with the ECI, and while acknowledging the challenges we
12 will face in balancing compensation with the other pieces of
13 the Department, I do believe -- we had a discussion about it
14 earlier. I do believe that we are in a very competitive
15 market right now for high quality people, and I do not
16 believe that we are paying our people too much. And so we
17 do have to find efficiencies within the Department in a wide
18 range of ways to get the right balance.

19 But I would not argue at this point that the personnel
20 account is an anchor on the Department. Getting the right
21 people in is the cornerstone of us being successful.

22 Senator Tillis: Well, thank you all. You know, in my
23 capacity as the subcommittee chair on personnel, I am always
24 looking for good ideas to give you more flexibility, find
25 those efficiencies, and then plow them back in to making

1 sure we are paying our men and women.

2 I may have another question about funding, but I do
3 have something that is a little bit -- I tend not to get too
4 specific. I focus on the business issues, but I want to
5 talk about Turkey for a minute and I want to talk about it
6 on two fronts.

7 One, they are below the NATO guideline as a percentage
8 of GDP. Their participation I think is trending somewhere
9 around 1.5 percent. The target is 2.

10 And two, I would also like to understand the
11 complications that come from having a NATO partner possibly
12 acquiring a missile defense system from Russia and the
13 implications that that could have for our assets in Russia,
14 our manufacturing facilities for the Joint Strike Fighter,
15 et cetera.

16 Secretary Mattis: As you know, Senator Tillis, Turkey
17 is the only NATO ally with an ongoing insurgency inside its
18 own country. We assist them, as all of NATO does. We have
19 got Spanish and Italian antimissile batteries in Turkey to
20 protect them against any Iranian threat. The complexity of
21 the Syria fight has colored everything in that region to
22 include Turkey, which has had an enormous refugee influx,
23 and they have gone through an attempted haphazard coup that
24 cost them innocent people killed.

25 We are seriously concerned across NATO about the S-400

1 buy, the Russian system --

2 Senator Tillis: Has there ever been another NATO ally
3 that has done something like that?

4 Secretary Mattis: Well, to a degree. As you know, the
5 Eastern European countries that were equipped with Russian
6 equipment --

7 Senator Tillis: They had a legacy. But I mean, after
8 you have gotten past that --

9 Secretary Mattis: I am not aware of any, sir.

10 Senator Tillis: -- reaching out to a would-be
11 adversary, has that ever happened?

12 Secretary Mattis: I am not aware of any.

13 Senator Tillis: I know I cannot do your all's job, but
14 are there not other complexities just based on the inherent
15 infrastructure that comes with that system with respect to
16 our own intelligence, safety, and security? Look, I agree.
17 We need to protect Turkey. We need to help them make their
18 homeland safe. But this seems like to be an outlier unlike
19 any time that has happened since NATO was established. Is
20 that an overstatement?

21 Secretary Mattis: I do not believe so, Senator. I
22 think that is accurate, and it is causing a lot of concern.

23 Senator Tillis: Thank you.

24 Senator Inhofe: Thank you, Senator Tillis.

25 Senator Hirono?

1 Senator Hirono: Thank you, Mr. Chairman.

2 I want to thank all of you gentlemen for your service
3 to our country.

4 And, Secretary Mattis, thank you very much for your
5 continuing commitment to end what you referred to as a
6 cancer of sexual assault in the military.

7 I wanted to further ask you, Secretary Mattis. The
8 National Defense Strategy mentions expanding and
9 strengthening alliances in the Indo-Pacific region. And the
10 Daniel K. Inouye Asia-Pacific Center for Security Studies is
11 just one of several assets in Hawaii that is tailor-made for
12 this mission and your continued support is very much
13 appreciated.

14 I would like to applaud you for your efforts in
15 building partnerships and alliances, and it is not lost on
16 me that you have made several trips to the region and hosted
17 several regional leaders in the Pentagon since the National
18 Defense Strategy was released.

19 So besides our traditional allies in that part of the
20 world, where are the best possibilities for new partnerships
21 in the region, and what attributes do these countries share
22 that make them strategically important to the United States?
23 I also want to ask you about the importance of our compacts
24 with Palau, the Federated States of Micronesia, and the
25 Marshall Islands.

1 Secretary Mattis: Well, Senator, the Pacific is a
2 priority theater, as you and I have discussed since my first
3 days in your office.

4 Senator Hirono: Yes.

5 Secretary Mattis: There is an ongoing effort to build
6 our military structure in the Pacific, and much of this is
7 by, with, and through our allies. And I would say from down
8 under in Australia all the way up through Japan and Korea,
9 you see this actively underway. We also have to be open to
10 nations such as Indonesia, the fulcrum of the Indo-Pacific
11 region, Vietnam as it comes of age and adapts with many of
12 their students here in our country being educated, as we
13 build new ties for the future.

14 But probably most importantly, as we look over all at
15 this region, I would look at India, the largest democracy on
16 the planet and one where we probably have a once-in-a-
17 generation opportunity to find more common ground. I think
18 it is there. We just have to find it. We do not have to
19 search hard for it in the sense of creating it. We just
20 have to get an understanding of each other's interests, and
21 I think there is a lot of common ground there.

22 So the attributes you see are geographic. They are
23 based on a potential military commonality in terms of
24 threat, whether it be, as you have seen in the Sulu Sea area
25 where ISIS has come in in strength and created a problem for

1 Malaysia, Indonesia, but especially so for the Philippines.
2 These are all issues that we have to work together if we
3 want to keep the a Pacific stable commerce zone for all
4 countries to use.

5 Senator Hirono: What about the importance of our
6 compacts with the island nations that I mentioned, Palau,
7 Micronesia, and the Marshall Islands?

8 Secretary Mattis: I would just tell you, Senator, that
9 we recruit from there as you know. Their young men and
10 women serve in our armed forces, and we have got probably,
11 in terms of military relationships, an unusually high degree
12 of trust between the United States and those nations. There
13 is probably a lot more that we will be doing in the future
14 along the lines of the direction we are going right now, and
15 I do not see any inhibition on their side or our side to an
16 even better relationship, partnership.

17 Senator Hirono: Some of these compacts will come due,
18 and I assume that we are going to be negotiating with them
19 again and that these compacts there for national security
20 reasons. Is that correct?

21 Secretary Mattis: They are there for that, and I think
22 there is also an affiliation that goes back many decades of
23 friendship that we share with them.

24 Senator Hirono: And we have certain continuing
25 responsibilities for our country's use of their lands.

1 Secretary Mattis, while current events may lead to
2 decreased tensions with North Korea, I applaud DOD's
3 commitment to defending the homeland from ballistic
4 missiles.

5 So the DOD budget request includes funding for
6 additional ground based interceptors but also funding for
7 new sensor capability such as the homeland defense radar in
8 Hawaii. How will these new sensors increase our ability to
9 defend Hawaii and the continental United States?

10 Secretary Mattis: Senator, those capabilities will
11 allow us to detect launches from various angles. That means
12 sooner track them and determine if they are a threat or not
13 to the homeland. And the homeland is Guam, Hawaii -- let me
14 be very particular here. Guam, Hawaii, Alaska, and the
15 United States. That means we have more engagement time.

16 Senator Hirono: And I think that our ability to
17 accurately detect missiles coming our way is very important.
18 I am sure you are aware that we had a false alarm in Hawaii
19 recently.

20 Thank you, Mr. Chairman.

21 Senator Inhofe: Thank you, Senator Hirono.

22 Senator Graham?

23 Senator Graham: Thank you, Mr. Chairman.

24 Thank you both for advocating for more funding for the
25 military. Without you, we could not have done it. So thank

1 you both.

2 Let us go to Afghanistan. Then we are going to work
3 our way around to Syria.

4 I talked to the Afghan Ambassador yesterday. He said
5 that the rules of engagement changing targeting the Taliban
6 as part of the enemy force is really beginning to pay
7 dividends. Do you see that, General Dunford?

8 General Dunford: I do, Senator.

9 Senator Graham: Secretary Mattis?

10 Secretary Mattis: Yes, sir.

11 Senator Graham: And the goal is to punish the Taliban
12 to get them at the table and end this thing through
13 negotiation. Is that correct?

14 General Dunford: The goal is to make sure they view
15 that the only solution is a political solution that they
16 cannot win on the battlefield.

17 Senator Graham: And we are making sure they are not
18 going to win on the battlefield. I want to compliment you
19 and President Trump for changing those rules of engagement.

20 Do you believe that a residual force is necessary in
21 Afghanistan for a while to come and it should be conditions-
22 based if we ever leave?

23 General Dunford: I do believe that, and that is
24 consistent with our strategy, Senator Graham.

25 Senator Graham: Secretary Mattis, is that correct?

1 Secretary Mattis: Yes, sir.

2 Senator Graham: To those Senators that advocate
3 leaving Afghanistan, on September the 10th, 2001, we did not
4 have one soldier in Afghanistan. Did we, Secretary Mattis?

5 Secretary Mattis: That is correct, Senator.

6 Senator Graham: We did not have an embassy. We did
7 not have a diplomat. We did not offer them a dime of aid.
8 We got attacked anyway.

9 Do you agree with me, leaving them alone does not mean
10 they are going to leave you alone?

11 Secretary Mattis: Problems in places like that do not
12 stay there, sir.

13 Senator Graham: So we cannot build a wall between us
14 and the threats coming from the Mid-East, but we certainly
15 can confront them. And I like your strategy in Afghanistan.
16 I think you got the right size force with the right
17 abilities.

18 Iraq. What did we learn by leaving too soon, General
19 Dunford?

20 General Dunford: We learned that the Iraqi forces were
21 not capable of providing security inside the country, and
22 that gave the enemy an opportunity to resurge. That is
23 where really ISIS had the space to grow.

24 Senator Graham: I could not agree with you more.

25 General Mattis, working with our Iraqi partners and

1 coalition partners, we have done a pretty good job of
2 suppressing ISIS in Iraq. Do you agree with that?

3 Secretary Mattis: I do, sir, although the fight goes
4 on, but yes, sir, absolutely.

5 Senator Graham: Would you support a residual force
6 based on conditions-based withdrawal in Iraq if the Iraqis
7 agreed with it?

8 Secretary Mattis: Absolutely, and that force will be
9 augmented right now by a NATO training element that is there
10 so it will not be just the Americans.

11 Senator Graham: I could not agree with you more. More
12 people need to contribute money. President Trump is right.
13 The Arabs need to pay more and other countries need to
14 contribute more.

15 But do you agree with the following statement? There
16 is really no substitute for the American military when it
17 comes to a holding force. We have capabilities most people
18 do not.

19 Secretary Mattis: That is correct, sir.

20 Senator Graham: Now, let us go to Syria. The goal is
21 two: to destroy ISIL, the total destruction of ISIS, and to
22 combat the malign influence of Iran. Is that the two goals
23 that you all have been articulating?

24 Secretary Mattis: Sir, our forces in Syria right now
25 are there to defeat ISIS. There is a political process

1 underway to end the civil war, but the chemical weapons are
2 a separate and distinct issue.

3 Senator Graham: We have known each other for a long
4 time. I am with you. I do not know. Is the President's
5 statement about withdrawing from Syria -- is that
6 conditions-based withdrawal or is he just going to withdraw
7 because he is tired of being in Syria?

8 Secretary Mattis: It is conditions-based. As you
9 know, neither the last administration nor this
10 administration sees itself occupying Syria. What we have to
11 do is keep our diplomats in a position of authority so they
12 can end this through the Geneva process.

13 Senator Graham: Right. But when it comes to ISIS, the
14 goal is to make sure they are ultimately destroyed. Is that
15 correct?

16 Secretary Mattis: Destroyed and also they cannot
17 regenerate. So we have to create local forces that can keep
18 the pressure on any attempt by ISIS to try to regenerate.

19 Senator Graham: Do you see those local forces being
20 able to accomplish that mission better than the Iraqi army
21 when we left Iraq?

22 Secretary Mattis: Sir, we will have to mature those
23 forces. We are engaged in it now. We have training going
24 on by a number of our international partners there on the
25 ground right now, as well as our own forces.

1 Senator Graham: I only have a few minutes.

2 Is it fair to say that a holding force right now
3 without us would be a risky proposition for a while to come?

4 Secretary Mattis: I am confident that we would
5 probably regret it.

6 Senator Graham: Turkey. If we leave too soon, Turkey
7 is going to go after the Kurds that helped us destroy ISIS.
8 Are you worried about that? We got to get that situation
9 right before we leave.

10 Secretary Mattis: We are working with Turkey to
11 resolve this.

12 Senator Graham: Is that a concern of yours?

13 Secretary Mattis: I do not know if that is Turkey's
14 intent, but we --

15 Senator Graham: We know what they have done in the
16 past. They have said they hate these guys more than ISIS.
17 They have actually attacked them. That to me needs to be a
18 condition because nobody else will help you in the future.

19 As to countering Iran, the military strike I thought
20 was not a big price. I do not think it is going to change
21 the battlefield equation. I do not see how you go to Geneva
22 until the battlefield changes. I do not see a change on the
23 battlefield until there is some credible force opposing
24 Assad. I think we should be part of that. If we are not,
25 we are giving Damascus to the Iranians. If we depart here,

1 I think you need to have some kind of element on the ground
2 in Syria to combat Assad. It is in our interest that we not
3 give Iran to Damascus. And the good news is there are
4 millions of Syrians who want Assad to go, for another
5 discussion for another time.

6 Thank you both.

7 Senator Inhofe: Thank you, Senator Graham.

8 Senator King?

9 Senator King: Thank you, Mr. Chairman.

10 Secretary Mattis, it occurs to me we have to make an
11 important decision here within the next hour, which is the
12 confirmation of Mike Pompeo to be Secretary of State. It
13 occurs to me, Secretary Mattis, that you may be a good
14 witness in this decision in the sense that you have worked
15 with him directly on the National Security Council. I
16 suspect you have been in the situation room and the Oval
17 Office. What is your view of his -- I think two issues that
18 are of concern -- judgment and willingness to tell the
19 President -- give the President his best advice based upon
20 his information and not necessarily what the President wants
21 to hear?

22 Secretary Mattis: Senator, you are right. I have
23 worked with him for over 14 months. I have worked with him
24 intimately during that time. I would just tell you I have
25 seen a rigorous intellect. His judgment has been mature and

1 objective while still applying subjective elements. It is
2 not just a brittle approach to problem solving. He is never
3 shy about providing his input to include when it was not the
4 direction the discussion was going and he had to stand in
5 opposition to the desires of some of us in the sit room.

6 Senator King: Thank you. That is very helpful. I
7 appreciate your providing that.

8 General Dunford, you were asked about what is going on
9 in Yemen, and you were saying we are making progress and it
10 is a cultural change. There was a report just this morning
11 allegedly 3,500 schools in Yemen have been targeted by Saudi
12 airstrikes. I do not know if that is true. That is an
13 allegation. But I just worry that we are complicit in
14 something that will turn out in the hindsight of history to
15 be a humanitarian tragedy. And I would appreciate it if,
16 for the record, you could supply us with what controls we
17 have, what limitations we have, what we are doing to be sure
18 that that is not the case.

19 General Dunford: Senator, I will. I will supply it
20 for the record.

21 But what I would say here this morning is we are not at
22 all involved in what we describe as the kill chain. So we
23 are not involved in what targets to strike.

24 Senator King: But my concern is that we can say that,
25 but if we are doing intelligence and refueling, we have got

1 our hands on this thing. We have got our fingerprints on
2 it. And we cannot then say, well, we do not know what they
3 are going to do with that fuel we put in their jets. I do
4 not think that is going to be an acceptable answer if we
5 find out -- well, I think we are finding out now that some
6 pretty bad stuff is happening with our engagement. I really
7 hope you will give this some thought and give us some
8 solid --

9 General Dunford: Senator, I fully understand your
10 concerns. We will outline that for you.

11 [The information referred to follows:]

12 [COMMITTEE INSERT]

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1 Senator King: Thank you.

2 To get back to the budget, which is the subject of this
3 hearing, just looking at the numbers, I think it is very
4 important that the public understand that we are talking
5 about the lowest percentage of GDP for the defense budget in
6 something like 70 years, 3.1 percent. I noticed in looking
7 at the absolute numbers, this year's proposal is actually
8 below the appropriation for 2010. So here we are 9 years
9 later. 2010 was 691. You are talking about 686. So I just
10 think it is important to put those figures into context.

11 And, Mr. Norquist, a question to you. It occurs to me
12 that one of the things that is happening in the defense
13 budget is that we are recapitalizing. We are in a sense
14 paying deferred maintenance in terms of readiness, in terms
15 of upgrading systems like the Ohio class submarine that have
16 not been upgraded in 30 years, the B-21. I would think in
17 your position it would be helpful to us who have to justify
18 this budget to our constituents to break that down a bit to
19 say, okay, what is it that is current operations and what is
20 it that is paying past due bills in effect. Do you agree
21 that that is part of what is happening here?

22 Mr. Norquist: I do. And just to put it in context, if
23 instead of the sequestration back in 2011, Congress had
24 simply capped defense at inflation, did not allow for pay
25 raises and everything else, that is the number you would be

1 at now. The difference is you would not have had several
2 hundred billion dollars of lost buying capacity. You would
3 not have been missing maintenance on equipment. You would
4 not been having older planes that are not getting replaced.
5 So you are not even in the same position. So the fact that
6 it took Congress to raise the ceiling by \$85 billion just to
7 get back to where inflation alone would have put the defense
8 budget shows you how deep a hole the Department has been in
9 during that period of sequestration and the disruption to
10 the military's readiness.

11 Senator King: It is very important to make that point
12 the public because sometimes people just look at the number
13 and say this is a huge number. It is more than other
14 countries. Actually we are not the highest country in the
15 world in terms of percentage of GDP. I think we are fourth
16 or fifth. And that is really I think the appropriate way to
17 look at it.

18 Final question and this is a short one because I am
19 already out of time. Secretary Mattis, I presume, based
20 upon your prior testimony that you think it is important to
21 maintain and rebuild our diplomatic capacity at the State
22 Department. That is a part of our national security
23 apparatus. Is it not?

24 Secretary Mattis: They are critical to our national
25 security, Senator.

1 Senator King: Thank you.

2 Thank you, Mr. Chairman.

3 Senator Inhofe: Thank you, Senator King.

4 Senator Scott?

5 Senator Scott: Thank you, sir.

6 Good morning to the panel. Thank you for being here
7 and thank you all for your service to this country.

8 Secretary Mattis, General Dunford, Secretary Norquist,
9 I may be a little biased here but I do not think that I am.
10 I think South Carolina is the epicenter of training and
11 readiness of our military, whether it is Fort Jackson where
12 we train more than half of the enlisted soldiers or Parris
13 Island, Secretary Mattis, where you know we actually make
14 half of the marines, or the Navy nuke school where we
15 prepare our sailors, or Shaw Air Force Base where we have
16 the largest F-16 wing in the Air Force, or if it is going to
17 theater, it is likely going through a C-17 at Charleston Air
18 Force Base, not to mention both SPAWAR and the Savannah
19 River site which I think is a forward-leaning, forward-
20 looking part of our military.

21 So when the National Defense Strategy discusses a
22 return to great power competition with Russia and China, I
23 am very interested in seeing America leverage the ingenuity
24 and the imagination for our nation to ensure that there is
25 never a so-called level playing field for our adversaries.

1 To ensure American dominance in all areas, we must innovate
2 faster and bring new capabilities like hypersonic weapons,
3 directed energy, and advanced unmanned aircraft to the field
4 sooner.

5 With additional funding for R&D, how are we working to
6 make sure that we get those new technologies in the hands of
7 our warfighters as soon as conceivably possible? Secretary
8 Mattis, please begin.

9 Secretary Mattis: Senator, what we are doing right now
10 is, because the Congress reorganized us, you expressed your
11 displeasure over years with what we would call Acquisition,
12 Technology and Logistics. You broke it in half. Ellen Lord
13 now runs Acquisition and Sustainment. That is the current
14 fighters you see, F-16's there, the current C-17's. That
15 sort of thing is being addressed by Ellen Lord. But you
16 also set up Research and Engineering under Michael Griffin,
17 our Under Secretary, confirmed him. And he has the
18 responsibility for directed energy, for hypersonics, for
19 joint artificial intelligence efforts. So we are organizing
20 now for an expeditious, output-oriented exploration in
21 research of these advanced technologies that we know are
22 going to play a role. As we speed this forward, that is how
23 we get them out in the hands of the troops fast, not by
24 having more studies done but by actually having something
25 developed and fly a hypersonic vehicle by X day. And now

1 everybody works together.

2 We are also concentrating the Department's efforts that
3 were somewhat diffuse, which is not uncommon with new
4 technology. But now we know what we need to focus on. So
5 we are pulling those together. So the Army, the Navy, the
6 Air Force are working together as service departments in
7 making this a synergistic effort.

8 Senator Scott: Thank you. Certainly looking at the
9 comments of Secretary Griffin in the HASC hearing about our
10 inability to even see them coming, it is important for us to
11 expedite that process as quickly as possible.

12 Did you want to add anything, General?

13 General Dunford: The only thing I would say is one of
14 the other things, Senator -- you know, so we have talked a
15 little bit about science and technology research and
16 development. A really key piece too is our exercises in
17 experimentation. One of the key elements of the Secretary's
18 strategy is to make sure that we regenerate our exercise
19 program. It has suffered admittedly as a result of the
20 operational tempo over the last decade. But as we look
21 forward, better joint exercises, a core element of which is
22 joint experimentation, will help move some of those
23 capabilities through the pipeline a bit faster. And so I
24 think there really is three pieces, two of which you spoke
25 about, but that third piece is really critical.

1 Particularly going into this summer, that is an area of
2 particular interest for the Secretary and I.

3 Senator Scott: Thank you.

4 I want to continue on the subject of keeping the perch
5 that we have.

6 Secretary, you and several of your predecessors have
7 stated how important it is for us to address our
8 adversaries' theft or acquisition of intellectual property
9 and sensitive defense-related technology. You have
10 officially endorsed the Foreign Investment Risk Review
11 Modernization Act, FIRRMA, which Senator Cornyn and others
12 on this committee, including myself, introduced to modernize
13 the way we screen for an investment for national security
14 risks.

15 Do you see FIRRMA, while not necessarily a silver
16 bullet, as one crucial step towards addressing the China
17 threat?

18 Secretary Mattis: It is critical on China, on a number
19 of other threats that we face. Cyber, for example, is not
20 only from China, but I would also point out that one of the
21 reasons Secretary Mnuchin orchestrated the sanctions
22 against China goes to the very heart of what you were just
23 talking about, the intellectual property theft.

24 Senator Scott: Would you support including FIRRMA as a
25 part of the NDAA?

1 Secretary Mattis: I would have no reservations
2 whatsoever about it, Senator. It is a much broader effort
3 than just Department of Defense. So I would not want it to
4 become a military priority effort and not the same priority
5 for others. It has got to be a whole-of-government. For
6 example, Treasury Department, Commerce, Department of
7 Energy, Homeland Security, they all have a role in this.

8 Senator Scott: Yes. I am on the Banking Committee and
9 we are working on it as well on the non-defense side.

10 Do you believe, as the National Defense Strategy and
11 your previous public comments suggest, that China poses the
12 significant national security threat to the country still?

13 Secretary Mattis: Senator, I think the one thing that
14 this administration would be graded on most critically 10 or
15 15 years from now, historians will look back and say did we
16 develop a relationship with China, a mature relationship, a
17 productive relationship, did we do everything we could as we
18 look at the long-range competition to keep it out of war and
19 into a more productive stance. And at the same time, some
20 of the things that you have initiated are absolutely
21 critical that we take our own side in this competition. So
22 I think this is critical as you look at, but there is
23 nothing that dictates this has to go to a force of arms
24 between us if we do this right, along the lines I think you
25 are doing right now.

1 Senator Scott: Thank you, sir.

2 I will just close, Mr. Chairman, with this comment.

3 From my assessment, China's successful acquisition of U.S.
4 technology is what helps them be a near-peer competitor.

5 Senator Inhofe: Thank you, Senator Scott.

6 Senator Kaine?

7 Senator Kaine: Thank you, Mr. Chair.

8 And I appreciate the witnesses' testimony. It has been
9 an instructive morning.

10 I want to do a Senator Kaine broken record topic and
11 talk to you about congressional authorization for military
12 force.

13 You each appeared before the Defense Subcommittee of
14 Senate Appropriations about a year ago, March 22, 2017.
15 Secretary Mattis, you stated that, quote, I would take no
16 issue with the Congress stepping forward with an AUMF. I
17 think it would be a statement of the American people's
18 resolve if you did so. I thought the same thing for the
19 last several years, I might add, and have not understood why
20 the Congress has not come forward with this, at least a
21 debate because I believe ISIS is a clear and present danger
22 we face.

23 General Dunford, the same day you stated, quote, I
24 agree with the Secretary. I think not only would it be a
25 sign of the American people's resolve but truly I think our

1 men and women would benefit from an authorization for the
2 use of military force that would let them know that the
3 American people in the form of their Congress were fully
4 supportive of what they are doing out there every day as
5 they put their lives in harm's way.

6 Are your feelings today generally consistent with the
7 testimony you gave in the Senate a year ago on this topic?

8 Secretary Mattis: Generally they are, Senator. I will
9 say that we believe right now the operations we are
10 conducting are legal and we have a feedback loop to the
11 Congress to make certain we are not doing anything where you
12 are not kept informed. We would need the right AUMF, and
13 you and I have discussed it. That would be the only caveat
14 I would say. We would not want to end up restricting
15 ourselves.

16 Senator Kaine: General Dunford?

17 General Dunford: Senator, I feel the same way, and I
18 think what the Secretary said is what I would have said
19 first. You know, what I would be concerned about changes is
20 just making sure that we have the inherently flexibility
21 that we have today to be able to prosecute an enemy that
22 does not respect boundaries in time.

23 Senator Kaine: Secretary Mattis, you then after the
24 March hearing that I described, sent a letter I think
25 actually to the Senate Majority Leader in September of 2017,

1 and then together with Secretary Tillerson appeared before
2 the Senate Foreign Relations Committee at the end of October
3 2017. And in that letter and here, you talked about some of
4 the sort of limitations or concerns that you might have that
5 the idea of an authorization, the idea of congressional
6 expression of resolve would be good thing, but that on the
7 operational side, you would have concerns. And you shared
8 in that letter and in that testimony some of the concerns
9 that you have. I do not need to go through those, but you
10 remember those.

11 Is that still generally your point that if we could do
12 a congressional authorization, great, but take into account
13 some of the reservations or concerns you expressed?

14 Secretary Mattis: Yes, sir. I am still aligned with
15 those comments.

16 Senator Kaine: I have worked on this matter, and I
17 have proceeded upon an additional assumption that I think is
18 important for Congress, that if we were to do an
19 authorization, it would be very important that the
20 authorization be done in a way that was bipartisan so that
21 we would not be sending a sign either to the American public
22 or especially to our troops that support for military action
23 against non-state terrorist groups, for example, is
24 something that just one party supports and not the other
25 because then that would raise a question of, okay, a good or

1 bad election might then lead to a lack of resolution, which
2 would make people wonder whether they were being supported
3 out on the battlefield.

4 Do you share that thought that if we can do a
5 resolution, it should not only be one that protects
6 operations but also expresses a bipartisan resolve of
7 Congress?

8 Secretary Mattis: I think it is critical that our
9 adversaries and our allies see a unified America when we
10 make the grave decision to put our troops in harm's way,
11 sir.

12 Senator Kaine: Just as I close, Senator Corker and I
13 have introduced an authorization that is being taken up by
14 the Senate Foreign Relations Committee soon. We have
15 attempted to incorporate into that authorization, Secretary
16 Mattis, some of the concerns you expressed in the letter of
17 September 2017 and the subsequent congressional testimony.
18 It is bipartisan and thus involves compromises. But since
19 the chair of that committee has indicated a desire to take
20 it up and put it through a markup of the committee, I look
21 forward to working together with you and other
22 administration officials so that we can hopefully get this
23 right and express that bipartisan resolve that I think our
24 troops deserve.

25 Secretary Mattis: Thank you.

1 Senator Inhofe: Thank you, Senator Kaine.

2 Senator Donnelly?

3 I will remind those remaining that while our timer has
4 malfunctioned, we will remind you.

5 Senator Donnelly: Is there a reason you said that
6 right before I spoke, Mr. Chairman?

7 [Laughter.]

8 Senator Donnelly: Thank you very much to the
9 witnesses.

10 I want to thank you all of you for your implementation
11 of the Sexton Act requirements regarding military suicide.
12 I know how hard you have worked on this. I know the efforts
13 that have been put in and how you have worked hard to reduce
14 that.

15 As you look ahead, what are the top priorities now for
16 you when you look at this and you try to determine what else
17 can we do to move the ball here? What do you think are some
18 of the things that we can still accomplish?

19 General Dunford: Senator Donnelly, we actually had a
20 brief conversation about that with the House Appropriations
21 Committee yesterday. And I think one of the more promising
22 things that we have seen is this kind of interdisciplinary
23 model of mental health care. So that has had a big impact.
24 But we do have significant shortages of the right experts in
25 the right places, and it is hard to sometimes attract the

1 right -- you know, we have a small population of uniformed
2 experts. And then we rely on some contract support. In
3 certain places where our forces are -- and you have
4 certainly seen the same scourge with veterans where getting
5 the right care to the right people is a difficult thing. So
6 leveraging things like telemedicine, finding ways to deliver
7 that multidisciplinary model even in locations that are
8 geographically difficult to attract the right people I think
9 is the key thing.

10 But in my own personal experience -- and I spend a
11 little less time on it now than I have in previous
12 assignments just because of the nature of my assignment --
13 the single biggest change in my judgment has been the change
14 in the culture of the medical profession to that
15 multidisciplinary approach and then combined with the full
16 visibility of what is going on with an individual in the
17 leadership realm or with the chaplain and so forth. So what
18 I used to tell people is if I knew as much about people when
19 they were alive as I found out about them after they die, we
20 would have been able to do something to help fix this. So I
21 think that that multidisciplinary approach is probably the
22 biggest thing in terms of investment, and then making sure
23 that we actually do know as much about our men and women
24 when they are alive as we sometimes find out after they die
25 is probably the biggest thing we need to continue to

1 emphasize. A piece of it is resources but a piece of it is
2 continuing to have the kind of decisive engaged leadership
3 that we have seen be successful.

4 Senator Donnelly: Thank you.

5 Another thing that you have been working with me and
6 with all of us on in Syria is to try and find the young men
7 and women who ISIS killed while they were there. We
8 appreciate all your hard work, and I just want to say one
9 more time if we could continue to keep looking and continue
10 to make that effort, it would mean the world to those
11 families who have young people who are still over there.

12 Secretary Mattis: Please assure them, Senator, that we
13 are doing exactly that. We track this. We get reports
14 frequently about leads. There is no stone left unturned as
15 we try to resolve this.

16 Senator Donnelly: And as we are looking at Syria, you
17 hear things from here, from over there, from wherever. When
18 we talk about leaving as soon as we have wrapped up ISIS, I
19 have great fears of seeing history repeat itself in some
20 ways that we simply head out, and the second we do, ISIS
21 comes back in. And I know that the Department of Defense,
22 General Dunford, you have all said, look, we are just not
23 walking away, but I want to make sure that we have a plan in
24 place to protect those people in those regions that we have
25 stood with, who we have given our word to, and who have

1 relied on us as partners and have stuck their necks out for
2 us as well.

3 Secretary Mattis: Senator, what we are doing right now
4 is we are helping the local places that we have liberated
5 put together their own civilian leadership. Civilian
6 councils we call them. We are training their police chief,
7 the deputy chief, and a handful of others so when they bring
8 people in, they have got some professional folks there. So
9 if ISIS tries to come back at them, they are taken care of.

10 Then we are working the political process to make sure
11 they are not left to drift in terms of not having a seat at
12 the table for their future, their longer-term future. That
13 is a diplomatically led effort, but it is one that the State
14 Department, Brett McGuirk, former Secretary Tillerson,
15 Acting Secretary Sullivan will have been working on. So
16 there will be no loss of momentum as we go forward.

17 Senator Donnelly: Yes. I worry about them looking up
18 one day -- the local forces -- and seeing the trucks coming
19 back in with ISIS. As they say, we do not want to buy the
20 same real estate twice.

21 I also want to ask, what does success in Afghanistan
22 look like a year from now?

23 Secretary Mattis: Sir, it is probably going to take
24 more than a year is the first point I would make.

25 Senator Donnelly: Right. If you are a year out, where

1 do you want to be, and then what does success look like?

2 Secretary Mattis: A more capable Afghan force between
3 their military and their police, the violence level going
4 down. As you know, the Taliban have been unable to take
5 over any more district or provincial centers since last
6 August, and as a result, they have turned to high visibility
7 bombings for the very outcome they have achieved, which is
8 getting a lot of news, that sort of thing.

9 I think too that we are going to see fewer casualties.
10 We dominate the area. In other words, we have got NATO air
11 support for them on the ground now with people from NATO
12 countries calling the support. We have sent over
13 reinforcements.

14 And lastly, you will see elections ongoing. You will
15 notice that one of the targets of the Taliban is the
16 election campaign. We are going to sustain this effort
17 under President Ghani, get the elections in, and it will be
18 a reminder to everybody in the country that the Taliban know
19 they cannot win through ballots. That is why they turn to
20 bombs. That does not endear them to the population.

21 Senator Donnelly: Thank you all.

22 Thank you, Mr. Chairman.

23 Senator Inhofe: Thank you, Senator Donnelly.

24 Senator Cruz?

25 Senator Cruz: Thank you, Mr. Chairman.

1 Senator Inhofe: Senator Cruz, our timer is not
2 functioning properly. We will let you know.

3 Senator Cruz: I will try to take no more than 40
4 minutes.

5 [Laughter.]

6 Senator Cruz: Gentlemen, good morning. Welcome.
7 Thank you for your service.

8 Let us start with a topic that is much in the news,
9 which is Iran. Mr. Secretary, in your judgment, what would
10 be the national security implications for the United States
11 if Iran were to acquire nuclear weapons?

12 Secretary Mattis: I think the implications for the
13 United States and for every nation in the region -- it would
14 be an increased level of danger at a level we have never
15 experienced from this regime.

16 Senator Cruz: General Dunford, anything to add on that
17 same question?

18 General Dunford: No. I think the Secretary captured
19 that, Senator. I mean, given the behavior of Iran and how
20 difficult it is to deal with all the other challenges they
21 present, certainly the possession of a nuclear weapon would
22 be of great concern.

23 Senator Cruz: Let us shift to another topic. Let us
24 shift to space. General Dunford, you have acknowledged
25 that, quote, unlike previous eras, when space was considered

1 a benign and unchallenged environment, space is now a
2 contested domain. And based on that shared assessment, I
3 introduced language in last year's NDAA, which my colleagues
4 on this committee supported, that officially labeled space
5 as a combat domain, and it called for a policy to develop
6 and field an integrated system of assets to protect our
7 space-based capabilities, to deter or deny attacks in space,
8 and to defend the U.S. homeland, our allies, and deployed
9 forces.

10 In your judgment, what is the United States' greatest
11 military comparative advantage in space relative to Russia
12 and China?

13 General Dunford: Senator, I think there is really a
14 few, if you do not mind me listing them. One is obviously
15 we leverage space for our command and control systems. We
16 leverage it for navigation, and that also includes our
17 ability to deliver the precision munitions. And the other
18 area that we leverage it for is intelligence, surveillance,
19 and reconnaissance. So, for example, when North Korea was
20 doing testing, just to put a finer point on it, the first
21 indicators we had that there was a missile test came from
22 our space-based assets. So we really do have some -- we do
23 leverage space for some of the core capabilities of the
24 Department.

25 Senator Cruz: And what are our greatest

1 vulnerabilities in space, and what are we doing and should
2 we be doing to mitigate those vulnerabilities?

3 General Dunford: What we see with China, Russia, and
4 to some degree some other countries, they developed the
5 ability to jam our systems. They developed the ability to
6 laser-blind our systems. They are some of the biggest
7 challenges. And then one that was referred to earlier is we
8 have got a lot of space junk out there that puts at risk our
9 targets, and as that increases, that becomes a greater
10 threat as well. So those would be the three that I would
11 highlight.

12 Senator Cruz: Let me shift to a related topic, which
13 is missile defense. In the last decade, near peer
14 competitors like Russia and China have been able to rapidly
15 test and field technologies that have given the edge in
16 hypersonic flight. These hypersonic weapon systems can be
17 launched and flown in methods traditionally associated with
18 ballistic missiles. The combination of speed, trajectory,
19 and maneuverability make these systems increasingly
20 challenging for our missile defense systems to defend
21 against them and ultimately defeat them.

22 How do you view the dual necessity of, number one,
23 developing new missile defense capabilities to intercept
24 hypersonics earlier in flight and, number two, furthering
25 the development of our own hypersonics?

1 Secretary Mattis: Sir, the reorganization of
2 Acquisition, Technology, and Logistics now has someone
3 focused on these areas, Mike Griffin with a NASA, Lincoln
4 Labs background. Hypersonics is the number one priority,
5 both having them for ourselves but also the defense against
6 them. We can go into a classified briefing for you, sir,
7 about where we are going with it. But I would just register
8 that it is our number one priority in the developing
9 technologies.

10 Senator Cruz: And obviously, please let this committee
11 know what else we need to be doing to assist in that.

12 Let me finally focus on -- the administration has taken
13 very positive steps to strengthen missile defense in the
14 Korean Peninsula, particularly with the deployment of THAAD
15 batteries. Even so, the capability is calibrated for
16 ballistic missiles and is ill-equipped to defend against
17 conventional threats like rockets, artillery, mortars, of
18 which North Korea has stockpiled a staggering level both to
19 hold Seoul hostage and also to target capabilities like
20 THAAD.

21 In your judgment, what steps should we take to further
22 protect South Korea against North Korean rockets, artillery,
23 or mortars?

24 General Dunford: Senator, I will start with that.
25 Only so much can be done with defensive capabilities. And a

1 key element of dealing with the challenges presented by
2 North Korea is our offensive strike capability as well. And
3 one of the things that we really have started working on
4 over the last 15 months -- truth be told, we divert a lot of
5 our intelligence, surveillance, reconnaissance assets away
6 from the peninsula for a long period of time. So if you ask
7 me right now what is the best way to get after that problem,
8 increase our intelligence, surveillance, reconnaissance --
9 we call that find the threat -- and then be in a position to
10 conduct strikes against the threat. And our plans, without
11 speaking with specificity today, are very much focused on
12 more concerted strikes against that artillery, rockets, and
13 denying them that capability. So it is really a combination
14 in my view of there is a baseline of defensive capabilities
15 that we need to have in the greater Seoul area in particular
16 but also enhancing better the ability to conduct offensive
17 strikes against those systems.

18 Senator Cruz: Terrific. Thank you, gentlemen.

19 Senator Inhofe: Thank you, Senator Cruz.

20 Senator Nelson?

21 Senator Nelson: Mr. Chairman, I will be quick.

22 When we talk about challenges in space, we got to talk
23 about challenges in cyber. And I would like to take it from
24 a different standpoint. Not only does cyber threat to the
25 country but to what degree is the Department of Defense, our

1 Cyber Command going to be involved in cyber-enabled
2 information operations like the Russians did to us in the
3 2016 election? Is that something you want to talk to in a
4 different forum?

5 Secretary Mattis: It would be best in a different
6 forum, sir.

7 Senator Nelson: Okay.

8 Niger. One of those service members was from Florida.
9 They are just about to produce the report, and in fact, the
10 families, as we speak, have been informed. Is there
11 anything that you can tell us, Mr. Secretary, about the
12 report?

13 Secretary Mattis: Sir, we have a 200-page summary -- I
14 know that sounds like a long summary, but it was a very
15 involved investigation spanning three continents. The last
16 family will be notified on Monday. Already in your
17 classified vaults, the SASC has available the 200-page. I
18 can also get the 6,300 pages up. Many of those pages I have
19 read. But I think right now we have found what we believe
20 to be the crux of the problems, not problem but problems,
21 that contributed to this. It was not a delegation of
22 authority problem. So we know immediately how to address
23 those. And we are doing that right now, addressing those
24 problems.

25 Senator Nelson: Finally -- and I will. I will go and

1 I will read that report.

2 Quickly, you have touched a lot today on Syria, but the
3 truth is that Iran now has a land bridge all the way to
4 Beirut through Iraq, through Syria, on into Lebanon. Is
5 there any additional thing that you want to share, Mr.
6 Secretary, about how we are going to protect our interests
7 in Syria, given that that is a new significant threat?

8 Secretary Mattis: Well, the broader strategy, sir, has
9 got to take this into account. And if Iran does not change
10 its behavior -- and I have no reason to think that they will
11 under the current regime. The Iranian people are held
12 hostage by this regime's leadership. So long as they
13 continue to fund the level of proxy warfare, whether it be
14 in Yemen or the explosives they send into Saudi Arabia or
15 into Bahrain -- and then you are pointing out the crescent,
16 as they try to resupply their proxy in Lebanon and Syria
17 through a land bridge. I would just suggest that Iraq has
18 not yet succumb to the idea that they need to be a rump
19 state of the Iranian regime, and I believe that we are well
20 advised to continue to support the Iraqi Security Forces and
21 the legitimate government in Baghdad, as one of the ways to
22 avoid this becoming a reality.

23 I would also say that the Geneva process in resolving
24 the Syria civil war would set the conditions for more
25 interruption of that.

1 And then, of course, Lebanese Hezbollah has got to be
2 looked at as a separate and distinct problem inside Lebanon.

3 Senator Nelson: Thank you, Mr. Secretary.

4 Senator Inhofe: Thank you, Senator Nelson.

5 The majority and the minority have agreed, in that
6 there are votes taking place right now, that at the
7 conclusion of the remarks and questions by Senator
8 Blumenthal, we will be adjourned.

9 Senator Blumenthal is recognized.

10 Senator Blumenthal: Am I recognized?

11 Senator Inhofe: Yes, you are.

12 Senator Blumenthal: Thank you.

13 I will be brief because we do have votes, and I want
14 to, first and foremost, apologize for being absent for a
15 large part of the hearing. A lot has been going on in the
16 Judiciary Committee and other committees. And I will ask
17 one brief question and then perhaps supplement the record
18 with others.

19 Have you seen any change in North Korea's cyber
20 activities since the diplomatic discussions concerning a
21 meeting between Kim and President Trump?

22 Secretary Mattis: We have not seen a change. Now, I
23 did not specifically go in and look at this in the last week
24 or 2, but I get the reports routinely frankly. So I cannot
25 give you a good answer on that, a straight answer on it,

1 sir, but I can get back to you, sir, and tell you what we
2 find.

3 Senator Blumenthal: Because I have the impression over
4 the years that I have been on the Armed Services Committee
5 that their cyber activities have mounted over the years.
6 Obviously, they have attacked us on a number of occasions.
7 So I would be very interested in your response.

8 As I say, I have other questions that I would like to
9 put to you. In light of the vote and in light of your very
10 long and valuable attendance here and your forthright
11 answers, I am going to spare you any more time. But thank
12 you for your service and thank you for all you do for the
13 country. Thank you.

14 Secretary Mattis: Thank you, Senator.

15 [Whereupon, at 12:18 p.m., the hearing was adjourned.]

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