

NOMINATIONS OF THE 110TH CONGRESS

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST AND SECOND SESSIONS

JUNE 27, SEPTEMBER 27, AND NOVEMBER 14, 2007, AND
JUNE 26 AND SEPTEMBER 17, 2008

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²Hon. Roger F. Wicker was appointed to the Committee on January 24, 2008, replacing Hon. John Ensign.

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JUNE 27, 2007

NOMINATION OF CHARLES L. HOPKINS III TO BE ASSISTANT SECRETARY, OFFICE OF OPERATIONS, SECURITY, AND PREPAREDNESS (OSP), DEPARTMENT OF VETERANS AFFAIRS

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**NOMINATION OF CHARLES L. HOPKINS III, TO
BE ASSISTANT SECRETARY, OFFICE OF
OPERATIONS, SECURITY, AND PREPARED-
NESS (OSP), DEPARTMENT OF VETERANS
AFFAIRS**

WEDNESDAY, JUNE 27, 2007

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:59 a.m., in room 562, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

Present: Senators Akaka and Craig.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN,
U.S. SENATOR FROM HAWAII**

Chairman AKAKA. Good morning. This hearing will come to order.

The Committee is here today to consider the nomination of Charles L. Hopkins III, to be VA's Assistant Secretary for Operations, Security, and Preparedness. I am pleased to welcome Mr. Hopkins and his family. As we say in Hawaii, welcome to our hearing.

Mr. Hopkins, if confirmed, you will be responsible for coordinating the Department's emergency management, preparedness, security, and law enforcement activities. This new position within VA will impact on veterans on a daily basis as you provide for the physical security of VA facilities, its employees, veterans receiving care, and visitors. You also have the important task of preparing and coordinating VA's response to war, terrorism, natural security and natural disasters while ensuring continuing service to our veterans.

With the threats that currently confront the Nation, I remain concerned about VA's ability to support the National Response Plan and serve as a Contingency Hospital System Partner to the Department of Defense. Although this so-called fourth mission is primarily a VHA responsibility by definition, the Office of Operations, Security, and Preparedness will be intimately involved in its coordination. I trust that you will work with the appropriate offices within VHA to make this process as efficient as possible.

If VA is to serve effectively as backup to the DOD health care system and support communities following a domestic terrorist incident or natural disaster, it must have detailed plans that are

properly resourced and regularly exercised. Incidents or disasters of the magnitude which would bring the VA's vast capabilities into play offer few second chances. As we saw with the government's response to Hurricane Katrina, there is no substitute for adequate planning, training, and preparedness.

Your experience as Director of the Office of National Security at FEMA combined with your prior emergency preparedness background at other Federal agencies and your many years of experience in military service suggest that you have the qualifications for taking on the challenges of this new office. Assuming you are confirmed, I urge you to work closely with the three VA administrations and key staff offices to develop workable and viable plans that will enable VA to respond effectively to any emergency.

In closing, I note that the nominee has completed the Committee questionnaire for Presidential nominees and responded to my pre-hearing questions, all of which will appear in the hearing record.

Chairman AKAKA. Also included will be a letter from the Office of Government Ethics acknowledging that he is in compliance with laws and regulations governing conflicts of interest.

Chairman AKAKA. So I would like to now call on Senator Craig for his statement.

**STATEMENT OF HON. LARRY E. CRAIG, RANKING MEMBER,
U.S. SENATOR FROM IDAHO**

Senator CRAIG. Mr. Chairman, thank you very much for holding this hearing on a timely basis for the nomination of Charles Hopkins. Let me also recognize in the room his wife, Martha, and their family. We are appreciative that they would also attend.

Mr. Chairman, you have outlined the obligations of the office and the qualifications of the nominee. Clearly, Charles is well qualified with a phenomenal lifetime of experience dealing with the kinds of emergency preparedness issues facing VA and has an understanding of how these situations are met institutionally and in a timely fashion, so let me ask unanimous consent that my full statement be a part of the record.

Again, I would very much agree with you that he is highly qualified for the position at hand. I am pleased that the President has nominated him and will look forward to his comments and response to questions. Thank you very much, Mr. Chairman.

[The prepared statement of Senator Craig follows:]

PREPARED STATEMENT OF HON. LARRY E. CRAIG, RANKING MEMBER,
U.S. SENATOR FROM IDAHO

Good morning Mr. Chairman. I want to thank you very much for calling this hearing to review Mr. Charles Hopkins' qualifications to serve as the VA's first Assistant Secretary for Operations, Security, and Preparedness.

Before I begin, I would like to recognize those members of Mr. Hopkins family that are in attendance. Specifically, his wife, Martha—and their children.

Mr. Chairman, I'd like to say at the outset of this hearing that based on a review of his record and having spent some time with him personally, I believe Mr. Hopkins is very qualified for this job. And I support his nomination.

Charles Hopkins is a veteran of the United States Navy and has served his country for 29 years. Following his 29 years of honorable and distinguished service, Mr. Hopkins was lured into the private sector to share his experience, knowledge, and leadership. This was to be a short-lived venture as he was in the private sector for only 3½ years. It was his commitment to public service and his incredible love for his country that led him back to Federal service.

Mr. Hopkins' return to government service began as the Director of Emergency Programs for the Department of the Treasury. He served in this position for more than two years before moving on to the Internal Revenue Service.

At the IRS, he held the position of Director of Emergency Management Programs. He was responsible for all policy, technical, and operational matters. He excelled in his position and demonstrated knowledge, commitment, and ability. It was at this point that Mr. Hopkins accepted his current position at FEMA as Director of the Office of National Security Coordination.

In his position at FEMA, he has worked diligently to ensure common standards for agencies, continuity of operations, and continuity of government.

I believe Mr. Hopkins' military background and his Federal service make him the right man for this job. His breadth of experience, commitment to the United States, and technical expertise combine to make him very qualified to serve in this new position.

Mr. Chairman, I hope the Committee will be able to move swiftly on this confirmation. The VA must be prepared for any emergency. After Katrina, we all learned how much a good emergency plan means to our veterans and to our local communities. This new office needs strong leadership and I believe Charles Hopkins meets that criteria.

Thank you, again, Mr. Chairman, for holding this hearing.

Chairman AKAKA. Thank you very much, Senator Craig. Your full statement will be included in the record.

Mr. Hopkins, before I swear you in and you make your opening statement, I note that you have a lovely family here and I would like to take the time now to have you introduce the members of your family.

Mr. HOPKINS. Yes, sir. I would be delighted. With me today is my wife of 37 years, Martha; my son-in-law Major Jano Carlson, United States Marine Corps, a veteran of two conflicts—one in Afghanistan and one in Iraq; his wife and my lovely daughter Shelagh; a wonderful father and wonderful son, my son, Chip (Charles IV), and his lovely wife, Traci; and my lovely daughter, Shannon. I regret that my other son-in-law, Bradley Duckworth, can't be with us today as he is a member of the Navy Criminal Investigative Service, another service of our great country, and he is currently serving in Iraq.

Chairman AKAKA. Mr. Hopkins, will you please rise to take the oath. Will you raise your right hand.

Do you solemnly swear that the testimony you are about to give this Committee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. HOPKINS. I do, sir.

Chairman AKAKA. Thank you. Let the record note that the witness responded in the affirmative.

Mr. Hopkins, will you please proceed with your statement.

STATEMENT OF CHARLES L. HOPKINS III, NOMINEE TO BE ASSISTANT SECRETARY, OFFICE OF OPERATIONS, SECURITY, AND PREPAREDNESS (OSP), DEPARTMENT OF VETERANS AFFAIRS

Mr. HOPKINS. Mr. Chairman and Members of the Committee, good morning. Thank you for the privilege and honor to appear before you today. I am deeply honored and humbled by the confidence President Bush has shown in nominating me to serve as the Assistant Secretary for Operations, Security, and Preparedness in the Department of Veterans Affairs. I am also most grateful to Sec-

retary Nicholson for his confidence in my abilities to once again serve this great Nation.

For the past 37 years, it has been my privilege to serve this great country in many capacities, and my dedication to the United States military is marked by a history of service and commitment. I spent 29 of those years in the United States Navy. During my tours at sea on submarines and ashore in many different home ports, I developed a deep respect and appreciation for the personnel who serve in our Armed Forces and their families. Time and again, they displayed the honor, courage, and commitment that makes our Armed Forces the greatest in the world. As time marches on, they too will become veterans.

Personal sacrifice and devotion to duty is routine among members of the military, so they deserve our unwavering support both while wearing the uniform and when they transition into the community of veterans. I am privileged to have this opportunity to work with them and support the critically important mission stated so many years ago by President Lincoln, "to care for him who shall have borne the battle and for his widow and orphan."

I have come full circle. I proudly wore the uniform for many years, and now I have the opportunity to serve our great veterans through continued public service.

So I am inspired by them to tackle the challenges of the mission of the Department of Veterans Affairs and more specifically the challenges that this new position offers. If confirmed, I look forward to joining the team of professionals at the Department of Veterans Affairs to accomplish that mission.

As Assistant Secretary for Operations, Security, and Preparedness, I am responsible for providing the advice and counsel to the Secretary and other senior leaders on the Department's capabilities and readiness to continue services to veterans and their families and respond to contingency support missions during national emergencies. I see this position as the custodian of special trust that the Department has to ensure our Nation's veterans and their families, visitors and staff that serve them have secure and safe environments for the care and service.

If confirmed, I will serve the veterans of this great country with the same dedication and passion as when I served on active duty and I will commit all my efforts to ensure that the veterans are treated with the dignity and respect that they rightfully deserve.

For the last 20 months, I have been the Director of the Office of National Security Coordination, now known as National Continuity Programs, at the Federal Emergency Management Agency. This office is the lead agent for the executive branch Continuity Programs. My responsibilities focused on formulating guidance and establishing common standards for executive branch departments and agencies to be used in developing viable and executable continuity plans. I also facilitated interagency coordination and I oversaw and assessed the status of continuity capabilities for the executive branch departments and agencies.

So I am very familiar with the work that must be accomplished to form a new significantly expanded organization and also to remedy any deficiencies that exist within the area of operations, security, and preparedness. I am confident that my experience in the

United States Navy and my public work since then has helped to hone the skills required to lead the organization effectively and contribute to the successful accomplishment of a wide variety of important tasks.

If confirmed, I would like to share with you the priorities that I would pursue as the Assistant Secretary for Operations, Security, and Preparedness. First, I will improve the ability of our law enforcement officers to accommodate the needs of all veterans, and more importantly, the special needs of veterans returning from Operation Iraqi Freedom and Operation Enduring Freedom.

Next, I will work closely with the Department's administrations to protect veterans, their families, the people, facilities, and infrastructure needed to deliver the highest-quality care and services and ensure continuing availability of that service. I will work diligently to ensure the security of the people and information within the Department and develop the plans, policies, and procedures to provide for appropriate response and to rapidly reconstitute Departmental operations after a national disaster or incident.

Next, while implementing the new Executive Order for National Continuity Programs with our Federal partners and stakeholders, I will strengthen the internal and external command, control, and communications links and develop training programs that will continually improve the Department's operational and emergency management capabilities.

Finally, I will establish a robust evaluation mechanism to regularly assess my Division's and the Department's performance in each of our primary mission areas.

Mr. Chairman and Committee Members, I testify before you today as a proud son of World War II veterans. Both my parents rightfully earned a place on the team called "the greatest generation," a generation of amazing men and women who understood the meaning of service to their country and whose service and commitment saved this Nation and the world from tyranny and oppression. It was my parents that instilled in me the meaning of honor, courage, and commitment.

If confirmed, I intend to follow the great examples of my parents' generation and serve our Nation's heroes with great respect, humility, and passion. I am a humble man and I only hope that I have instilled the same sense of purpose in my family that my parents instilled in me.

In closing, I would like to say to my entire family that I am now and will be forever grateful for your constant and unwavering love and support. I thank you all for the great support you have always provided in our journey of service to our great Nation.

Thank you, sir. It is an honor to be here today. I am ready to serve and I look forward to your questions.

[The prepared statement of Mr. Hopkins follows:]

PREPARED STATEMENT OF CHARLES L. HOPKINS III, NOMINEE TO BE ASSISTANT SECRETARY, OFFICE OF OPERATIONS, SECURITY, AND PREPAREDNESS (OSP), DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman and Members of the Committee, good morning. Thank you for the privilege and honor to appear before you today. I am deeply honored and humbled by the confidence President Bush has shown in nominating me to serve as the Assistant Secretary for Operations, Security, and Preparedness in the Department of

Veterans Affairs. I am also most grateful to Secretary Jim Nicholson for his confidence in my abilities to once again serve this great Nation.

For the past 37 years it has been my privilege to serve this great country in many capacities and my dedication to the United States Military is marked by a history of service and commitment. I spent 29 of those years in the United States Navy. During my tours at sea on submarines and ashore in many different home ports, I developed a deep respect and appreciation for the personnel who serve in our Armed Forces and their families. Time and again they displayed the Honor, Courage and Commitment that makes our Armed Forces the greatest in the world. As time marches on, they too will become Veterans.

Personal sacrifice and devotion to duty is routine among members of the military so they deserve our unwavering support both while wearing the uniform and when they transition into the community of veterans. I am privileged to have this opportunity to work for them and support that critically important mission stated many years ago by President Lincoln: "To care for him who shall have borne the battle and for his widow and orphan." I have come full circle—I proudly wore the Navy uniform for many years and now I have an opportunity to serve our Nation's veterans through continued public service.

So I am inspired by them to tackle the challenges of the mission of the Department of Veterans Affairs and more specifically, the challenges that this new position offers. If confirmed, I look forward to joining the team of professionals at the Department of Veterans Affairs to accomplish that mission.

The Assistant Secretary for Operations, Security, and Preparedness is responsible for providing advice and counsel to the Secretary and other senior leaders on the Department's capabilities and readiness to continue services to veterans and their families and respond to contingency support missions during national emergencies. I see this position as the custodian of special trust that the Department has to ensure our Nation's veterans, their families, visitors and the staffs that serve them, have secure and safe environments for care and service. If confirmed, I will serve the veterans of this great country with the same dedication and passion as when I served on active duty and I will commit all my efforts to ensure that all veterans are treated with the dignity and respect they rightfully deserve.

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If confirmed, I would like to share with you the priorities that I would pursue as the Assistant Secretary for Operations, Security, and Preparedness. First, I will improve the ability of our law enforcement officers to accommodate the needs of all veterans and more importantly, the special needs of veterans returning from Operation Iraqi Freedom and Operation Enduring Freedom. Next, I will work closely with the Department's Veterans Health Administration, Veterans Benefit Administration and National Cemetery Administration to protect veterans, their families, the people, facilities and infrastructure needed to deliver the highest quality care and services and ensure continuing availability of that service. I will work diligently to ensure the security of people and information within the Department and develop the plans, policies and procedures to provide for appropriate response and to rapidly reconstitute departmental operations after a national disaster or incident. Next, while implementing the new Executive Order for National Continuity Programs (NSPD-5 1/HSPD-20) with our Federal partners and stakeholders, I will strengthen the internal and external command, control and communications links and develop training programs that will continually improve the Department's operational and emergency management capabilities. Finally, I will establish a robust program evaluation mechanism to regularly assess my divisions and the Department's performance in each of our primary mission areas.

Mr. Chairman, I testify before you today as a proud son of a veteran of World War II and a member of the Greatest Generation, a generation of great men and women who understood the meaning of service to their country. It was their service

and commitment that saved this Nation and the world from tyranny and oppression and it was my parents that instilled in me the meaning of honor, commitment, courage and service to our country. If confirmed, I intend to follow the great examples of my parent's generation and serve our Nations' heroes with great respect, humility and passion.

I am a humble man and I only hope that I have instilled the same sense of purpose in my family that my parents instilled in me. Only time will tell but today I am proud to introduce my family members that have joined me for this hearing. First, and foremost, is my wife of 37 years Martha. Next, my son-in-law Major Jano Carlson USMC (a veteran of Operation Enduring Freedom and Operation Iraqi Freedom), his wife and my daughter Shelagh. Next, another son-in-law Special Agent Bradley Duckworth, with the Navy Criminal Investigative Service, cannot be here today as he is currently serving in Iraq; his wife Shannon and my entire family prays for his speedy return. Next, is a wonderful man and great father, my son Charles and his wife Traci.

In closing I would like to say to my entire family that I am now and will be forever grateful for your constant and unwavering love and support. I thank you all for the great support that you have always provided in our journey of service to our great Nation.

Sir, it's truly an honor for me to be here today. I stand ready to serve and look forward to your questions.

[The Committee questionnaire for Presidential nominees from Mr. Hopkins follows:]

QUESTIONNAIRE FOR PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

1. Name: Hopkins III Charles Louis _____
(LAST) (FIRST) (OTHER)
2. Present Address: 2633 Fort Scott Drive, Arlington, Va. 22202
(CITY) (STATE) (ZIP CODE)
3. Position to which nominated: VA's Assistant Secretary for Operations, Security and Preparedness
4. Date of nomination: April 10, 2007
5. Date of birth: 18 June 1952 6. Place of birth: Greenfield, Ma
(DAY) (MONTH) (YEAR)
7. Marital Status: Married 8. Full name of spouse: Martha Florence Hopkins
9. Names and ages of children
- | | | | |
|----------|---------------------------------|-----------|--|
| Son | <u>Charles Louis Hopkins IV</u> | <u>36</u> | |
| Daughter | <u>Shelagh Kay Carlson</u> | <u>34</u> | |
| | <u>Shannon Vi Duckworth</u> | <u>32</u> | |
- 10: Education:
- | Institution
<small>(including city and State)</small> | Dates
attended | Degrees
received | Dates of
degrees |
|--|---------------------------------|------------------------------------|--------------------------|
| <u>Naval Postgraduate School,
Monterey, Ca</u> | <u>June 1986 –
Dec 1988</u> | <u>Master of
Science, ME</u> | <u>December
1988</u> |
| <u>University of Oklahoma
Norman, Ok</u> | <u>Aug 1976 –
May 1980</u> | <u>Bachelor of
Science, ME</u> | <u>May 1980</u> |
| <u>Chelmsford High School
Chelmsford, Ma,</u> | <u>Sept 1966
May 1970</u> | <u>High School
Diploma</u> | <u>May 1970</u> |
11. Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.
- | | |
|---|-------------------------|
| Department of Treasury Exceptional Service Award | 2006 |
| Meritorious Service Medal | 1999, 1997, 1994 |
| Surface Warfare Pin (Surface Warfare Officer Qualifications) | 1997 |
| Acquisition Program Management Certification (Level III) | 1994 |
| Navy Commendation Medal | 1992 |
| Licensed Professional Engineer, Mechanical Engineer | 1989 |
| Board of Registration for Professional Engineers & Land Surveyors, State of California | 1982 |
| Navy Achievement Medal | 1982 |
| Gold Dolphins (Navy Officer Submarine Warfare Qualifications) | 1982 |
| Silver Dolphins (Navy Enlisted Submarine Warfare Qualifications) | 1975 |

12. Memberships List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable, and other organizations for the last 5 years and any other prior memberships or offices you consider relevant

Organization	Office held (if any)	Dates
American Society of Naval Engineers	General membership	1988 – present
Retired Officer's Assn (military)	General membership	1999 – Present
Naval Submarine League	General membership	1999 - 2002
Society for Naval Architects and Marine Engineers	General membership	1999 - 2002

13. Employment record: List below all employment (except military service) since your twenty-first birthday, including the title or description of job, name of employer, location of work, and inclusive dates of employment.

DIRECTOR, OFFICE OF NATIONAL SECURITY COORDINATION Federal Emergency Management Agency, Washington, DC	Nov 2005 - Present
DIRECTOR, EMERGENCY MANAGEMENT PROGRAMS Internal Revenue Service, Washington, DC	Feb 2005 – Nov 2005
DIRECTOR, EMERGENCY PROGRAMS/CHIEF OF STAFF Department of the Treasury, Washington, D.C.	Nov 2002 – Feb 2005
PROGRAM DIRECTOR, SUBMARINE FACTORY Perot Systems Government Services, Alexandria, Va.	Jan 2000 – Nov 2002
DIVISION MANAGER M. Rosenblatt & Son, Inc., Marine Engineering Division, Arlington, Va.	Jun 1999 – Jan 2000

14. Military service: List below all military service (including reserve components and National Guard or Air National Guard), with inclusive dates of service, rank, permanent duty stations and units of assignment, titles, descriptions of assignments, and type of discharge.

Honorable Discharge	Sep 1999	Commander, USN
Submarine Warfare Division Staff (N87), Pentagon	Sep 1997 – Jun 1999	Commander, USN
USS EMORY S. LAND (AS-39), Norfolk, VA	Jun 1995 – Sep 1997	Commander, USN
Naval Sea Systems Command, Arlington, VA	Jan 1992 – Jun 1995	Lieutenant Commander, USN
Atlantic Fleet Submarine Staff, Norfolk, VA	Jan 1989 – Jan 1992	Lieutenant Commander, USN
Mare Island Naval Shipyard, Vallejo, CA	Jun 1983 – Jun 1986	Lieutenant, USN
USS SKIPJACK (SSN 585), Groton, CT	Dec 1980 – May 1983	Lieutenant Junior Grade, USN
University of Oklahoma	Aug 1976 – May 1980	Chief Machinist Mate (SS), USN
USS George Bancroft (SSBN 643 (B))	May 1975 – Aug 1976	Machinist Mate 1 st Class

Air Conditioning and Refrigeration School, Norfolk, VA	Feb 1975 – May 1975	Machinist Mate 1 st Class
Nuclear Prototype Instructor (S1C), Windsor, CT	Feb 1972 – Jan 1975	Machinist Mate 2 nd Class
Nuclear Power School Student, Bainbridge, MD	Aug 1971 – Feb 1972	Machinist Mate 3 rd Class
USS SAN MARCOS (LSD 25), Little Creek, VA	May 1971 – July 1971	Machinist Mate 3 rd Class
Machinist Mate "A" School, Great Lakes, IL	Dec 1970 – April 1971	Seaman
Basic Training, Naval Training Center, San Diego, CA	Sep 1970 – Nov 1970	Seaman Recruit

15. Government record: List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments other than those listed above.

None

16. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

I authored a Mechanical Engineering Masters Thesis while attending the Naval Postgraduate School. The title of the thesis is: "The effect of vapor velocity during condensation on horizontal finned tubes"

17. Political affiliations and activities:

(a) List all memberships and offices held in and financial contributions and services rendered to any political party or election committee during the last 10 years.

I haven't held a political office.
I volunteered for 10 days during the 2002 election to support the Jeb Bush reelection campaign. I worked at one of the campaign sites in Tampa Bay, Florida.

(b) List all elective public offices for which you have been a candidate and the month and year of each election involved.

None

18. Future employment relationships:

(a) State whether you will sever all connections with your present employer, business firm, association, or organization if you are confirmed by the Senate.

Yes - I currently work for FEMA/DHS

(b) State whether you have any plans after completing Government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization.

No

(c) What commitments, if any, have been made to you for employment after you leave Federal service?

None

(d) (If appointed for a term of specified duration) Do you intend to serve the full term for which you have been appointed?

Yes

(e) (If appointed for an indefinite period) Do you intend to serve until the next Presidential election?

Yes

19. Potential conflicts of interest:

(a) Describe any financial arrangements, deferred compensation agreements, or other continuing financial, business, or professional dealings which you have with business associates, clients, or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

(b) List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

I have been told that there may be a conflict with two stocks that we own; General Electric and Johnson & Johnson. I have agreed to sell all holdings with these companies if confirmed by the Senate

(c) Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

(d) Describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any Federal legislation or for the purpose of affecting the administration and execution of Federal law or policy.

None

(e) Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements involved.)

The only possible conflict that I may have is with my stock holdings in General Electric and Johnson & Johnson and I have agreed to sell all holding with these stocks if confirmed by the Senate.

20. Testifying before the Congress:

(a) Do you agree to appear and testify before any duly constituted committee of the Congress upon the request of such committee?

Yes

(b) Do you agree to provide such information as is requested by such a committee?

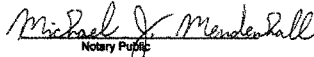
Yes

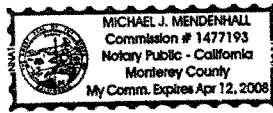
AFFIDAVIT

CHARLES LLOYD HOPKINS III, being duly sworn, hereby states that he/she has read and signed the answers to the foregoing Questionnaire for Presidential Nominees and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.


Signature of Nominee

Subscribed and sworn before me this 17th day of April, 2007


Notary Public



UNITED STATES
OFFICE OF GOVERNMENT ETHICS,
Washington, DC, April 13, 2007.

Hon. DANIEL K. AKAKA,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Charles L. Hopkins III, who has been nominated by President Bush for the position of Assistant Secretary for Operations, Preparedness, Security and Law Enforcement, Department of Veterans Affairs.

We have reviewed the report and have also obtained advice from the Department of Veterans Affairs concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated April 12, 2007, from the agency's ethics official, outlining the steps Mr. Hopkins will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with any action he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Hopkins is in compliance with applicable laws and regulations governing conflicts of interest.

ROBERT I. CUSICK,
Director.

Enclosures.

DEPARTMENT OF VETERANS AFFAIRS,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, April 12, 2007.

Mr. ROBERT I. CUSICK,
Director, Office of Government Ethics,
Suite 500, 1201 New York Avenue, NW.,
Washington, DC.

DEAR MR. CUSICK: In accordance with section 2634.605(c) of title 5, Code of Federal Regulations, I am forwarding the enclosed Public Financial Disclosure Report (SF-278) of Charles Louis Hopkins III. President Bush has nominated Mr. Hopkins to serve in the position of Assistant Secretary for Operations, Security and Preparedness of the Department of Veterans Affairs (VA). It is my opinion that Mr. Hopkins's report is complete and discloses no unresolved conflicts of interest under applicable law or regulation.

Mr. Hopkins has agreed pursuant to 18 U.S.C. § 208(a) that he will not participate personally and substantially in any particular matter that has a direct and predictable effect on his financial interests or those of any other person whose interests are imputed to him, unless he first obtains a written waiver under section 208(b)(1), or qualifies for a regulatory exemption under section 208(b)(2) and 5 CFR §§ 2640.201-2640.203. Mr. Hopkins understands that the interests of the following persons and entities are imputed to him: his wife; minor children; general partner; any organization in which he serves as an officer, director, trustee, general partner or employee; and any person or organization with which he is negotiating, or has an arrangement concerning, prospective employment.

Mr. Hopkins currently holds stock in General Electric and Johnson & Johnson. Mr. Hopkins has agreed that he will divest himself of these assets within 90 days of his confirmation. Further, pending his divestiture of this stock, Mr. Hopkins has agreed not to participate personally and substantially in any particular matters that will have a direct and predictable effect on the financial interests of either of these companies.

These assurances resolve any concern about real or apparent conflicts of interest that may arise from Mr. Hopkins's report. Therefore, I have certified and dated the report.

Sincerely yours,

WALTER A. HALL,
Assistant General Counsel and
Designated Agency Ethics Official.

Chairman AKAKA. Thank you very much for your statement, Mr. Hopkins. We have some questions for you.

Mr. HOPKINS. Yes, sir.

Chairman AKAKA. My first question is dipping into your background. What leadership lessons have you learned from your over 30 years of military service and your 5 years of government service? What leadership lessons have you learned that will be of most use to you in this position?

Mr. HOPKINS. It is easy. One word, sir, teamwork. No person can do it alone. The areas that I have been responsible for require an extensive amount of organization and teamwork, to move the concepts, the plans, the policies and procedures to a place where they need to be to support emergency management, preparedness, and response and recovery. It is through teamwork, the way I build the coherent, solid teams, and the way we pull together, to move these programs forward. I have enjoyed some great successes, both while on active duty and certainly while at Treasury, IRS, and now FEMA.

Chairman AKAKA. Senator Craig and I have now been serving on this Committee and we have been moving and focusing on trying to bring about what we are calling seamless transition between DOD and VA. It is showing up as it is something that is really needed at this time, and what you just mentioned fits in that because we are looking at teamwork between DOD and VA to serve those who served our country. So I am glad to hear your response to that one.

In reading your impressive resume, I notice that although you have years of experience in emergency preparedness and management, you do not have much background in either law enforcement or security. What do you view as the biggest challenges of assuming responsibility for VA's police service and Law Enforcement Training and Security Investigation Center?

Mr. HOPKINS. Sir, my background in security and law enforcement started when I was on active duty. My first job as a commissioned officer was weapons officer on board a nuclear submarine. The responsibility of the weapons officer was not only the torpedoes and sometimes the nuclear weapons in his charge, but also all the small arms, and for training the security force if a situation arose.

Subsequent to that, my job at IRS was to develop a solid, coherent, and consistent security team throughout all the 800-plus facilities throughout the IRS. I am proud to say that we had a wonderful record both while I was active duty and while I was at Internal Revenue Service.

But for this specific job, the importance of this job for security and law enforcement is far-reaching. For all the VA facilities, the first person that our returning veterans will see—in many cases, the first person that they will see will be a member of the security and law enforcement team, and we all know, sir, you only get one chance to make a good first impression; and we all know that some of the folks returning from war have experienced some horrific things and the human effects are far-reaching.

I want those experiences for those returning veterans that are seeking help from the Department of Veterans Affairs, I want that first impression to be a lasting and positive impression, not only for the security and law enforcement team, but, sir, they also represent the Department of Veterans Affairs. I want that solid first impression for them when they arrive.

Again, the key to success in anything you do is the teamwork, consistent plans, consistent development of plans, policies, and procedures, and also a consistent training program, both an initial training program, boot camp, if you will, and an annualized recurring training program. Sir, if I am confirmed, one of the first things I will do is examine the entire training program for the security and law enforcement team, not only at the Law Enforcement Training Center, but the annualized recurring training that they will experience throughout the year. My intentions are to establish a constant, consistent policy for the security and law enforcement team to follow throughout all the VA facilities and be that positive first welcoming experience for all veterans and their families.

Chairman AKAKA. Thank you for your response.

Senator CRAIG?

Senator CRAIG. Mr. Chairman, many of your questions are those that I would have asked because I was curious regarding the relation to the ability of law enforcement officers to accommodate the needs of all veterans and especially the needs of veterans returning from OIF/OEF. So I will not pursue that any further.

Let me ask this question, because obviously, if confirmed, you will serve as the first VA Assistant Secretary for Operations, Security, and Preparedness. How will you go about bringing the various offices under your authority together? I understand teamwork, but you are going to be in the process of creating a team—

Mr. HOPKINS. Sir, the unity of a team—

Senator CRAIG [continuing]. From slightly diverse cultures under the same roof. How will you coordinate their efforts and bring them together?

Mr. HOPKINS. Sir, I have had an opportunity to talk to the current Assistant Secretary for Plans and Policies who currently is responsible for many of the areas that I would be responsible for, if confirmed. He has assured me that he has prepared a plan for turning over the watch, if you will. He is very anxious for me to get confirmed and take the helm.

But having talked with him, I recognized that there is a common thread amongst my primary mission-responsible areas within the Office of Operations, Security, and Preparedness. Those common threads need to be pulled together. Those folks need to develop the solid teamwork. We need to understand where the common areas are that we would operate and how we would move forward as a team.

I also recognize that these teams—these individual offices and their mission—there is a common thread through all the core competencies throughout the Department of Veterans Affairs. It is my intent, once I am confirmed, to review all the plans, policies, and procedures and compare them with the requirements that the Department of Veterans Affairs has established, find out where the gaps are, perform a gap analysis, and put a plan of action and milestones in effect to close those gaps; to provide the services that the veterans, their families, and the three administrations expect from an office that I would be responsible for.

Senator CRAIG. Thank you very much.

Mr. Chairman, I don't believe I have any further questions.

Chairman AKAKA. Thank you very much, Senator Craig.

I want to tell you that we feel so fortunate that you are being considered for this and look forward to your being confirmed. For me, we will try to move this as quickly as we can——

Mr. HOPKINS. Thank you, sir.

Chairman AKAKA [continuing]. After the Committee votes on this.

Do you have any further comments, Senator Craig?

Senator CRAIG. I don't, Mr. Chairman. And again, let me thank you for the timeliness of this and moving this nominee expeditiously. We need to get him on the job.

Thank you.

Chairman AKAKA. Well, thank you again, Mr. Hopkins, and your family. We are delighted that all of you were able to be here. Again, I want to wish you well. We need all the help we can get to help our veterans.

Mr. HOPKINS. Yes, sir.

Chairman AKAKA. Thank you very much.

Mr. HOPKINS. Thank you, sir. I am proud to serve.

Chairman AKAKA. The Committee is adjourned.

[Whereupon, at 11:22 a.m., the Committee was adjourned.]

**HEARING ON THE NOMINATION OF PAUL J.
HUTTER TO BE GENERAL COUNSEL OF THE
DEPARTMENT OF VETERANS AFFAIRS**

THURSDAY, SEPTEMBER 27, 2007

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIR,
Washington, DC.

The Committee met, pursuant to notice, at 9:24 a.m., in room 562, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

Present: Senators Akaka, Murray, Burr, and Isakson.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN,
U.S. SENATOR FROM HAWAII**

Chairman AKAKA. Aloha and good morning to everyone. The Committee will come to order.

The Committee is here to consider the nomination of Paul J. Hutter to be VA's General Counsel. I am pleased to welcome Mr. Hutter and his family here today. Mr. Hutter, if confirmed, will be the Department's chief legal officer with very wide-ranging and challenging responsibilities.

I also want to say that I am happy to have our Ranking Member here, Senator Burr. I look forward to working closely together to help our Nation's veterans.

Among those responsibilities is the need to ensure the effective implementation throughout the VA of all new legislation, as well as decisions from the U.S. Court of Appeals for Veterans Claims, and the U.S. Court of Appeals for the Federal Circuit; and those will be, of course, challenging responsibilities for you, Mr. Hutter.

As I am sure you know, VA is frequently criticized for failing to disseminate new law throughout all levels of the Department, to include front-line adjudications. It will be very important for you to work with the Under Secretary for Benefits and the Chairman of the Board of Veterans Appeals to develop a cohesive approach to interpreting court decisions and updating the guidance issued to the field.

I also look to you to define the role you believe the General Counsel plays in evaluating legislation, both introduced by Congress and proposed by VA for its legal sufficiency and its impact. While the various programs can provide incredibly valuable information on the intent, background, or implementation of a particular bill, it is vital for the General Counsel to provide an expert analysis on the legal implications.

Related to the issue of the General Counsel's review of program policy initiatives and legislation is the role of the local Regional Counsels and their interaction with program personnel in the field. The General Counsel must send a clear message to the Regional Counsels that they must work with and support field program personnel. I urge you, Mr. Hutter, to ensure that all Regional Counsels adopt a full proactive type of interaction that will prevent problems and forestall litigation, rather than only getting involved after lawsuits are filed.

The VA General Counsel also must play a very important role in advising the Secretary and Deputy Secretary as they deal with the many challenges that VA faces in providing timely, quality health care, timely and accurate adjudication of claims, and a lasting place of honor for our veterans. Assuming you are confirmed, I urge you to work closely with three VA Administrations and key staff offices to develop workable and viable plans that will enable VA to respond effectively to any emergency.

Your many years of military service and your sense of experience in the Office of General Counsel and the supportive family that you have suggests that you have the qualifications for taking on the challenges of the Office of General Counsel. I plan to have the Committee act on your nomination as soon as feasible.

Thank you so much for being here this morning and I would like to call on Senator Burr for his remarks.

**STATEMENT OF HON. RICHARD BURR, RANKING MEMBER,
U.S. SENATOR FROM NORTH CAROLINA**

Senator BURR. Aloha, Mr. Chairman.
Chairman AKAKA. Aloha.

Senator BURR. I thank you for holding this hearing. Let me say at the start, Mr. Chairman, you have taken a fair, straightforward, bipartisan approach to holding hearings on the President's nominations, and more importantly, you have shown a willingness to move those nominations forward and fill important senior positions in the Department of Veterans Affairs. So, I just want to publicly thank you and encourage you, as you just stated, to expedite this nomination because, as you and I both know, we are going to be dealing with some other ones. And the faster we can clear our plate, the more we can focus on those.

Next to the Secretary and the Deputy Secretary, there is no one else at the Department of Veterans Affairs whose job touches all aspects and operations of the VA like the General Counsel. I met Mr. Hutter earlier this month. I found him to be engaging and enthusiastic about this important job and I take great pleasure in giving his nomination my endorsement today.

Mr. Hutter has not only built a career around serving veterans, Mr. Chairman, he is a veteran himself—having served 30 years in the Judge Advocate General Corps, achieving the rank of Colonel. He has two sons who are currently aviators in the Navy. Maybe one of them is here?

Mr. HUTTER. Yes, sir.

Senator BURR. Thank you for your service.

Paul also worked in the private sector before being hired in 1992 at the VA. He has served as Acting Assistant Secretary for Policy,

Planning, and Preparedness, Assistant General Counsel for Management Operations, and of course now as Acting General Counsel. Clearly, he is well qualified for the position.

In many ways, Mr. Chairman, Paul is not as much being nominated for a new job as he is being promoted from within based upon the merits of his performance at other levels in the VA organization. You know, it is kind of nice to see a person come up through the ranks every once in a while and this is certainly one who has earned the nomination today.

Paul, I look forward to your testimony. More importantly, I, as the Chairman stated, look extremely forward to an expedited process where this nomination can be taken to the Senate floor and out of this Committee.

I thank the Chair.

Chairman AKAKA. Thank you very much, Senator Burr.

I will shift gears so as to introduce the nominee to the Committee. I am delighted to note that Mr. Hutter has many ties to Hawaii. As you mentioned, Senator Burr, this family is a military family—not only Army, but now the Navy.

Senator BURR. It makes for some interesting football games.

[Laughter.]

Chairman AKAKA. Mr. Hutter was born in Tripler Army Hospital in Honolulu while his father was stationed at Schofield Barracks. His dad served in World War II and in Korea and Vietnam, as well. Mr. Hutter attended high school in Hawaii and graduated from Punahou School in 1972.

After college, he returned to Hawaii in 1976 where he also was stationed at Schofield Barracks. In the late 1980's, following the end of his Army service, Mr. Hutter again returned to Hawaii, where he practiced law until he joined the Department of Veterans Affairs in 1992.

While your nomination form may say you are from Virginia, with that background, I think Hawaii has a claim there also.

Mr. Hutter joined VA's Office of General Counsel in 1992 after his retirement from a long career of military service, first as an infantry officer and then, following graduation from law school, as a member of the Judge Advocate's General Corps. He has served as Acting General Counsel since August of last year.

Mr. Hutter's wife, Mary, their son, Ian, and Mr. Hutter's parents, Dean and Helen, are here with us for this very special event.

I want to thank you again and say *mahalo nui loa* for coming before us today, Mr. Hutter. To the Hutter family, as we say in Hawaii, *E komo mai*, or welcome to our hearing.

And now as is the rule here, I will now administer the oath to you that all nominees take during their confirmation hearing, and we will then be ready to hear your statement. So, will you please rise and take the oath.

Do you solemnly swear that the testimony you are about to give the Veterans' Affairs Committee, as well as other information submitted to the Committee, will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HUTTER. I do.

Chairman AKAKA. Let the record show that the witness did answer in the affirmative.

Mr. Hutter, will you please begin with your statement.

STATEMENT OF PAUL J. HUTTER, NOMINATED TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. HUTTER. Mahalo, Mr. Chairman, Senator Burr, good morning. Thank you for the opportunity to testify today. I am honored and humbled to be nominated by President Bush to serve as General Counsel at the Department of Veterans Affairs. I am also most grateful to Secretary Jim Nicholson and Deputy Secretary Gordon Mansfield for their confidence in me.

Mr. Chairman, service to veterans is the cornerstone of our practice in the Office of General Counsel. We do not often have the privilege, however, of direct interaction with veterans, but realize every day that our legal advice has an impact on the service that our administrations and staff offices provide to our beneficiaries. We work hard to ensure that our advice provides every possible advantage to our veterans.

During the past 15 years, it has been my honor to serve in VA's Office of General Counsel as appellate attorney (staff attorney), and in leadership positions in the field and at the headquarters. In addition, I served for 30 years in the United States Army and the Army Reserve as, as you have said, an Infantry Officer and Judge Advocate. As a Judge Advocate, I supervised lawyers in the capacity of a staff officer (staff judge advocate), and as a commander.

As you have alluded, and so kindly, Mr. Chairman, I am privileged to be the son of a career infantry officer and veteran of World War II, Korea, and Vietnam. I am also proud that two of my three sons are currently serving as Naval aviators, as you alluded to, Senator, one flying helicopters in San Diego and the other navigating F/A 18s in Oceana.

As the result of my family's service in the military and my experience in the Army and the Department of Veterans Affairs, I have developed a deep respect for the personnel who serve in our Armed Forces and their families. Time and time again, they display the honor, courage, and commitment that make our Armed Forces the greatest in the world. As time marches on, they, too, will become veterans and I am inspired by them to continue to tackle the challenges of the mission of the Department of Veterans Affairs, to care for him who shall have borne the battle, and for his widow and orphan.

If confirmed, I look forward to continuing my work with the team of professionals at the Department of Veterans Affairs to accomplish that mission. I am confident that my legal and leadership experience has given me the skills to lead, advise, and contribute effectively.

I continue to learn and act on the many issues that are of concern to our veterans. The General Counsel provides advice and counsel to the Deputy Secretary, the Secretary, and other senior leaders concerning all matters—legal matters—involving the Department. The General Counsel also ensures the quality, timeliness, and accuracy of VA's legal staff in the field.

If confirmed, I will continue to work these issues facing the Department and give my very best effort to diligently and faithfully advise the Deputy Secretary and the Secretary.

Again, I am very proud to have my parents, Dean and Helen, my wife, Mary, my son, Ian, here. I am very grateful for their constant support and love.

Thank you again, Mr. Chairman and Members of the Committee, for your consideration of my nomination. I would be happy to answer any questions you may have, and I would ask that this statement be entered into the record.

[The prepared statement of Mr. Hutter follows:]

PREPARED STATEMENT OF PAUL J. HUTTER, NOMINEE FOR GENERAL COUNSEL,
DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman, Senator Burr, and Members of the Committee, good morning. Thank you for the opportunity to testify today. I am honored and humbled to be nominated by President Bush to serve as General Counsel at the Department of Veterans Affairs. I am also most grateful to Secretary Jim Nicholson for his confidence in me.

Service to veterans is the cornerstone of our practice in the Office of General Counsel. We do not often have the privilege of direct interaction with our veterans, but realize that our legal advice has an impact on the service that our clients provide. We work hard to ensure that our advice provides every possible advantage to our veteran beneficiaries.

During the past 15 years, it has been my honor to serve in VA's Office of General Counsel as appellate attorney, staff attorney and in leadership positions in the field and at the headquarters. In addition, I served for 30 years in the United States Army and the Army Reserve as an Infantry Officer and Judge Advocate. As a Judge Advocate, I supervised lawyers in the capacity of staff officer and commander.

I am privileged to be the son of a career infantry officer and veteran of World War II, Korea and Vietnam. I am also proud that two of my three sons are currently serving as Naval Aviators—one flying helicopters and the other navigating F/A 18s.

As the result of my family's service in the military, and my experience in the Army and the Department of Veterans Affairs, I have developed a deep respect and appreciation for the personnel who serve in our Armed Forces—and their families. Time and again they displayed the honor, courage and commitment that make our Armed Forces the greatest in the world. As time marches on, they too will become veterans.

I am inspired by them to continue to tackle the challenges of the mission of the Department of Veterans Affairs—"To care for him who shall have borne the battle and for his widow and orphan." If confirmed, I look forward to continuing my work with the team of professionals at the Department of Veterans Affairs to accomplish that mission. I am confident my legal and leadership experience has given me the skills to lead, advise and contribute effectively.

I continue to learn and act on the many issues that are of concern to our veterans. The General Counsel provides advice and counsel to the Deputy Secretary, the Secretary and other senior leaders concerning all legal matters involving the Department. The GC also ensures the quality, timeliness and accuracy of the work of VA's legal staff in the field. If confirmed, I will continue to work the issues facing the Department and give my very best effort to diligently and faithfully advise the Secretary and Deputy Secretary.

With me today are my wife, Mary; my parents, Dean and Helen; and my son, Ian. I am very grateful for their constant love and support.

Thank you again, Mr. Chairman and Members of the Committee, for your consideration of my nomination. I would be happy to answer any questions you may have.

[The Committee questionnaire for Presidential nominees from Mr. Hutter follows:]

QUESTIONNAIRE FOR PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

1. Name: Hutter Paul Jeffrey
(LAST) (FIRST) (OTHER)

2. Present Address: 8046 Stillbrooke Road, Manassas, Virginia 20112
(CITY) (STATE) (ZIP CODE)

3. Position to which nominated: General Counsel, Department of Veterans Affairs 4. Date of Nomination: 6/29/2007

5. Date of birth: 8/30/1954 6. Place of birth: Honolulu, Hawaii
(DAY) (MONTH) (YEAR)

7. Marital Status: Married Full name of spouse: Mary Kathryn Hutter

9. Names and ages of children

<u>Joshua D. Hutter</u>	<u>33</u>	_____	_____
<u>Eric D. Hutter</u>	<u>27</u>	_____	_____
<u>Ian P. Hutter</u>	<u>23</u>	_____	_____

10: Education:

Institution (including city and State)	Dates attended	Degrees received	Dates of degrees
<u>Rice University Houston, TX</u>	<u>8/72 – 5/76</u>	<u>B.A. – Biology/French</u>	<u>5/8/76</u>
<u>Pepperdine University</u>	<u>9/77 – 8/80</u>	<u>MBA</u>	<u>8/2/80</u>
<u>University of Santa Clara School of Law</u>	<u>8/79 – 5/82</u>	<u>J.D.</u>	<u>5/22/82</u>
<u>The Judge Advocate General's School, Army</u>	<u>7/86 – 5/87</u>	<u>LL.M.</u>	<u>5/23/88</u>

11. Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Legion of Merit; Defense Meritorious Service Medal; Meritorious Service Medal (5 Oak Leaf Clusters); Army Commendation Medal (1 Oak Leaf Cluster); Army Achievement Medal; Army Reserve Service Medal; Parachutist Badge; Expert Infantryman's Badge; Numerous achievement awards – Department of Veterans Affairs

12. Memberships List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable, and other organizations for the last 5 years and any other prior memberships or offices you consider relevant

Organization	Office held (if any)	Dates
Virginia Bar Association		8/96 - Present
California Bar Association (Currently inactive member)		11/82 - Present
Veterans Bar Committee, Federal Bar Association	President (1995)	93 - 96
Former Member Hawaii Bar Association		8/84 - 9/93

13. Employment record: List below all employment (except military service) since your twenty-first birthday, including the title or description of job, name of employer, location of work, and inclusive dates of employment.

- U.S. Army (1976 - 1989)
- Reinwald, O'Connor, Marrack, Hoskins and Playdon (Attorney Associate) 1989 - 1991) Honolulu, Hawaii
- Ashford, Nakamura and Moore (Attorney Associate) (1991 - 1992) Honolulu, Hawaii
- Department of Veterans Affairs (Office of General Counsel) (1992 - Present)
- Chief Operating Officer, Interagency Transition Team for Iraq (Dec, 2003 - Oct, 2004)
- Acting Assistant Secretary for Policy and Planning (May 2006 - August 2006)
- Acting General Counsel/Executive in Charge (Office of General Counsel) (September 2006 - Present)
- Executive in Charge (Human Resources and Administration) (March 2007 - Present)

14. Military service: List below all military service (including reserve components and National Guard or Air National Guard), with inclusive dates of service, rank, permanent duty stations and units of assignment, titles, descriptions of assignments, and type of discharge.

Active Duty

Jun 76 - Aug 76	Student, Infantry School, Fort Benning, Georgia
Aug 76 - Sep 76	Student, Airborne School, Fort Benning, Georgia
Oct 76 - Nov 77	Platoon Leader, Company C, 1st Battalion, 27th Infantry, Schofield Barracks, Hawaii
Nov 77 - Sep 78	Weapons Platoon Leader, Company C, 1st Battalion, 27th Infantry, Schofield Barracks, Hawaii
Oct 78 - Mar 79	Heavy Weapons Platoon Leader, Combat Support Company, 1st Battalion, 27th Infantry, Schofield Barracks, Hawaii
Apr 79 - Jun 79	Executive Officer, Headquarters and Headquarters Company, 1st Battalion, 27th Infantry, Schofield Barracks, Hawaii
Jun 79 - Aug 82	Student Officer, Santa Clara, California (Law School)
Aug 82 - Apr 83	Legal Assistance Officer, Headquarters and Headquarters Company, 1st Infantry Division (Mechanized), Fort Riley, Kansas
Apr 83 - Nov 83	Chief, Legal Assistance, Headquarters and Headquarters Company, 1st Infantry Division (Mechanized), Fort Riley, Kansas
Nov 83 - May 86	Trial Counsel, Headquarters and Headquarters Company, 1st Infantry Division (Mechanized), Fort Riley, Kansas
May 86 - May 87	Student Officer, Charlottesville, Virginia (Judge Advocate Graduate Course)
May 87 - Jul 89	Instructor, International Law, The Judge Advocate General's School, Charlottesville, Virginia
Dec 01 - Apr 02	Deputy Chief, Special Projects Branch, Office of the Judge Advocate General, Washington, D.C.

USAR - Not on Active Duty

Nov 89 - Apr 92	Chief, Criminal Law, Headquarters and Headquarters Company, IX Corps (Reinforcement), Fort DeRussy, Hawaii
Apr 92 - Jan 93	Secretary of the General Staff, Headquarters and Headquarters Company, IX Corps (Reinforcement), Fort DeRussy, Hawaii
Jan 93 - Sep 95	Assistant Inspector General, Headquarters and Headquarters Company, 310th Theater Army Area Command, Fort Belvoir, Virginia
Sep 95 - Jul 98	Chief, Administrative, Operational and Civil Law Division, Headquarters and Headquarters Company,

	310th Theater Army Area Command, Fort Belvoir, Virginia
Nov 98 - Nov 99	Command Judge Advocate/International Law Officer, 354th Civil Affairs Brigade, Riverdale, Maryland
Nov 99 - Nov 01	Deputy Commander, 154 th Legal Support Organization, Alexandria, Virginia
May 02 - Jul 02	Deputy Commander, 154 th Legal Support Organization, Alexandria, Virginia
Jul 02 - Sep 05	Commander, 151 st Legal Support Organization, Alexandria, Virginia
Sep 05 - May 06	Executive Officer (Individual Mobilization Augmentee), The Judge Advocate General, Rosslyn, Virginia

15. Government record: List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments other than those listed above.

None _____

16. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

None _____

17. Political affiliations and activities: (a) List all memberships and offices held in and financial contributions and services rendered to any political party or election committee during the last 10 years.

None _____

(b) List all elective public offices for which you have been a candidate and the month and year of each election involved.

None _____

18. Future employment relationships:

(a) State whether you will sever all connections with your present employer, business firm, association, or organization if you are confirmed by the Senate.

Not applicable _____

(b) State whether you have any plans after completing Government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization.

None _____

(c) What commitments, if any, have been made to you for employment after you leave Federal service?

None _____

(d) (If appointed for a term of specified duration) Do you intend to serve the full term for which you have been appointed?

Not Applicable

(e) (If appointed for an indefinite period) Do you intend to serve until the next Presidential election?

Yes _____

19. Potential conflicts of interest:

(a) Describe any financial arrangements, deferred compensation agreements, or other continuing financial, business, or professional dealings which you have with business associates, clients, or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None _____

(b) List any investments, obligations, liabilities, or other financial relationships which

constitute potential conflicts of interest with the position to which you have been nominated.

None _____

(c) Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None _____

(d) Describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any Federal legislation or for the purpose of affecting the administration and execution of Federal law or policy.

None _____

(e) Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements involved.)

I do not have any conflicts of interest that would require a response to this inquiry.

20. Testifying
before the
Congress:

(a) Do you agree to appear and testify before any duly constituted committee of the Congress upon the request of such committee?

Yes _____

(b) Do you agree to provide such information as is requested by such a committee?

Yes _____

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[A letter from the Office of Government Ethics follows:]



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 5, 2007

The Honorable Daniel K. Akaka
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510-6375

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Paul J. Hutter, who has been nominated by President Bush for the position of General Counsel, Department of Veterans Affairs.

We have reviewed the report and have also obtained advice from the Department of Veterans Affairs concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Hutter is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Marilyn L. Glynn
General Counsel

Enclosure

RESPONSE TO PRE-HEARING QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO PAUL J. HUTTER, NOMINEE FOR GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS

Question 1. What are your overall goals for the Office of General Counsel (OGC) should you be confirmed?

Response. My goal is to make the Office of General Counsel into a “force multiplier” that avoids and solves problems in the Department, and provides the guidance and representation necessary to allow our employees to effectively and lawfully carry out their missions. Each of our lawyers must understand our clients’ business lines well enough to provide intelligent and creative support for ongoing business needs and new projects. We must overcome issues in partnership with our clients at all levels of the Department.

Accompanying my response to this question is a one-page outline that more clearly identifies my vision for the Office of General Counsel and the overarching requirements to meet that vision. The elements of that vision statement include:

- Proactivity—engaging issues as early as possible to avoid more difficult legal consequences as projects develop;
- National presence—our clients and stakeholders must know where we are, how to reach us and what we can do for them throughout the country, in Puerto Rico and throughout the Pacific Rim.
- Unity—the substance, quality and timeliness of the advice and representation we provide is consistent, nationwide.

I have drafted a strategic plan for the Office of General Counsel that amplifies these principles. The intent of the plan is to look out 10 years, align our practice with the Department’s strategic plan and priorities, and adjust the organization to meet those requirements. I have sent this draft to my managers throughout the country and will publish the plan in November.

As an example—and consistent with Departmental requirements—we have trained additional lawyers to address contracting issues across the Department—to ensure legal support for headquarters and field organizations in each of the Administrations. This is consistent with our goal to solve legal issues at the earliest possible time and at the location closest to our clients.

Question 2. What are the present size, makeup, and organization of OGC? If confirmed, do you anticipate making any changes in the overall organizational structure, either in the Central Office or in the field?

Response. OGC nationwide is currently comprised of 677 “full-time-equivalent employees” (FTEE) of whom 402 are attorneys. 266 of these 677 employees are in OGC headquarters (VA Central Office) and 411 are in our 22 field offices (Offices of Regional Counsel).

As the attached organizational chart shows, a single Deputy General Counsel reports to the General Counsel. Seven Assistant General Counsels, each of whom leads a professional staff (Professional Staff Group or “PSG”), report through the Deputy to the General Counsel. Our 22 Regional Counsels report through the Assistant General Counsel for PSG VI to the Deputy General Counsel and General Counsel.

One of the PSGs (VI) has nationwide office management-and-operations responsibilities and each of the other PSGs specializes in the many different specialties of VA legal practice.

This relatively flat organizational structure has proven effective. I remain convinced it affords an appropriate span of control for organizational managers, and our annual surveys continue to indicate high levels of client satisfaction with our services. Accordingly, our offices effectively balance the need for centralized guidance with that of providing timely, proactive service to our clients throughout the country.

Question 3. What is the relationship between OGC and the Secretary, other top staff officials, and the heads of the administrations? Do you see the General Counsel as having an active role in helping these various officials craft appropriate policy and carry out their responsibilities or do you see OGC as a resource that is available to these officials if they choose to utilize the expertise of the office? If confirmed, do you anticipate making any changes in these relationships?

Response. As Acting General Counsel and in my observation of previous General Counsels’ interactions with VA leadership, it has become clear to me that OGC is considered a valuable resource to be drawn upon early and often in all types of situations involving important operational and policy issues. I continually impress upon our clients the importance of our participation early in the consideration of matters to ensure that legal ramifications are factored into decisionmaking. In my experience there is widespread appreciation among departmental leadership—at all levels of the organization—of the value that OGC adds to discussions and reviews of virtually all significant VA issues, and we are regularly consulted and invited to participate in top-level meetings. If I were ever to experience a need to interject OGC into consideration of matters, as General Counsel, I would not hesitate to do so.

An advantage of serving as Acting General Counsel is that it has allowed me to establish good levels of trust and strong working relationships with leaders of all of the administrations and staff offices. I am gratified by their acceptance of me and their deep appreciation of our office.

Question 4. What is the working relationship between field offices of OGC and of the administrations? Is there a direct client relationship between OGC personnel in the field and local managers of VHA, VBA and NCA? In how many facilities are OGC employees collocated with field managers of the administrations? If confirmed, do you anticipate making any changes in these relationships?

Response. The mission of our Offices of Regional Counsel is to furnish the legal support needed by VA-program officials to provide world-class service delivery to veterans across the United States. Our Regional Counsels serve as house counsel to directors of all VHA, VBA and NCA field facilities, working closely with facility officials to meet their everyday needs for legal advice and representation. They forge close attorney-client relationships by participation in regularly scheduled meetings (for example, of VISN-level Executive Leadership Committees) and through frequent, daily communications. While the Professional Staff Groups in VACO are available to them as expert resources, our Regional Counsels provide the direct legal support their clients have come to rely upon. Client surveys have shown very high levels of satisfaction with Regional Counsel services.

In all but one of our field offices, Regional Counsel staff are co-located in facilities with leadership of one or more VA administrations. In all of our offices, our Regional Counsels are no more than short drives from program leaders and maintain close contact with them. As a former field leader myself I know first-hand the importance of maintaining strong client relations, and I will emphasize the importance of doing so if my nomination is confirmed.

Question 5. What is your view on the role of OGC in responding to decisions of the Court of Appeals for Veterans Claims, the Federal Circuit, and the Supreme Court? Is it OGC's function to interpret such decisions? Does OGC advise the Secretary, the board of Veterans Appeals, and the administrations about the meaning of such decisions? Does OGC have a role in ensuring compliance by BVA and VBA with such decisions? What is OGC's role in deciding whether a particular decision should be appealed? If confirmed, do you anticipate making any changes in OGC's role in this area?

Response. The General Counsel is the Department's chief legal officer, responsible for ensuring that VA-program officials fully understand the laws and regulations in order that they may accord veterans every benefit and service to which they are entitled. Since the advent of judicial review, the General Counsel's role has grown to include definitive interpretations of court rulings to guide Board of Veterans Appeals (BVA) and VBA adjudicators.

OGC is frequently consulted by both BVA and VBA as new court decisions are issued. Moreover, OGC years ago instituted regular "Triad" meetings with VBA and BVA officials at which new court decisions are thoroughly discussed to ensure common understanding of their meaning. Formal precedent opinions of the General Counsel are issued whenever necessary to definitively state the "holdings" of court decisions for the benefit of VA adjudication personnel who apply them.

OGC plays the principal role in deciding which court decisions VA will ask the Department of Justice to appeal. These recommendations are made only when the General Counsel is convinced a court has misinterpreted the intent of Congress regarding a statute, misinterpreted a regulation VA has itself promulgated, or misapplied binding judicial precedent. These recommendations are vetted with VA-program offices and there is consultation with the Deputy Secretary and the Secretary as appropriate. I believe the current approach to appeal recommendations is sound and I do not anticipate making any changes if I am confirmed.

Question 6. What is the role of OGC in preparing and clearing testimony that is being presented to committees of Congress? On preparing and submitting legislation to Congress? On preparing or approving VA regulations? If confirmed, do you anticipate making any changes in OGC's role in this area?

Response. OGC prepares draft legislation and legislative testimony for OMB clearance and submission to Congress. VA draft bills are prepared and presented in order to advance the Secretary's legislative agenda. Testimony on pending legislation is also prepared to reflect the Secretary's views.

OGC's role in the preparation of oversight-hearing testimony is generally more limited. Ordinarily, that testimony is prepared by the program offices and OGC's role is limited to reviewing it for legal sufficiency.

OGC's role in rulemaking varies with the subject of the rule. In some cases, such as with the rule to implement the new attorney-fee provisions of Public Law 109-

461, OGC assumes the principal drafting role. Ordinarily, however, OGC participates in drafting only as requested by the issuing program office or by the Office of Regulatory Policy and Management, which has overall responsibility for coordinating the preparation of VA regulations and their clearance by OMB's Office of Information and Regulatory Affairs. OGC is consulted throughout the process, however, and in all cases the General Counsel's concurrence is required before rule-making packages are submitted to the Secretary for approval.

I am comfortable that these processes permit appropriate OGC participation and currently do not have plans for recommending changes in them.

Question 7. In your view, how effective is the current system for the adjudication of claims for VA benefits, to and through the courts? What do you see as the role of OGC in efforts to address the backlog of claims and to otherwise improve the claims adjudication system? Do you have any views for how the system might be improved?

Response. The best measure of effectiveness of the current process is the end result for veterans: are they ultimately able to gain the benefits claimed, to the extent they are entitled? By that measure, the current system is effective. It is rare to encounter a situation in which a veteran, having exhausted the many avenues for redress afforded by the process, has been denied benefits to which he or she is entitled. This indicates to me that reasonable doubt is being resolved in claimants' favor, and that VA personnel are broadly construing claims to claimants' benefit.

In terms of addressing the current claims backlog, I believe OGC can have positive influences in a number of respects. First, we can ensure that sufficient resources are devoted to representing the Secretary before the Court of Appeals for Veterans Claims so that litigation there is not unnecessarily protracted. I have made that a resourcing priority, and will continue to do so if confirmed.

Second, OGC needs to ensure that the interpretations of benefit laws, regulations and court precedents are consistently understood by VBA and BVA so veterans need not appeal in order to obtain the benefit of a correct application of the law to their cases. We strive to promptly advise program officials of new developments in the law so they are kept current.

Finally, we advise VBA program officials, including those in the Compensation and Pension Service, on a very frequent basis concerning the most efficient manner to implement such authorities as the Veterans Claims Assistance Act so as not to unnecessarily prolong adjudications and to avoid backlog-compounding remands.

From my vantage, I believe VBA is going about tackling these issues in the right way: by staffing up considerably, and by ensuring staff are adequately trained to apply the increasingly complex law to its burgeoning caseload.

Question 8. What is your view on when OGC should issue a General Counsel Opinion that establishes binding precedent for the Department? What process is followed in the development of such opinions? If confirmed, do you anticipate making any changes in when or how OGC issues General Counsel opinions?

Response. Precedent opinions of the General Counsel are usually issued at the request of either VBA or BVA in order to ensure that a common interpretation of the law guides benefit-claim consideration throughout the Department. On occasion OGC has issued them "on its own motion" when it has encountered situations in which ambiguities or vagueness in laws or judicial decisions could lead to disparate interpretations.

Assignments to draft these opinions are made to the Professional Staff Group having jurisdiction for the particular subject matter. Once drafted, they are reviewed up the chain of command within OGC for approval by the General Counsel.

I do not anticipate any changes in these regards if I am confirmed as General Counsel.

Question 9. As you know, the Committee received a letter in connection with your nomination relating to a personnel matter that you were involved with, both during your time in the Office of Policy, Planning and Preparedness and in OGC. Without discussing the specifics of that personnel matter, please indicate:

(a) How the decision was made to refer the matter to an administrative investigation board (AIB);

(b) Why the decision was made to ask an official from outside of VA to head the AIB;

(c) Whether you have received any information or formal communication suggesting that utilizing an outside official to head the AIB was not appropriate or legal?

Response.

(a) An employee in the Office of Policy, Planning and Preparedness came to me as the Acting Secretary and asked that I address an extensive list of employment-

related complaints that spanned the employee's career at VA. The only way to effectively determine the facts and the proper remedies (if appropriate) was to commission an administrative investigation board to engage in fact-finding, and to provide conclusions based on the facts.

(b) Several of the complaints raised by the employee involved the most senior staff members in the Department. Accordingly, to ensure the objective and complete investigation of the employee's concerns, we asked the Department of Justice to provide an attorney to conduct the Administrative Investigation Board.

(c) We have received no information from the Department of Justice or other agency that our use of an outside official was inappropriate or illegal. We have been told that the employee's husband received a communication from the Department of Justice concerning his complaint about the investigation. Neither the employee nor her husband shared this communication with us.

**Office of the General Counsel
Organizational Vision**

Vision Statement: A unified national law office committed to proactively meeting the legal needs of the Department of Veterans Affairs.

I. MISSION FOCUS

Our Foremost Responsibility

Support the strategic goals of the Department by providing accurate, timely and effective legal advice and representation

- Optimize the structure of our legal offices to better support the needs of the Department
- Maximize opportunities to train clients and foster the practice of preventive law

II. PROFESSIONAL EXCELLENCE

Our Enabler for Success

Effective leaders and trained, proactive legal professionals supporting a dynamic Department of Veterans Affairs.

- Develop a comprehensive training plan to ensure a common set of core competencies
- Develop standard legal processes and exploit best practices
- Grow and develop committed leaders who fully reflect the diversity of our organization

III. PEOPLE

Our Most Valuable Asset

A unified team of proven professionals that effectively leverages the talents of all its members to meet the challenges of a changing environment

- Recruit and retain the best people through focused personnel policies and incentives
- Maximize the use of personnel tools and flexibilities to improve the quality of life of our workforce
- Exploit the individual talents of our existing workforce to better meet the needs of our clients

IV. INFORMATION MANAGEMENT

The Key to Timely, Authoritative Legal Support

Take full advantage of existing and emerging technology to maximize effectiveness in terms of both client service and resource management

- Fully exploit the use of our workload- and time-management system
- Refine legal research and information tools to support our workforce
- Maintain an IT support organization that meets our unique needs

RESPONSE TO POST-HEARING QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO
PAUL J. HUTTER, NOMINEE FOR GENERAL COUNSEL, DEPARTMENT OF VETERANS
AFFAIRS

Question 1. Should VA have another data security breach, similar to the May 2006 incident, do you have a clear idea of what the General Counsel's role is in VA's response?

Response. Yes. In such an event, the Office of General Counsel (including local Regional Counsels) would work closely with local and national Incident Response Teams, and as members of the Incident Resolution Core Team, and provide timely legal advice as needed to the Office of the Secretary, the Chief Information Officer, and the impacted program office(s) to ensure that the Department addresses and mitigates the incident in accordance with all applicable laws. In particular, title IX of the Department of Veterans Affairs Information Security Enhancement Act of 2006, Pub. L. No. 109-461, and implementing regulations in Part 75 of 38 C.F.R., effective June 22, 2007, provide a framework for action in response to a data breach involving sensitive personal information.

Question 2. In the event of a significant data breach, risk analysis plays a critical role in how VA will respond. What is your understanding of the role the General Counsel plays in VA's risk analysis process?

Response. The VA Information Security Enhancement Act of 2006 mandates that in the event of a breach of sensitive personal information, VA must ensure that, as soon as possible after the breach, a non-Department entity or the VA Office of the Inspector General conducts an independent risk analysis to determine the level of risk for the potential misuses of sensitive personal information. Thereafter, if the Secretary determines, based on the findings of the independent risk analysis, that a reasonable risk exists for the potential misuse of sensitive personal information, the Secretary shall provide credit protection services in accordance with VA regulations promulgated at 38 C.F.R. Part 75, Subpart B. The Office of General Counsel's role would be to proactively advise and otherwise assist the Department leadership to ensure that the risk-analysis process and resulting VA actions comport with these legal authorities.

Question 3. Do you believe that HIPAA presents an obstacle to the transfer of medical information between DOD and VA? And if so, how can any such obstacle be overcome?

Response. No, the HIPAA Privacy Rule is not a barrier to VA/DOD medical information sharing.

The HIPAA Privacy Rule generally prohibits the nonconsensual disclosure of protected health information (PHI). The Rule, however, includes a special exemption pertaining to the disclosure of PHI upon the separation or discharge of an individual from military service. This exception, 45 C.F.R. § 164.512(k)(1)(ii), allows DOD to "disclose to VA the protected health information on an individual who is a member of the Armed Forces upon separation or discharge of the individual from military service for the purpose of a determination by VA of the individual's eligibility for or entitlement to benefits under laws administered by the Secretary of Veterans Affairs." Furthermore, VA may disclose PHI to military command authorities without an authorization if a VA patient is a member of the Armed Forces and military command authorities need the PHI to assure the proper execution of the military mission. 45 C.F.R. § 164.512(k)(1)(i). Hence, I do not view the HIPAA Privacy Rule as an obstacle.

Question 4. Early in your tenure in the Office of General Counsel, you were in Group Seven, the section that works on appeals before the Court of Appeals for Veterans Claims.

(a) Are you satisfied that the head of that section has sufficient authority to settle, rather than appeal, an individual case?

Response. Yes, I believe the head of that staff possesses sufficient authority to settle cases coming before the Court of Appeals for Veterans Claims ("Veterans Court"), either by agreement to remand the appeal or to award the benefits at stake. As a matter of practice, that group's attorneys take a fresh, objective look at each case that is filed in the Veterans Court. They do not automatically defend every BVA decision presented in an appeal. Instead, where it appears that a potentially harmful error has been made, or where a change in law requires readjudication, the Secretary's attorneys offer to remand or otherwise settle the case, as appropriate. This is consistent with well-established principles, dating back over a century, regarding the Government's authority to terminate lawsuits by settlement or compromise.

Indeed, that office has a special team of experienced attorneys charged with "triaging" every new appeal that is filed to determine, as early as possible in the

litigation, whether remand or other settlement is warranted. If defense of the BVA decision is not appropriate in their judgment, they have the ability to resolve the appeal within a matter of weeks rather than in the many months required to fully litigate a typical appeal. This approach is justified by the desire to see that justice is done and that veterans' cases be handled as quickly and efficiently as possible.

(b) I realize that the attorneys in that section must have expertise in handling appeals, but I believe that there would be value in ensuring that attorneys familiar with specific VA programs also work in that office. Does Group Seven bring in attorneys, with subject matter expertise, from elsewhere in the Office of General Counsel?

As your question recognizes, the wide variety of benefit questions that arise in cases coming before the Veterans Court can be challenging. Our appellate-litigation group brings the special expertise of program officials and others to bear by consulting the experts while the litigation position of the Secretary is being formulated. Specifically, it is part of their standard operating procedures to consult with attorneys in other OGC groups that have particular expertise in the area of the law and the program at issue in an appeal. They also involve these specialists in reviewing their briefs and in their moot courts in preparation for oral argument. Additionally, our Veterans Court litigation staff will consult with officials in the specialized program area, such as the Compensation and Pension Service, Education Service, Loan Guaranty Service, Insurance Service, etc., as appropriate. This network of experts that our attorneys use—as the private sector employs expert witnesses and consultants—has proven very useful in guiding our attorneys in litigation before the Veterans Court.

Question 5. Do Regional Councils have sufficient authority to settle suits brought against VA, such as for medical malpractice?

Response. While only the United States Attorneys and the Department of Justice are authorized to settle suits in litigation against the Government under the Federal Tort Claims Act, VA Regional Councils and VA attorneys in the tort section of the Office of General Counsel in Washington have authority to settle pre-litigation administrative tort claims, including those alleging medical malpractice. Regional Councils have authority to settle tort claims in an amount not exceeding \$100,000. They may, however, obtain additional authority in a particular case up to \$200,000, the limit of the Department's authority, from the torts section of the Office of General Counsel (OGC) in Washington. This approval can be obtained relatively quickly and with minimum formality, consistent with verification that the recommended settlement is justified and reasonable.

Under this arrangement, I believe that our Regional Councils have sufficient settlement authority, and our statistics bear that out. For Fiscal Year 2007 through the end of July, of the 262 total payments in VA medical malpractice cases, both in litigation and administratively, Regional Councils settled 96 claims, 36 percent of the total, within their \$100,000 authority. Another 33 malpractice claims were settled either by Regional Councils with additional authority from OGC or by the OGC tort section attorneys within the Department's \$200,000 authority. The OGC tort section may also settle cases in excess of \$200,000, subject to approval by the Department of Justice, and did so in eleven cases in fiscal year 2007. In all, OGC administrative settlements comprised 53 percent of the total number of payments in VA medical malpractice cases.

Question 6. The Institute of Medicine last month issued a report on the establishment of presumptions for service connection. What role does the Office of General Counsel play in determining whether a specific disease or illness should be presumed service-connected?

Response. Although most existing presumptions of service connection have been established by Congress, VA has authority to establish presumptions of service connection for specific diseases and illnesses by regulation, and the General Counsel plays an important role in that process. Determining whether a presumption is warranted involves a combination of scientific, policy, and legal considerations, requiring collaborative efforts between the Veterans Health Administration, the Veterans Benefits Administration, and the Office of the General Counsel. The General Counsel is primarily responsible for ensuring that a presumption is within VA's authority, that the basis for the presumption is legally adequate and sufficiently explained, and that the presumption is properly established through rulemaking procedures. Two statutes—the Agent Orange Act of 1991 and the Persian Gulf War Veterans Act of 1998—establish standards and procedures under which VA must determine whether presumptions are warranted for specific diseases or illnesses associated with herbicide exposure or hazards of Gulf War service. To carry out those requirements, the General Counsel serves on a Task Force with other VA officials to evalu-

ate reports prepared by the National Academy of Sciences and to make recommendations to the Secretary as to whether the available medical and scientific evidence warrants a presumption of service connection for any disease or illness under the legal standards set forth in those statutes.

Question 7. The Committee has a strong interest in improving collaboration and cooperation between VA and DOD. As far as you know, are there any existing legal impediments to the two Departments engaging in comprehensive sharing?

Response. As you know, 38 USC § 8111 gives VA and DOD broad authority to share health-care resources. The statute also calls for an annual report to Congress by the two Secretaries in which they are to provide recommendations for any needed amendments to this authority. I am presently not aware that additional sharing authority is needed, but as collaboration between the two Departments grows we very well may identify such a need. I certainly appreciate your implied offer to assist us in that event.

Question 8. In recent years, there have been situations in which a significant issue has been under review by the Court of Appeals for Veterans Claims or, after appeal from that court, by the Court of Appeals for the Federal Circuit. Meanwhile, claims involving the same issue continue to come to VA. Do you have any recommendation on how to manage claims that are pending a court decision?

Response. Occasionally it can be forecast that the resolution of a matter on appeal to the Federal Circuit will affect the adjudication of so many pending claims that it is prudent to defer those adjudications until the Federal Circuit has ruled. A good example involved the Veterans Court's ruling that veterans whose tinnitus is perceived bilaterally are entitled to 20 percent disability ratings rather than the 10 percent VA had traditionally assigned this condition. Convinced that the court had committed error, VA "stayed" the application of the ruling to other cases while the Department of Justice appealed it to the Federal Circuit, which ultimately agreed with VA's interpretation of its regulations. Had VA not stayed the adjudications and instead promptly applied the CAVC's ruling to pending cases, it would have later had to reduce all of those ratings to 10 percent which would certainly have created confusion among veterans, unduly burdened the claims system to the disadvantage of other claimants, and perhaps required creation and collection of resulting over-payments.

It is possible as you suggest that an issue on appeal to CAVC could also create a need for VA to temporarily forebear adjudications that would be controlled by the appeal's outcome so as to avoid unnecessary reworking of those claims.

Current Veterans Court case law requires VA to obtain a court order authorizing it to stay adjudications in such circumstances. As General Counsel I would not hesitate to petition for such orders as appropriate on behalf of the Secretary.

Question 9. With ever increasing numbers of older veterans in VA long-term care facilities, do Regional Counsels have any role in working with these veterans to assist them with estate planning or referring them to local attorneys who might provide such assistance?

Response. The Office of the General Counsel provides legal assistance to the Secretary, and by extension to the Administrations and Staff Offices, concerning the programs and policies of the Department. Office of General Counsel attorneys, paralegals and staff are not authorized to provide legal assistance directly to veterans, although they regularly direct veterans requiring assistance to local legal services such as pro bono and reduced-fee programs. They also advise veterans to check with the nearest military installation to determine whether they are entitled to receive legal-assistance services from military judge advocates.

Chairman AKAKA. Thank you very much, Mr. Hutter.

We do have questions. Earlier this year, I wrote to Secretary Nicholson about the proposed regulation on accreditation of agents and attorneys, specifically with reference to the requirement that all attorneys pass a VA-administered written examination prior to accreditation. In late August, Secretary Nicholson indicated that VA was reconsidering the examination requirement. Can you provide an update on the status of the proposed regulation?

Mr. HUTTER. Yes, I can, Mr. Chairman. We received your letter and gave it a great deal of thought. Your letter indicated that you and Senator Craig, who jointly signed the letter, were concerned that the testing requirement that we had built into the proposed

regulation would chill the efforts of, particularly, pro bono law firms in representing our veterans.

We have considered that very carefully. We have crafted an alternate solution that is working its way through the concurrence process at the VA and we expect to have a final regulation by the end of next month.

Chairman AKAKA. It is clear, Mr. Hutter, that VA, like all Federal departments and agencies, is facing a great many questions relating to the increasing use of information technology. Are you satisfied that the Office of General Counsel has sufficient staff attorneys with expertise in this emerging area of law?

Mr. HUTTER. Yes, Mr. Chairman, we are. We are privileged to have three experts on our headquarters staff who have not only expertise in the law, but have extensive expertise in information technology and information management. We also have several assets in the field who share that dual interest in the law and information management and we are making full use of them at this time because of the many challenges that face the Department in this area.

Chairman AKAKA. In your responses to my pre-hearing questions, you described the Office of General Counsel's role in clearing testimony. I realize that there is only so much that the Office of General Counsel can do, but I urge you to work with others in VA to help ensure that VA testimony is received more timely. The current situation where the Committee may not receive cleared testimony until late the day before a hearing must end. With Senator Burr, we have some feelings about that.

With respect to the current claims adjudication system, I ask that if you are confirmed, your Office of General Counsel staff work with the Board in VBA to find possible changes to law, regulation, internal guidance, or practice that can improve the timeliness of the process. The status quo is simply unacceptable.

In your answer to my pre-hearing question about how VA responds to decisions of the U.S. Court of Appeals for Veterans Claims and other courts, you noted that OGC works with BVA and VBA on understanding decisions. While I appreciate the value of collegial cooperation, I believe that there must be a single office within VA with the responsibility for interpreting court decisions and ensuring that those interpretations are shared throughout the Department. In my view, that should be the Office of General Counsel. Do you agree with that?

Mr. HUTTER. Mr. Chairman, I do agree with that, and if confirmed, I will work with my colleagues, Admiral Cooper and Chairman Terry, to take the leadership in that role and ensure that the interpretation of the decisions and the downstream effect of those decisions are promulgated as you said, to the field, to the people who need it in order to craft their decisions and provide timely benefits responses to our veterans.

Chairman AKAKA. I would ask you to please let me know if there are any problems preventing this policy.

Mr. HUTTER. I will let you know, sir.

Chairman AKAKA. Let me call on Senator Burr for his questions.

Senator BURR. Thank you, Mr. Chairman.

Mr. Hutter, let me reemphasize something that the Chairman touched on and that is testimony. I am sure that the General Counsel's Office is involved in clearing the testimony, as are other areas of the Administration. Leave here with every understanding that, if the policies don't change, we will find a way to further encourage compliance, and I am serious about that one and it is not just limited to this Committee. It is really pointed at the Administration and previous Administrations and future Administrations, that this will change. It has to change.

Let me also follow up on an area that the Chairman just raised, which is the number of incoming appeals for the Court of Appeals for Veterans Claims. Specifically, are there other steps, like mandatory mediation, that could be taken to help your office and the court handle this tremendously high caseload?

Mr. HUTTER. Senator, the problem with mediation in the environment of the Court of Appeals for Veterans Claims is that these are statutory and regulatory benefits. Either a veteran is entitled to those benefits or the veteran is not. So it is very difficult to mediate those benefits because of that clear disposition as to either he or she is authorized or not authorized.

But what we can do, Mr. Chairman and Senator Burr, is to identify those cases early on that come to us from the Court of Appeals for Veterans Claims that can easily be disposed. Either they should be granted and we either remand or we grant the benefits at that stage, or alternatively we recognize that there is an error of some kind in the earlier adjudications and we remand them as quickly as possible.

We have a triage system in the staff group in the Office of General Counsel that deals with and represents the Secretary before the Court of Appeals for Veterans Claims. We will expand that effort in order to avoid and triage those cases more quickly.

Senator BURR. I think, clearly, the Office of General Counsel understands the problem that is out there and you have requested additional staff for that. Let me make an offer to you. If at any point you feel that it is beneficial to talk to any staff person in a State that represents a United States Senator that can give you a view of reality of what they deal with in these litigation cases, I will volunteer my staff for whatever time you would like to spend with them. I think that though you described a very black and white situation, I have got individuals who represent the government and represent the veterans who are caught in an area that is blurred. And in their world black and white rarely happens, primarily because there is a disconnect in the interpretation of what the court said, how they said it, and I would suggest to you how long it took them to say it. So that offer is open to you.

You have worked in the central office and you have worked in the field as an attorney for the VA. I am sure those two experiences were very different. As a field attorney, what problems do you see with the central office management and organization, and do you intend to make changes based upon your field experience?

Mr. HUTTER. As a field attorney, Senator, I found that the most lacking element from my experience was communication between the headquarters and the field. As many of us have experienced who have been in field organizations and where there is a head-

quarters, the reliance on the headquarters to be the subject matter experts and to provide that guidance and help to the field is absolutely instrumental. By the same token, the ability of that field to communicate and reach the right people in the headquarters who have the breadth and depth of experience in a particular legal area to solve their problems is also critical.

Just before I came over here, Senator, I met with a group of field attorneys who were here to understand what we do at the headquarters. I encouraged them, demanded of them, told them I expected of them: if they are not getting the communication they need, I need to know. Moreover, I have empowered and expect my Assistant General Counsels—senior executives—to force feed, to provide the information down to the field that is necessary for those attorneys to do their jobs.

Senator BURR. Well, I thank you for that answer and am encouraged with that answer. If this Committee can help, I am sure you will let us know.

Earlier this year, the Secretary announced a new policy of expediting all claims by veterans of Operation Iraqi Freedom and Operation Enduring Freedom. Does the Office of General Counsel intend to take any steps to ensure the appeals of these veterans are decided expeditiously?

Mr. HUTTER. As you know, Senator, Secretary Nicholson took the lead in this area and in expediting the claims of OEF and OIF veterans to the top of the heap, both in the regional offices and at the Board of Veterans Appeals. The Secretary controls those two bodies and, therefore, it is within the Secretary's discretion to advance those claims and appeals to the head of the line.

Unfortunately, sir, the Court of Appeals for Veterans Claims controls the docket and feeds us the cases that come in; and we respond to the court in that regard. What I would suggest, sir, is that I will meet with Chief Judge Green of the Court of Appeals for Veterans Claims, discuss this with him, and see if there is anything we can do to expedite the claims of those veterans who are recently returning from Afghanistan and Iraq.

Senator BURR. Clearly, I want to see the Secretary's intentions carried out in all aspects. If, in fact, you need our help at achieving success for this program, you will let us know.

Mr. HUTTER. I will let you know, sir.

Senator BURR. I thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Burr.

Now, Senator Murray, for your statement and questions.

**STATEMENT OF HON. PATTY MURRAY,
U.S. SENATOR FROM WASHINGTON**

Senator MURRAY. Thank you very much, Mr. Chairman. I will submit my statement for the record; and I apologize for being a few minutes late.

[The prepared statement of Senator Murray follows:]

PREPARED STATEMENT OF HON. PATTY MURRAY, U.S. SENATOR FROM WASHINGTON

Mr. Chairman, thank you for holding today's hearing on the nomination of Paul Hutter to be the General Counsel of the Department of Veterans Affairs.

I had the pleasure of meeting with Mr. Hutter on Tuesday to discuss his nomination, and I appreciate the time he spent talking with me about his vision for the

office and his passion for helping veterans. Mr. Hutter has spent a significant amount of his career working for veterans at the VA, including 15 years in the Office of General Counsel. During this time he has been involved in some of the biggest policy decisions that have taken place in the VA in recent time.

The position of General Counsel at the VA is an incredibly important one. Although the General Counsel does not, as you say in your testimony, "have the privilege of direct interaction with our veterans," the position does affect nearly everything the VA does. From advising the Secretary and other senior leadership at the VA on all legal matters, to interpreting laws and regulations on veterans' benefits, to drafting legislation, to helping prepare legislative testimony, the General Counsel is a key component of the VA decisionmaking process.

Mr. Hutter, you have been nominated to be the General Counsel of the VA at a critical time in the VA's history. The agency faces challenges caring for our returning servicemembers as they transition from the military to the VA. It continues to struggle in establishing a joint DOD-VA electronic health record. It faces serious challenges in overcoming a growing claims backlog. And, for some unknown reason, it faces serious challenges providing accurate and timely information to Congress.

All of these challenges, with the exception of the last, require innovative solutions to push the agency forward and will require the involvement of your office. As a veteran, a long time VA employee, and someone who has two children currently serving in the military, I have no doubt of your commitment to veterans.

Thank you Mr. Chairman.

Senator MURRAY. Mr. Hutter, it is good to see you again. I appreciated the opportunity to meet with you in my office a few days ago and have a conversation, and I appreciate your willingness to consider this very important critical job for the VA.

When we talked Tuesday, I told you how frustrated I had been with our inability to get accurate and timely information from the VA. I think you have heard that several times. But it is important, because this Committee really relies on information that is provided by the VA, so that we can make good decisions about the veterans that we all feel responsible for taking care of. If we don't have it, it really impedes our ability to do our jobs and to stand up for the veterans that we represent.

But Congress hasn't been alone in being frustrated by the secrecy that has clouded the VA. In January of 2006, the National Security Archives at George Washington University filed a Freedom of Information Act request for documents about the number of disability benefits claims filed by veterans from the current War in Iraq. The VA responded to that FOIA request by denying that the reports even existed, and it was only after the Archives appealed the VA's decision and advised the VA that it was prepared to file a lawsuit did the agency manage to find those records, and it took about 9 months then for the VA to respond.

Can you tell this Committee why it took the threat of a lawsuit to release basic information that should have been available to the public?

Mr. HUTTER. Senator, I would like to address that question by first explaining the process for an FOIA complaint. When an FOIA request comes in, it goes to the program office, whatever it may be—Veterans Benefits Administration, I would assume in this particular case—and the FOIA requires that we provide records that are extant, in other words, that are available, that are already in place. It does not require that we create records.

That having been said, however, it is up to the program office to reach out to the requestor, and make sure that the program office understands the request, understands the scope of the request, and can appropriately respond in kind with extant documents.

If the appeal is denied—excuse me, if the initial request is denied, as in this case you indicated—then it is up to my office to adjudicate the appeal of these Freedom of Information Act requests, and based upon the information that you have provided, it was my office that advised that we needed to grant this appeal and we needed to provide the information to the requester in this case.

I am not aware of this particular matter, but I will look at it and I will try to find why it took 9 months to respond.

Senator MURRAY. Can you assure us that in the future, these cases will be expedited, that we can have them sooner—have the information sooner?

Mr. HUTTER. Senator, I will work with my colleague, Bob Howard, who is the CIO and the Assistant Secretary for Information Management, to work with him to ensure that proper education and staffing is available to those program offices who receive those initial requests so that they understand what their role is, how they can communicate with the requester, and how they can expedite the process.

Senator MURRAY. OK. I think you can hear from the questioning, both now and the pre-questioning, that this is a critical issue for all of us, so I hope that when you are confirmed you will address that for all of us.

Mr. HUTTER. You have my pledge to that, Senator.

Senator MURRAY. In your response to the pre-hearing questions, you stated that one of the responsibilities of the Office of General Counsel is to draft legislative proposals from the VA when you submit them to Congress. But, I am told that the VA has submitted very few legislative proposals to us. Given the extraordinary number of challenges and all the issues we are dealing with, I find that very surprising and have a hard time understanding why that is the case. You spent 15 years at the Office. Can you tell me why more legislative proposals are not more forthcoming?

Mr. HUTTER. What I would like to do, Senator, is to let you know that we are working now with OMB with, I think, 93 proposals at this point in time on subject matter that range across the subject matters that are under the responsibility of the Department, and we are working with them in concert with the 2009 budget process to winnow that population down to the right number and to provide those to you during the budgetary process.

So, 93 is a fairly large number of bills—

Senator MURRAY. Have those been in the pipeline for a while?

Mr. HUTTER. Some of them have been in the pipeline in previous years. Some of them are current. Some of them are brand new. Many of them are brand new proposals based upon the exigencies of OEF/OIF and the current challenges that we have in front of us. I don't have the numbers in front of me, but I would be more than willing to share with you what I can of the nature, in a general sense, of those bills and where they are.

Senator MURRAY. I think this Committee would be interested in seeing the general nature of that.

Mr. HUTTER. I will share what I can.

Senator MURRAY. OK. I also wanted to ask you about the VA's capacity to care for the large influx of men and women returning with issues from Iraq and Afghanistan. I am particularly interested

in mental health care and know that one of the biggest problems we are facing that we haven't gotten a handle on is the issue of suicide. The Army recently released a report that found suicide rates are at the highest they have been since 1981 and that there have been several high-profile suicides of veterans who have reportedly been denied care by the VA. I am sure you are aware of that.

One of the cases is Lance Corporal Jeffrey Lucy. As you know, Corporal Lucy's family has filed a wrongful death suit against the VA, alleging that the agency denied him mental health care. Now, I know that lawsuit is pending and you can't speak on the specifics of that case, but can you tell us what the Office of General Counsel is doing to make sure that our employees who are out in the field know that they have got to provide immediate care for veterans like Corporal Lucy?

Mr. HUTTER. Senator, I know you are aware of our suicide prevention hotline that our office helped the program office initiate just a few months ago. I am sure you are also aware that we have had over 4,500 calls to that hotline, and I believe that there have been 145 referrals to our hospitals as a result of that hotline. That suicide prevention hotline is a major step in that direction and we helped to review the policy and make sure that it was proper.

With respect to the care of individual veterans across our country, we have been in partnership with our VHA colleagues where sometimes an individual is reluctant to come to our medical centers for treatment in the mental health arena for various reasons, whether it be a stigma concern or other reasons, and we have worked with our colleagues in VHA where such an individual has been identified to work with the local court systems, to work with the local police departments, to encourage—and other support systems in the community—to encourage that veteran and that veteran's family to find either community processes or, if necessary, in the extreme, legal processes at the local-State level to encourage that individual to come in for care.

Senator MURRAY. That is one side of the issue, the stigma issue where people don't seek care, and I realize we have to do a lot more to reach out and find these young people and get them into whatever place we can to help them. I am asking specifically about the number of cases we are hearing where someone has come to a VA facility and been told to wait in line; there isn't care available, and it ends up in a suicide. Are we reaching out to our field employees to make sure they understand their responsibility in not turning these people away?

Mr. HUTTER. Senator, my folks are reaching out to the hospital directors in order for them to understand all of the ways that are within the law and within the policy and regulation that they can reach out—through the Vets Centers, through their CBOCs, through any means that they have to reach out to the field to work through this.

Senator MURRAY. I understand that aspect. I am asking about those veterans who come to a VA facility and are told that they can't get in.

Mr. HUTTER. Senator, as I know you know, this is in the VHA lane and I will work with Dr. Kussman and his folks to ensure that

they understand all of the means that they have available to them; to admit these veterans and to put them at the head of the line, so to speak; to ensure that they have a means to get in as quickly as possible. In fact, we are in the process now of looking at legislation that will allow VHA to do just that for all mental health issues.

Senator MURRAY. OK. And Mr. Chairman, if I could ask just one more question very quickly. On the delay on benefits that we have heard so much about—in fact, Secretary Nicholson said that reducing it from 177 days to about 150 days is all he can see happening, which is still way, way too long—I notice that Professor Bilmes of Harvard University—I think that is how you say her name—suggested that we change the system to stop examining each application and instead automatically accept all disability claims and then audit a sample of them, similar to what the IRS does. I know the IRS is not similar to health care. I understand that. But can you share your thoughts with this Committee on a process like that?

Mr. HUTTER. Senator, I have spoken with our veterans service organization colleagues about this very issue, as well as internal to the VA. Because of the juxtaposition of health care and claims and that overlay of determining the health-related concerns, I think it would be a very challenging process to put into place. Notwithstanding that, the Secretary—I was present when the Secretary met with, I think it is Professor Bilmes—

Senator MURRAY. Bilmes, that is right, yes.

Mr. HUTTER [continuing]. From Harvard, and the Secretary as well as the entire staff was charged and energized with the concept of trying to figure a system, either the system that Professor Bilmes proposed or something akin to that, and we are working with the Chairman of the Board of Veterans Appeals and with elements of VBA to work through a way we might be able to do that right now.

Senator MURRAY. OK. I appreciate your taking a look at that and letting us know whether there is a way to move to that or whether it is not going to be feasible. Thank you very much; and thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Murray.

Now let me call on Senator Johnny Isakson for your statement or questions.

**STATEMENT OF HON. JOHNNY ISAKSON,
U.S. SENATOR FROM GEORGIA**

Senator ISAKSON. I will be brief. I apologize that I missed your testimony, but I was on the floor making a speech, so I apologize very much. You obviously are eminently qualified. I read your biography.

I want to follow up on what Senator Murray just said. I think we do need to really evaluate our determination basis on these veterans. I had dinner last night with a number of people from my community. They came up and invited me to go to dinner at Old Ebbitt Grill. One of the guys is a retired Marine and so he called Walter Reed and invited two wounded warriors. He asked the director of the hospital if we could take a couple of them to dinner, and a couple of them came. I sat at their table. Both of them se-

verely injured—by IEDs in one case; a rocket-propelled grenade, in another case—suffered extensive injuries. and are on an outpatient basis, still being treated at Walter Reed.

Their comments about health care at DOD were nothing but spectacular, which is what I have always heard; but the hand-off of their colleagues from DOD to VA, problematic at best.

I think Senator Murray was referring a minute ago to the benefits issue. There seems to be a gap between the communication of benefits you have while you are on active duty and what your benefits are when you go into VA, particularly with regard to health-related issues.

So, that is kind of a statement, not a question, but I would assume the General Counsel's Office would have standing to look at ways, in the legal interest of the Veterans Administration, but equally in the interest of our soldiers, as to how we could improve that.

I have two questions. You will have 402 lawyers under your command, according to some of the responses here, 677 FTEs.

Mr. HUTTER. Correct.

Senator ISAKSON. What consumes the majority of the time of those 402 lawyers? What issue, or what area of issues?

Mr. HUTTER. Sir, it is a collective bag. I must say that the largest concentration of lawyers that we have is focused on defending the Secretary in front of the Court of Appeals for Veterans Claims, and that is about 42 lawyers right now. Their caseload is significant and, through your good offices, we have an expectation of being able to hire 15 more with the fiscal year 2008 budget that we are looking forward to.

Senator ISAKSON. Excuse me for interrupting, but these 42 are representing the Department, as they should, in legal cases that have been filed based on claims for disability?

Mr. HUTTER. Yes, sir, any benefit defined broadly that a veteran is dissatisfied in what he has received from the Department—either at the regional office level or by the Board of Veterans Appeals or in some cases by the Veterans Health Administration—can be appealed to the court, and the backlog at the court or the caseload at the court right now is about 4,000 cases. And we, with few exceptions, have to represent the Department with respect to those cases.

Senator ISAKSON. Out of interest and curiosity—the biggest things we are dealing with in the Congress with our veterans is PTSD and Traumatic Brain Injury, many of which are latent. You don't necessarily have a physical injury that is apparent and sometimes they are latent before they actually come about. Where is the Department in dealing with that determination factor, when a veteran comes in after being separated from the military for some period of time? What is the line that you draw there?

Mr. HUTTER. Senator, as a result of our research—our long-standing research in this area, more recently with TBI—every veteran who comes to a Veterans Medical Center or a CBOC now gets evaluated for TBI, whenever they come in. And that is also true for PTSD.

Now, I am stepping a little out of my lane and into Dr. Kussman's lane, but I wanted you to know that that is the state-

of-the-art, and there is an extensive checklist that every specialist at the medical center goes through with each veteran to ensure that the diagnosis, if possible, is made at the time that that veteran comes to us.

Senator ISAKSON. I want to just make you aware of something. I held a hearing, Mr. Chairman, at the Augusta VA during the August break and, quite frankly, the Augusta VA and Eisenhower Medical Center is the one example in the country, and General Schoemaker did this, where you have a seamless transfer. In fact, VA is actually doing physical rehabilitation for active duty soldiers. They seamlessly go back and forth based on the needs and the specialties.

But on this TBI issue, I was touring the hospital and I ran into a young lady, a sergeant who was in fatigues and in uniform. I was introduced to her and the VA doctor said, you need to know something about this lady. He said, she was hit and her convoy was hit with an IED the second day she was in Iraq and she suffered a Traumatic Brain Injury and she was separated from the military because they couldn't, after treating it, cure it. She went into the VA. The VA corrected the TBI. She reenlisted and went back in the military and was on her way back to Iraq.

The point I make there is this: the better job we can do in this transfer to VA and DOD, a lot of these people who—I hate to use this term—may be falling through the cracks will not fall through the cracks and might, in fact, be rehabilitated on a much faster basis than they would otherwise.

So I would encourage, from a legal side, anything you can do to help on that transfer from DOD to VA care and the rights of those soldiers and the attention to them, I think, would do a great service to our country and to our soldiers.

I am sorry I took so much time, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Isakson.

I would like to ask Senator Burr whether you have any further questions.

Senator BURR. No.

Chairman AKAKA. I don't have any further questions.

Senator ISAKSON?

Senator ISAKSON. No, sir.

Chairman AKAKA. Well, in closing, I again want to say *mahalo nui loa* and thank you, Mr. Hutter, and *mahalo* to your family, as well, for your presence here today.

As you know, every organization needs an unquestioned leader. It is not optimal for the Office of General Counsel to have an acting leader for an indefinite period of time. With this in mind, I say that only to tell you that I will work and the Committee will work to move Mr. Hutter's nomination to the floor as soon as possible.

I thank you so much for your responses and the presence of your family.

This hearing is adjourned.

[Whereupon, at 10:23 a.m., the Committee was adjourned.]

**HEARING ON THE NOMINATION OF MICHAEL
W. HAGER TO BE ASSISTANT SECRETARY,
HUMAN RESOURCES AND MANAGEMENT,
U.S. DEPARTMENT OF VETERANS AFFAIRS**

WEDNESDAY, NOVEMBER 14, 2007

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:11 a.m., in room 562, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

Present: Senators Akaka and Burr.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN,
U.S. SENATOR FROM HAWAII**

Chairman AKAKA. The Committee on Veterans' Affairs will now come to order. The Committee is here today to consider the nomination of Michael W. Hager to be VA's Assistant Secretary for Human Resources and Management. I am pleased to welcome Mr. Hager and his family here today and look forward to your testimony.

Mr. Hager, if confirmed, you will be responsible for coordinating five major program areas within the Department, including diversity management and equal opportunity, human resources management, labor-management relations, resolution management, and administration. The leadership and program direction that your office provides for the Department impacts veterans on a daily basis by responding to the needs of a VA workforce of over 250,000 permanent and temporary employees who are directly or indirectly responsible for delivering health care, benefits, and memorial services.

As Assistant Secretary, you will have the daunting task of managing VA's human resources activities during a period when VA is confronted with the challenges of a growing retirement-eligible workforce, health care provider shortages, and delays in delivering benefits due to personnel shortages. Included in your responsibility for administering VA's labor-management relations program is the oversight of negotiations and implementation of master agreements with five national labor unions.

The quality of care and the efficient delivery of benefits to servicemembers is contingent upon VA's ability to recruit and retain a quality workforce. When carrying out this responsibility, you will need to appreciate the unique relationship that VA employees

have with the veterans they serve. This relationship goes beyond the bottom line and is based upon maintaining a workforce, many of whom are veterans themselves, that has a sense of service and dedication. As you so aptly quoted Omar Bradley in your response to pre-hearing questions, and I am quoting, "We are dealing with veterans, not procedures, with their problems, and not ours."

Mr. Hager, your 35 years of experience in human resources coupled with your general management experience suggests that you have the qualifications for taking on the challenges of this office. Assuming you are confirmed, I urge you to work closely with the three VA administrations and key staff offices to develop workable and viable succession plans while improving hiring practices so that the delivery of care and benefits to veterans is not disrupted by a change in workforce.

In closing, I note that the nominee has completed the Committee questionnaire for Presidential nominees and responded to my pre-hearing questions, all of which will appear in the hearing record.

Chairman AKAKA. Also included will be a letter from the Office of Government Ethics acknowledging that Mr. Hager is in compliance with laws and regulations governing conflicts of interest.

Chairman AKAKA. I welcome you here. Senator Burr?

**STATEMENT OF HON. RICHARD BURR, RANKING MEMBER,
U.S. SENATOR FROM NORTH CAROLINA**

Senator BURR. Mr. Chairman, thank you. Let me again thank you for taking up the key issues before this Committee today. We just completed one important responsibility by reporting a number of bills that I think will improve the lives and the health care provided to our Nation's veterans. Now we turn to another important responsibility of this panel and the Senate and that is the timely consideration of the President's nominees to important positions within government.

Mr. Hager, I want to welcome you and your family, and I think maybe a grandson—I hear the cries from over there. It is a delightful sound to know that there is another generation that will soon be in the system.

Mr. Chairman, clearly, all of the senior positions at the Department of Veterans Affairs carry responsibilities that are essential to the everyday operations of that very important agency. But, perhaps there are few positions that are as vital as the one that Mr. Hager would fill, if he is confirmed, and I have every reason to believe that he will be.

VA employees are the backbone of the health care and benefits system. It is essential that the VA have in place a plan and a vision for recruiting and retaining tomorrow's dedicated VA professionals. Mr. Hager has an incredible amount of experience in overseeing the human resource programs at a number of large American companies, and I think you highlighted those. Those qualifications speak for themselves and have prepared him well to lead the Office of Human Resources at the Department of Veterans Affairs.

Mr. Chairman, I had an opportunity to sit down with our nominee to personally talk to him—not just to ask him questions about his background, but to ask him questions about why he is doing what he is doing. Clearly, this is an undertaking that not every-

body would want. In the meeting, I found him to be a serious and dedicated professional; a person with a desire to serve veterans. But, more importantly, I found him to be a person that truly did understand that sometimes we are asked to serve our country and this is one of those times. There is no doubt in my mind that his commitment to his family and his country are the two most important things to him. Based on these factors, I intend to support his nomination.

It is my hope, Mr. Chairman, that we can expedite this nomination, we can get him confirmed, and the Committee can focus on the confirmation process of General Peake. Hopefully, before we complete this calendar year we would have a full complement at the VA, so that we can move forward with the debate on legislation that we have talked about this morning, and also two recent commission reports on veterans' benefits and where we go from the standpoint of this Committee.

I know one thing, it is impossible for us to move forward with substantive changes unless we have a full complement of people in place at the VA. This is one vitally important piece that I think we can take care of in a very quick manner and, hopefully, move on to the nomination for Secretary.

Mr. Chairman, I want to thank you for having this hearing. I also want to apologize to you and to Mr. Hager because I am being called right now down to a markup on the fourth floor that I can't miss because it is my bill. That means that I may not be here for the testimony or for the questions. But let me assure the Chair that I have asked Mr. Hager every question that I could possibly pose to him and he answered them better than I ever dreamed he could. I thank the Chair.

Chairman AKAKA. Thank you very much, Senator Burr.

Before I swear you in and ask for your opening statement, Mr. Hager, in the room I hear what I consider beautiful sounds this morning, and I note that you are accompanied by your family. Before I swear you in, may I ask you to please introduce your family to us.

Mr. HAGER. Sir, with pleasure, and thank you very much. I have my wife of 40 years (almost 40 years), my daughter (really my daughter-in-law), and grandson, Christopher, who just stepped out of the room. [Laughter].

I have a son, Mitch, on the Gulf Coast working to help rebuild the Gulf Coast, and I have a son, Christopher, Senior, who is a physician in Lancaster, Pennsylvania, trying to serve his patients—who, by the way, received part of his medical training with the VA. So, sorry he couldn't be here today. But that is my family, the love of my life, and I thank you for asking.

Chairman AKAKA. Well, thank you very much. I want to welcome your family to this hearing and wish you well in your efforts here.

Will you please stand and I will administer the oath. Will you please raise your right hand.

Do you solemnly swear that the testimony you are about to give this Committee on Veterans' Affairs is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. HAGER. Yes, sir.

Chairman AKAKA. Thank you very much. Let the record note that the witness responded in the affirmative.

Mr. Hager, will you please begin with your testimony.

STATEMENT OF MICHAEL W. HAGER, NOMINEE TO BE ASSISTANT SECRETARY, HUMAN RESOURCES AND MANAGEMENT, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. HAGER. Mr. Chairman and Members of the Committee that were here a short time ago, I do thank you for the privilege of being here today. I am indeed honored and humbled to be nominated by President Bush to serve as Assistant Secretary for Human Resources and Administration for Veterans Affairs. I am also honored by Acting Secretary Gordon Mansfield and former Secretary Jim Nicholson for their support of my nomination.

The Department of Veterans Affairs is the second largest, and one of the most diverse of all cabinet departments in the U.S. Government. It touches the lives of millions of veterans, their families, and their dependents every year.

The Chief Human Resources Officer for the Department must provide the leadership, oversight and management of all human capital programs and provide high-quality administrative services to the Office of the Secretary and VA's central office community. To be effective, the leader of H.R. must be an active advisor to the Secretary and leadership team, on all Human Capital asset programs.

As you have indicated, I began my preparation for this assignment some 35 years ago, working for a defense and aerospace contractor, Rockwell International. I have been fortunate to have been assigned to increasingly responsible managerial assignments in challenging and complex environments. These experiences included being the head of Human Resources for 15 years for Banc One Corporation, where our employment grew from some 7,000 to about 60,000 employees.

The position I now seek, Assistant Secretary for Human Resources and Administration for the Department of Veterans Affairs, would be considered the pinnacle of a long career. My inspiration to step out of a successful career path in private for an opportunity to serve the government came from heroes such as Corporal Pat Tillman.

My opportunity came 27 months ago when I was named Associate Administrator for Capital Access for the SBA, Small Business Administration. As head of Capital Access, I manage an investment loan portfolio of about \$80 billion. I also chair the implementation of the new program, a loan management and accounting system that will replace the legacy system at the SBA.

My views for the leadership role for which I am being considered are straightforward and built on a foundation of clear communication, transparency, full disclosure, play-by-the-rules policy, proper controls, fairness, ethics, performance culture, human capital business integration, trust, and respect.

Human Resources must ensure a line of sight between its mission/strategies of Veterans Affairs and the mission/strategies of the Veterans Affairs and the needs of American veterans and their families. The Department must focus energies on VA mission strat-

egies, create leadership accountability, honor commitments, build individual capabilities, recognize contributions, and address performance issues.

If confirmed, I commit to a close working relationship, as you indicated in your opening comments, with the Secretary, the Deputy Secretary, and the entire team of the Department. I am mindful the time available for my tenure is very limited, and therefore will place emphasis on the value of each day, every day. Listening and learning will be a critical part of my success.

I close by stating the core of my passion to fulfill the expectations as the VA's Chief Human Resource Officer is fueled by the promise of President Lincoln, ". . . to care for him who shall have borne the battle and for his widow and his orphan . . ." If confirmed, I will strive to serve and honor the men and women who are America's veterans.

Thank you, Mr. Chairman, and I would be delighted to respond to any questions.

[The prepared statement of Mr. Hager follows:]

PREPARED STATEMENT OF MICHAEL W. HAGER, NOMINEE FOR ASSISTANT SECRETARY,
HUMAN RESOURCES AND MANAGEMENT, DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman, Senator Burr, and Members of the Committee, I want to thank you for the privilege of being here today.

I am, indeed, honored and humbled to be nominated by President Bush to serve as Assistant Secretary for Human Resources and Administration for Veterans Affairs.

I am also honored by Acting Secretary Gordon Mansfield and former Secretary Jim Nicholson for their support of my nomination. The Department of Veterans Affairs is the second largest and one of the most diverse of all Cabinet departments in the U.S. Government and touches the lives of millions of veterans, their families, and their dependents each year.

The Chief Human Capital Officer for the Department must provide the leadership, oversight and management of all human capital programs and provide high quality administrative services to the Office of the Secretary and VA's Central Office community. To be effective, the leader of Human Resources must be an active advisor to the Secretary and leadership team on all human capital asset management programs.

I began my preparation for this assignment some 35 years ago working for a Defense and Aerospace Contractor, Rockwell International. I have been fortunate to have been assigned to increasingly responsible managerial assignments in challenging and complex environments. These experiences included being the head of Human Resources for fifteen years at Banc One Corporation where employment grew from 7,000 employees to about 60,000.

The position I now seek, Assistant Secretary for Human Resources and Administration for the Department of Veterans Affairs, would be considered the pinnacle of my long career. My inspiration to step out of a successful career path in the private sector for the opportunity to serve our government came from heroes such as Pat Tillman. My opportunity came twenty-seven months ago when I was named Associate Administrator for Capital Access for the Small Business Administration. As head of Capital Access I manage an investment and loan portfolio of approximately \$80 billion. I also Chair the implementation of a new Loan Management Accounting System.

My views for the leadership role for which I am being considered are straightforward and built on a foundation of: clear communication; transparency; full disclosure; "play by the rules" policy; proper controls; fairness; ethics; a performance culture; human capital/business integration; trust; and respect.

Human Resources must ensure line of sight between its Mission/Strategies and the Mission/Strategies of Veterans Affairs and the needs of American veterans and their families. The Department must focus energies on VA Mission/Strategies, create leadership accountability, honor commitments, build individual capabilities, recognize contributions, and address performance issues.

If confirmed, I commit to a close working relationship with the Secretary, the Deputy Secretary and the entire leadership of the Department. I am mindful that

the time available for my tenure is limited and therefore will place emphasis on the value of each day . . . every day. Listening and learning skills will be critical to my success.

I am privileged to introduce my wife, Donna.

I close by stating the core of my passion to fulfill the expectations as the VA's Chief Human Capital Officer is fueled by the promise of President Lincoln~ ". . . to care for him who shall have borne the battle and for his widow and his orphan . . ." I will strive to serve and honor the men and women who are America's veterans.

Thank you Mr. Chairman and the Committee for your time today in your consideration of my nomination.

I would be pleased to respond to any questions.

[The Committee questionnaire for Presidential nominees from Mr. Hager follows:]

QUESTIONNAIRE FOR PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

1. Name: Hager Michael Wayne
(LAST) (FIRST) (OTHER)
2. Present Address: 1000 Turkey Run Road McLean Virginia 22101
(CITY) (STATE) (ZIP CODE)
3. Position to which nominated: Assistant Secretary of Veterans' Affairs 4. Date of nomination: September 18, 2007
5. Date of birth: 17 November 1943 6. Place of birth: Bluefield, West Virginia
(DAY) (MONTH) (YEAR)
7. Marital Status: Married 8. Full name of spouse: Donna Farley Hager

9. Names and ages of children

Michael, Jr.	34		
Christopher Lee	31		

10: Education

Institution (including city and State)	Dates attended	Degrees received	Dates of degrees
Princeton High School Princeton, West Virginia	09/57to 08/61	Diploma	08/1961
Bluefield State College Bluefield, West Virginia	09/61to 12/71	BS/BA	12/1971

11. Honors and awards:

List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

- 2006 Small Business Champion Award
- _____
- _____
- _____
- _____
- _____

12. Memberships List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable, and other organizations for the last 5 years and any other prior memberships or offices you consider relevant

Organization	Office held (if any)	Dates
Honorary Commanders' Association		2001
NAACP	Chair / Central Ohio	1994
The University Club	Board Member	1992-1997
Business Roundtable	Chair / Employee Relations Committee	1997-1998
Republican National Committee		2005 Life Member
AARP		2004-2007
National Rifle Association		Current

13. Employment

record: List below all employment (except military service) since your twenty-first birthday, including the title or description of job, name of employer, location of work, and inclusive dates of employment.

Dates are approximate:

Rockwell International 1963-1978
Princeton, WV 1963-1971 Production Supervisor, Production Control, Wage/Hour Analyst
Detroit, MI 1971-1972 Technical Recruiter and EEO Administrator
Tilbury, Ontario 1972-1974 Human Resources Manager
Ashtabula, OH 1974-1977 Human Resources Manager
Chicago, IL 1977-1978 Group Director, Human Resources
McGraw Edison 1978-1983
St. Louis, MO 1978-1981 Division Director, Human Resources
Chicago, IL 1981-1983 Group Director, Human Resources
Bank One Columbus, N.A. Columbus, OH 1983-1988
1983-1985 Vice President, Human Resources
1985-1988 Senior Vice President, Human Resources
Banc One Corporation 1988-1998 Senior Vice President, Human Resources
Russell Corporation, Atlanta, GA 1998-2001
Senior Vice President, Human Resources
Freddie Mac, McLean VA 2001-2005
Senior Vice President, Human Resources
Small Business Administration, Washington DC 2005 to Present
Associate Administrator/ Capital Access

14. Military service: List below all military service (including reserve components and National Guard or Air National Guard), with inclusive dates of service, rank, permanent duty stations and units of assignment, titles, descriptions of assignments, and type of discharge.

15. Government record: List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments other than those listed above.

Advisory Board Member for CDFI, Treasury Department - Current

16. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

17. Political affiliations and activities: (a) List all memberships and offices held in and financial contributions and services rendered to any political party or election committee during the last 10 years.

\$5,000 Freddie Mac PAC
\$1,000 contribution to Friends of Rahn Emanuel
\$1,000 contribution to the Republican National Committee
\$750 contribution to the Republican National Committee
\$250 contribution to the Republican National Committee
Campaign worker for President Bush

(b) List all elective public offices for which you have been a candidate and the month and year of each election involved.

18. Future employment relationships:

(a) State whether you will sever all connections with your present employer, business firm, association, or organization if you are confirmed by the Senate.

Completed _____

(b) State whether you have any plans after completing Government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization.

No _____

(c) What commitments, if any, have been made to you for employment after you leave Federal service?

None _____

(d) (If appointed for a term of specified duration) Do you intend to serve the full term for which you have been appointed?

Yes _____

(e) (If appointed for an indefinite period) Do you intend to serve until the next Presidential election?

Yes _____

19. Potential conflicts of interest:

(a) Describe any financial arrangements, deferred compensation agreements, or other continuing financial, business, or professional dealings which you have with business associates, clients, or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None _____

(b) List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None _____

(c) Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None _____

(d) Describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any Federal legislation or for the purpose of affecting the administration and execution of Federal law or policy.

None _____

(e) Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements involved.)

N/A _____

20. Testifying before the Congress:

(a) Do you agree to appear and testify before any duly constituted committee of the Congress upon the request of such committee?

Yes _____

(b) Do you agree to provide such information as is requested by such a committee?

Yes _____

[A letter from the Office of Government Ethics follows:]



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

October 9, 2007

The Honorable Daniel K. Akaka
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510-6375

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Michael W. Hager who has been nominated by President Bush for the position of Assistant Secretary for Human Resources and Administration, Department of Veterans Affairs.

We have reviewed the report and have also obtained advice from the Department of Veterans Affairs concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated September 26, 2007, from the agency's ethics official, outlining the steps Mr. Hager will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with any action he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Hager is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick
Director

Enclosures

DEPARTMENT OF VETERANS AFFAIRS,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, September 26, 2007.

Mr. ROBERT I. CUSICK,
Director, Office of Government Ethics
Washington, DC.

DEAR MR. CUSICK: In accordance with section 2634.605(c) of title 5, Code of Federal Regulations, I am forwarding the enclosed Public Financial Disclosure Report (SF-278) of Mr. Michael W. Hager. President Bush has nominated Mr. Hager to serve in the position of Assistant Secretary for Human Resources and Administration of the Department of Veterans Affairs (VA). It is my opinion that Mr. Hager's report is complete and discloses no unresolved conflicts of interest under applicable law or regulation.

Mr. Hager has agreed pursuant to 18 U.S.C. § 208(a) that he will not participate personally and substantially in any particular matter that has a direct and predict-

able effect on his financial interests or those of any other person whose interests are imputed to him, unless he first obtains a written waiver under section 208(b)(1), or qualifies for a regulatory exemption under section 208(b)(2). Mr. Hager understands that the interests of the following persons and entities are imputed to him: his wife; minor children; general partner; any organization in which he serves as an officer, director, trustee, general partner or employee; and any person or organization with which he is negotiating, or has an arrangement concerning, prospective employment.

Mr. Hager will continue to receive pension payments from his former employers, JPMorgan Chase, Boeing North America and Federal Home Loan Mortgage. In addition he retains an interest in a split-dollar life insurance policy with Northwestern Mutual. Pursuant to 18 U.S.C. § 208, Mr. Hager has agreed not to participate personally and substantially in any particular matter that will have a direct and predictable effect on the ability or willingness of any of these entities to honor its obligation to pay his pension or life insurance benefits, unless he receives a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

These assurances resolve any concern about real or apparent conflicts of interest that may arise from Mr. Hager's report. Therefore, I have certified and dated the report.

Sincerely yours,

WALTER A. HALL,
*Assistant General Counsel and
Designated Agency Ethics Official.*

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA TO MICHAEL W. HAGER, NOMINEE TO BE ASSISTANT SECRETARY, HUMAN RESOURCES AND MANAGEMENT, DEPARTMENT OF VETERANS AFFAIRS

Question 1. How do you believe your background has prepared you for this job?

Response. My background of over 35 years of ever increasing leadership responsibility in human resources (HR), coupled with overall general management experiences, have well prepared me to meet the critical needs of the Assistant Secretary of Human Resources and Administration (AS/HR&A) for the Department of Veterans Affairs (VA). My career in H.R. began in the Defense and Aerospace Industry with Rockwell International. From the initial responsibilities of managing a compensation plan for one of Rockwell International's manufacturing plants to managing an \$80 billion loan and investment portfolio for the Federal Government's Small Business Administration, I feel well equipped to manage the VA's human resources function.

In recent years, I was part of a team that created a single "corporate culture" from an aggressive acquisition strategy that increased its human resources base from 7,000 to about 60,000 employees. I facilitated the complete replacement of a leadership team for one of the Nation's largest government-sponsored enterprises. My hands-on experience range from "Best of Class" succession planning, national recruiting strategies, operations consolidation, national benefits design and implementation, to national executive and non-executive compensation strategies. I have a strong background and personal interest in developing and implementing H.R. metrics, and of using metrics to foster a strong culture of performance and accountability. Bank One was recognized by one of the national leading authorities of H.R. strategy for creating an effective leading edge H.R. organization strategy.

In summary, I have been extremely fortunate to have assembled a long career of hands-on experiences that have equipped me to face immediate and strategic challenges managing human resources. I believe these experiences will enable me to meet and exceed the expectations expressed for the Assistant Secretary of Human Resources position at VA. If confirmed, I will immediately join the collective leadership of VA to serve America's veterans and their families.

Question 2. How would you define your job as Assistant Secretary for Human Resources and Administration?

Response. The AS/HR&A provides leadership and direction for the Office of Human Resources and Administration (HR&A), a major staff office of the Department of Veterans Affairs. The AS/HR&A reports directly to the Secretary of Veterans Affairs and serves as the principal advisor to the Secretary on human resources, occupational safety and health, workforce diversity, equal employment opportunity, discrimination complaint processing (resolution management), labor-management relations, and administration matters.

The AS/HR&A heads a major organizational staff component in the Department of Veterans Affairs, and serves as advisor to top management officials of the Department in those areas under the jurisdiction of HR&A.

The AS/HR&A is responsible for the development and administration of an \$94 million annual budget, providing leadership and program direction to approximately 527 employees nationwide, and advisory services to autonomous human resources management officers, Equal Employment Opportunity (EEO) officers, and others administering field programs under the HR&A's jurisdiction.

Through the development and implementation of policies and programs designed to enhance the Department's effectiveness and efficiency in managing its workforce, the AS/HR&A responds to the needs of a diverse workforce of approximately 254,000 employees directly or indirectly responsible for delivering health care, benefits and memorial services to veterans. The AS/HR&A also provides technical oversight for the agency's human relations offices and professional workforce, providing policy guidance and support through site visits and educational meetings.

Pursuant to the Homeland Security Act of 2002, the Assistant Secretary of Human Resources and Administration is the designated VA Chief Human Capital Officer (CHCO). The authorities and functions of the CHCO include:

- Setting VA's workforce development strategy
- Assessing future workforce needs
- Aligning HR's policies and programs with VA's mission
- Advocating a culture of continuous learning
- Benchmarking best H.R. practices
- Measuring intellectual capital links with organizational performance and growth.

Question 3. What has Acting Secretary Mansfield told you to expect from your new position?

Response. Acting Secretary Mansfield personally conveyed several issues for me to address if confirmed as the Assistant Secretary for Human Resources and Administration (AS/HR&A).

Today the H.R. organization is dispersed within the elements of VA: the Headquarters, Veterans Health Administration, Veterans Benefits Administration, and National Cemetery Administration. There is an opportunity to expand the agency's human resources capacity by more effectively leveraging the four units to positively affect policy application and add enhanced service delivery to the end user of H.R. services.

Like many other departments and agencies, VA's hiring process can be untimely and result in the end users of human capital having their needs constrained as they deliver services to veterans and their families. H.R. will work to reduce the hiring process cycle and accelerate the on-boarding of new employees. The AS/HR&A will review rapid-hire procedures with OPM to create an optimal process. The AS will be expected to present an action plan for streamlining to VA's executive leadership group within the next 4 months.

H.R. is the "go to resource of information" for numerous niche talent pipelines such as the intern program, distinguished hire program, and the physician/nursing program. Today, such programs are underutilized due to lack of communication or promotion. H.R. will conduct an inventory of all pipeline programs and work with the three business lines to communicate availability and promote participation in these programs.

Over the next 4 months, the AS/HR&A will be expected to complete an assessment, and reengineering of the headquarters (HQ) and line of business training programs to achieve optimum advantage throughout VA from existing programs and offer career path development to maximize human capital intellectual potential. "Best of Class" benchmarking within the Federal Government and private industry will be assessed for potential duplication.

Having entered the retirement age of baby boomers, it is essential that VA aggressively implement its succession plan. The potential drain on our human capital may be significant and the maintenance of available human capital talent will be critical. When loss of talent occurs, plans must be relied upon to quickly fill critical vacancies.

In support of succession planning and routine staffing requirements, an inventory of hiring inducements must be effectively conducted and communicated within VA. We must leverage program enhancements and ensure consistent application of them throughout VA. We will create programs that offer individual incentives to move from low-cost to high-cost areas of the country. Specific programs are critical to ensure physicians and nurses are available across the country.

The Nursing Academy must be assessed for potential expansion into other areas of health care. These areas will include mental health professionals, rehabilitation specialists, social workers, and other psychological and psychiatric experts.

Question 4. What do you believe are the most pressing challenges confronting the Office of the AS/HR&A?

Response. VA faces significant challenges in ensuring it has the appropriate workforce to meet current and future needs. Workforce and succession planning represent both significant challenges and opportunities as VA prepares to lose many of its knowledge workers to retirement. As of September 2007, with a total population of 254,578 employees, 47,631 were eligible to retire. The challenge for the Office of the AS/HR&A is ensuring the Administrations integrate their workforce and succession planning targets and goals into VA's strategic planning process and embrace automating transactional H.R. processes. VA must also place a strong emphasis on recruitment, retention and development of minorities, women, and people with disabilities for leadership positions to ensure service to all veterans is fair and sound.

The Office of the AS/HR&A faces a continuing challenge as it seeks to ensure that the Department can effectively manage its workforce while also meeting its labor relations obligations. VA has the second largest workforce in the Federal Government, and the majority of its employees are represented by Department's five national unions. The challenge for the Office of the AS/HR&A is to ensure that the Department works well with the unions, and the unions work well with VA, such that critical management initiatives can be implemented quickly to meet the needs of veterans and their families.

With respect to discrimination complaint processing, one of the Office of the AS/HR&A most pressing challenges is ensuring compliance with the Equal Employment Opportunity Commission's (EEOC) statutory timeframes while maintaining quality. During fiscal year (FY) 2007, like many Federal agencies, we experienced a challenge in meeting the 180-day timeframe for completing investigations. After implementing an aggressive plan of action in December 2006 to address this issue, the Office of Resolution Management (ORM) improved its cumulative average processing time for investigations by 15 percent. Beginning in fiscal year 2008, we will process all our investigations within the EEOC's timeframes, making VA one of the best performing government agencies in terms of complaint processing.

Other challenges include providing the leadership and oversight to obtain commitment at all levels to achieving the President's Safety, Health, and Return-to-Employment goals and meeting the Department's socio-economic goals. The Office of Administration serves as VACO's Simplified Acquisition Office and provides procurement operations for VA Central Office. Finding qualified small disadvantaged businesses to meet the needs of the Department is difficult but not impossible. For the past 3 years, VA Central Office has met or exceeded these socio-economic goals in support of minority, women, or veteran-owned small businesses.

Question 5. What are your immediate and long-term priorities for the office?

Response. As stated, VA has entered a critical, new era with its workforce. Today's leadership will be long remembered for its success or failure in dealing with human capital issues.

For the near term, the Department must create infrastructures that enable VA's leadership to effectively manage the Federal Government's second largest employee body of approximately 254,000 employees. The Department must move from a paper processing operation to an electronic infrastructure. The Department must create an ability to incorporate flexibility, speed, and automation that will in turn enable VA to more effectively deal with veterans and their families' needs. The words of Omar Bradley ring as true today as they did in 1947, "We are dealing with veterans, not procedures; with their problems, not ours."

This electronic transformation is well underway in several areas of H.R., including the conversion of employee files from paper to an electronic format.

Longer term, the Department is challenged with a "War for Talent" coupled with its ever aging workforce. The Department must create new venues to attract a robust pipeline of talent that will serve the critical needs of all three of its business centers. Programs ranging from leadership development to on-the-job training for entry level employees must become a reality. The use of veterans' pools must play a critical strategic role in meeting the needs of VA service providers.

As AS/HR&A I will be challenged to create the formal and informal links with VA's organizations needed to foster an environment of intellectual growth and vigor and the day-to-day practicality to sustain results, accomplishment, and accountability. During my tenure as AS/HR&A the CHCO position will move to a performance-based culture that will sow the seeds of short-term and long-term success.

Question 6. What are your views on training AS/HR&A's employees nationwide?

Response. HR&A faces an ever increasing demand for its services delivery to the three main veterans' providers, Veterans Health Administration (VHA); Veterans Benefits Administration (VBA); and National Cemetery Administration (NCA). As the service delivery to veterans and families continues its record-breaking pace, the demand for quality services to providers becomes critical. Tactical and strategic training and development programs are essential.

In fiscal year 2006, H.R. conducted a thorough competency assessment and subsequent gap analysis for its field staff for 22 identified competencies. The program was designed to provide the basis of a training and development foundation. This foundation will enable H.R. to pinpoint training needs/programs in contrast to traditional programs designed for "one program fits all." HR&A is currently in the process of developing resources to address the largest competency gaps identified during its diagnostic process.

HR&A has partnered with the three Administrations and the Office of Information and Technology to develop a virtual H.R. Academy. This H.R. Academy, currently in the developmental stage, will provide coursework to address 22 competencies identified as necessary. The first step will be to provide all VA H.R. professionals the opportunity to participate in one of three pilot H.R. certification programs through a partnership with the USDA Graduate School. At the completion of the program, professionals will have the conceptual, technical and procedural knowledge and skills necessary for an H.R. practitioner. VA-specific coursework will be developed for mid-level and senior-level H.R. professionals. This coursework will expand the participants' competencies and build on the technical knowledge and concepts previously obtained through classroom, online, university, or on-the-job training.

In summary, training H.R. employees nationwide is critical to accomplish short-term and long-term performance and service delivery objectives. Training at all levels of the organization is essential. Finally, as authorized in the Homeland Security Act of 2002, HR&A must also apply methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth. HR&A must be accountable and measure that effectiveness of its training initiatives.

Question 7. Given the aging Federal workforce, how will you address the need for succession planning for VA's workforce?

Response. VA's workforce succession planning is considered a "best practice" within the Federal Government. In 2003, the American Hospital Association predicted rapid growth in eleven selected health care occupations. Eight of the eleven occupations are identified as "mission critical" in VA. The H.R. function will focus on health care delivery positions inasmuch as the vast majority of our approximately 254,000 positions work for the VHA and represent the biggest challenge for our recruitment staff.

VA has achieved an outstanding record in health care turnover. By conducting an in-depth analysis of the workforce, coupled with the implementation of several succession initiatives, major advances have been achieved. The turnover rate in 2006 for VA health care workers was 9.9 percent, compared to the overall health care industry's turnover rate of 20.3 percent.

In addition to specific succession planning initiatives there are several other programs designed to protect the VA's human capital. These programs include:

- 1) Programs to hire veterans (current workforce population—31 percent);
- 2) Hiring annuitants;
- 3) EEO Federal Career Intern Program;
- 4) Student Temporary Employment Program (STEP) and the Student Career Experience Program (SCEP)—both available to all levels of degree-seeking students;
- 5) Noncompetitive hiring authorities for the employment of qualified persons with disabilities;
- 6) The use of retention bonuses and other incentives to attract high-quality candidates (forgiveness of student loans).

Although VA's total veterans' workforce population is the largest in the Federal Government, I am personally committed to maximize the hiring of veterans and disabled veterans. I am committed to those veterans who face the most challenging task for career opportunities; those who have experienced a loss of limb/limbs; those who have suffered spinal cord injuries; and those who have suffered traumatic brain or neurological injuries.

The success of all succession planning initiatives is driven and evaluated using performance/outcome matrixes. Targets will be established and routinely tracked and reported to VA senior leadership.

Chairman AKAKA. Thank you very much, Mr. Hager, for your testimony.

You alluded to this, but specifically, I wanted to ask you, what do you see as VA's principal challenge or principal challenges in recruiting, training, and retaining a high-quality of workforce?

Mr. HAGER. I think, clearly, in your opening comments, you have identified those key challenges. It is the talent, it is the training of that talent, and it is, I believe, technology to drive processes within the VA because of the sheer size of it. To drive processes from a paper-intensive bureaucracy that takes a long time sometimes to reach conclusion, to a value-added process of using technology where at all possible.

I believe that there needs to be a major focus on how we can develop a stronger pipeline of talent, and quite frankly, how we can increase the veteran population within the VA. I think it is a resource of talent, a pipeline of talent that we can increase participation. I think in particular because of the need, a special interest needs to be placed on those veterans with major injuries, loss of limb. We heard today about the mental health issues that are being dealt with. But those all become issues that I believe need very much to be a target of creating pipelines of talent into the VA.

Chairman AKAKA. As you know, Senator Voinovich and I have been working diligently and pressing hard on what we call human capital issues and this is what we are talking about. It is working with people and getting people to be able to do the best job they can. It is a huge effort. And for me, I feel it important knowledge that people need to know how to serve in the position that they have, as they work with people—in this case, veterans. I have been appalled at times when I get complaints of workers who almost completely reject the veterans. I wonder, what are they doing in that job if that is true. They need to feel that they are there to help veterans with their job and the responsibility they have.

Mr. Hager, what leadership lessons have you learned from your over 35 years of experience in the private sector and your 2 years of government service will be of most use to you in this position. So my question to you is what leadership lessons have you learned in those years?

Mr. HAGER. I think the only way to achieve full engagement of the employees is through inspired leadership. I think the individuals that you mentioned that are not friendly to the veteran, I would challenge the leadership of that group to say there is something wrong here. The mission is strong for this Department. It is the strongest in our government. There can be no greater mission, in my opinion, than to serve the veteran.

I had an interesting experience at a VA hospital yesterday. Before I came here, I wanted to go through a process center, hospital, meet each of the under secretaries and as much of the leadership staff as I could. In walking through a hallway and meeting a manager in charge of nursing and hearing about her story of creating a volunteer group to go out to Andrews to welcome home critically injured troops that hadn't seen their families yet—giving up their personal time on the weekend to do that, waiting recently on a plane that was supposed to land at 3:30 in the afternoon. It was 4 hours late and they were told, well, you can go home now. And

they said, "No, we are staying. We are here for a purpose." She talked about the mission. Our mission is so strong and our dedication to reach out to these warriors, these troops, is overwhelming. I have asked to go out with them, if confirmed, in the near future to experience the same thing.

So, I think the leadership is the difference. You can look at whether it be the VA or another department of the government or certainly within Congress—accomplishments are, I believe, driven almost exclusively by strong leadership. With it, much gets done. Without it, it is failure.

Therefore, as I indicated in my comments, every day is important because there are so few days left, and make the most out of every day and drive the agenda of strong leadership. We don't have to drive the mission, it is there.

Chairman AKAKA. Mr. Hager, in your response to pre-hearing questions, you indicated that one of your immediate priorities would be moving VA from a paper processing operation to an electronic infrastructure. You have also, in your prior remarks, mentioned technology here. What processes do you view as most in need of going electronic; and second, what ideas do you have to make these improvements?

Mr. HAGER. I was hoping you would ask me this question. When you walk into the hospital environment—and again, I experienced it yesterday—one of the things they are most proud of is the electronic case and file that they have in the hospital. And what that has done to focus care, what it has done for the patient, it is unbelievable. What it has done to reduce costs of processing is unbelievable.

My son, who is now a physician, to this day talks about the VA patient technology that was implemented several years ago. I believe a similar process can occur with employee files. I believe a similar process can occur with a vast amount of hiring that takes place, recruiting within the VA, to optimize the use of technology.

Many programs are beyond the discussion stage in the VA, and I have been delighted to hear about programs that are either on a drawing board or just beyond it. For example, some 5,000 employee files per week are being converted to an electronic paperless process with some of the most stringent quality checks that I have ever seen in private. That process is well underway and will incorporate an incredible amount of facilitation for processing 254,000 employees.

I see the same thing in the recruiting side, to be able to assist leadership/managers in identifying candidates for open positions and, hopefully, technology that enables a prospective employee to fill out a profile so that we can hone in on those skills that we desperately need and complete a screening process before we get into a huge paper processing scenario.

I do believe that we can enhance the quality of service, we can enhance the retention of the people we hire, and we can achieve something close to what has been done on the patient side. So, technology is something that, if confirmed, from day one until the day I leave my position I will incorporate with intensity.

Chairman AKAKA. Also, in your responses to pre-hearing questions, you identified a problem that has plagued VA for some

time—how to reduce the hiring process cycle and accelerate bringing new employees on board. In your experience and given the limited time you will have with the Department, how can this problem be addressed, especially in view of the projected appropriation for 2008 that will allow VBA to substantially increase staffing in order to address the current claims backlog?

Mr. HAGER. I want to see this process improved, and I have had this discussion with the Acting Secretary. I want to see us leverage the resources that we have in the VA, to take a look at best practice. Who does this better than anyone within the VA? There are many operating units in the VA, and it is not necessarily a single business unit that perhaps creates best practice. Kansas City may have created a process that is far better than what we find in New York, for example. Well, let us take Kansas City and have that group that created that hiring process pitch their best practice to the other business units to adopt those practices to streamline the hiring process.

I think we have to put a team together to take a look at VA's best practices: "in private" best practice, the use of technology, then drive for some project reengineering, drive to an absolute minimum the amount of time it takes to create a hiring document and give it to HR, to the time it takes for a person to begin work. It is not just a VA issue within the government. I believe it is an issue throughout the government. I think it is also an issue that largely exists in private.

But, I do believe you have some great talent and you have proven that talent on the medical side with technology. Many of those same skills can be cascaded down to H.R. I intend to have this as one of the leading priorities that I will be reporting back to the Assistant Secretary, soon to be the Deputy, until it is perfected to the extent possible within the time line that I have here and create a legacy to be carried on after I leave.

Chairman AKAKA. Mr. Hager, of all government agencies, VA should be the most conscientious, we believe, in hiring veterans, especially disabled veterans. How would you ensure that regional hiring authorities accord the best and the highest priority to hiring veterans, especially those that are disabled?

Mr. HAGER. In my opinion, a disabled veteran that has gone through rehab to the extent rehabilitation is possible, and the person wants to work, we have an obligation to find a job for that person. I think it is like any other critical process. It has to be measured. We need to identify how many troops we have in that category, particularly the ones that, again, have suffered a serious injury. We must identify how many by region and target those individuals by identifying critical information on where they are, what are their skills, what is their capability of working, what are their restrictions, if any, and track them until we find a job for them.

The Acting Secretary announced this week that a targeted group of people would spend full time on these kinds of initiatives—to try to find jobs for those that have sacrificed the most, those that have sustained serious injury, certainly those that have lost limb, sight, or suffered some mental injury. These veterans have to have a very significant target for optimizing VA hires.

There are only so many priorities one can accomplish within a short period of time, but this initiative has to be one of the top of my priorities.

Chairman AKAKA. Under the Uniformed Services Employment and Reemployment Rights Act, called USERRA, employers, including the Federal Government, have certain responsibilities to rehire individuals who are seeking to return to their jobs following a period of active service. It is particularly troublesome to me that an individual who has been sent into battle by the government would need to do battle with that same government for the right to regain a job and its associated benefits. However, that does happen and it happens far too often. Indeed, according to the Department of Labor, more than 30 claims of violations of USERRA were launched against VA in fiscal year 2006. This should be embarrassing to the agency and really should not be happening. If confirmed, what will you do to make sure VA follows the law?

Mr. HAGER. Sir, going back and recapping the foundation that I have indicated that I believe the H.R. function needs to be built around, clearly—playing by the rules—is foremost and there can be no second-guessing of that strategy. I don't have information on what you have just cited. I would look forward to the opportunity to work with you to come back with an answer, why did that happen and what we have done to fix it.

And also from the private perspective, I would relish the opportunity to work with this Committee on how we could create better opportunities in private for a returning GI, of ensuring that the job they gave up, to the extent possible, is a job they will have when they return, and pay while they are gone, to the extent possible to make them whole or make their families as whole as possible. I would welcome the opportunity to work with this Committee to do that.

Chairman AKAKA. Well, I thank you so much for your testimony, your responses, as well, and I want to thank you for bringing your family here to this hearing today. I am happy to have their presence here.

As you all know, this challenging position requires a strong leader to provide direction and cultivate one of VA's greatest resources, its quality workforce. With this in mind, I will work to move Mr. Hager's nomination to the floor as soon as possible.

With that, this hearing is adjourned.

Mr. HAGER. Thank you very much.

Chairman AKAKA. Thank you.

[Whereupon, at 10:45 a.m., the Committee was adjourned].

NOMINATION OF CHRISTINE HILL TO BE ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS)

THURSDAY, JUNE 26, 2008

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 11:02 a.m., in room 418, Russell Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

Present: Senators Akaka, Burr, and Isakson.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN,
U.S. SENATOR FROM HAWAII**

Chairman AKAKA. The hearing will come to order. Good morning. Senator DOLE. Good morning.

Chairman AKAKA. It is great to have Senator Dole with us this morning, and before I make my remarks, I would like to call on you to make yours.

Senator DOLE. Thank you very much, Mr. Chairman.

Chairman AKAKA. Senator Dole?

PRESENTATION OF CHRISTINE O. HILL, NOMINEE TO BE ASSISTANT SECRETARY, CONGRESSIONAL AND LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF VETERANS AFFAIRS, BY HON. ELIZABETH DOLE, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator DOLE. Mr. Chairman, Ranking Member Burr, I am delighted to be with you this morning, and indeed it is a great privilege to introduce Ms. Christine Hill, who has been nominated by the President to serve as the Assistant Secretary for Congressional and Legislative Affairs at the Department of Veterans Affairs.

I am honored to come before this Committee to express my strong support for Christine's nomination. I have known her for a number of years and I can assure you that she is highly qualified. It is a pleasure today to see Christine's husband, Greg, who is with us. He is also an Air Force pilot and a veteran. Christine and Greg are true partners, and I saw that firsthand. I saw their support for each other, for their partner's career, when I was privileged to have Christine working with me.

Christine has served as the Acting Secretary for Congressional and Legislative Affairs since the beginning of this year, and for the two previous years, she served as the Deputy Assistant Secretary.

Before joining the Department of Veterans Affairs, Christine was the Director of Legislative and Intergovernmental Affairs for the 2005 Base Closure and Realignment Commission. In that capacity, she supervised the production of 40 BRAC hearings across the country, arranged hundreds of Commission meetings with elected officials, and responded to thousands of Congressional inquiries. The 2005 BRAC was the most responsive and most accessible of the five Commissions established to date. Much of the reason for that achievement: Christine Hill's leadership and management skills.

Prior to her work on BRAC, Christine served as my military Legislative Assistant for over 2 years, and she did a magnificent job advising me on all matters pertaining to veterans, our Armed Forces, and foreign affairs generally. She is a 1983 graduate of the Air Force Academy and a career Air Force officer with an outstanding record of accomplishments. She held a number of staff, training, management, and leadership positions before retiring as a Lieutenant Colonel. She flew the KC-135 Stratotanker. She flew combat support missions during the U.S. intervention in Panama and in support of Operation Desert Storm. Christine was the first woman assigned to fly the B-1 bomber.

She is a veteran with considerable familiarity and knowledge of Capitol Hill. Christine has over 20 years of experience in managing diverse programs and working with the various branches of government, as well as business and community organizations. In short, Mr. Chairman, Mr. Ranking Member, Christine Hill is a strong leader. With her vast experience and talents, she is the right person to become the Assistant Secretary for Congressional and Legislative Affairs for the Department. I have complete confidence that she will, if confirmed, do an outstanding job, and I wholeheartedly endorse her nomination and urge the Committee's unanimous support.

Thank you very much.

Chairman AKAKA. Thank you very much, Senator Dole. We hear you, and thank you so much for that introduction of this great nominee. Thank you for coming and for being so patient. Thank you.

Ms. Hill, this Committee is here to consider your nomination to be Assistant Secretary of Congressional Affairs. I am pleased to welcome you and your husband, Greg, here. As we say in Hawaii, aloha and welcome to our hearing.

Ms. Hill, if confirmed, you are the VA's point person for all Congressional inquiries, for ensuring that we are kept informed about policies, procedures, and actions at the VA. You also have the task of ensuring that Congressional inquiries and casework are handled swiftly and appropriately.

I note that the nominee has completed the Committee questionnaire for Presidential nominees, which will appear in the hearing record. Also included will be a letter from the Office of Government Ethics acknowledging that she is in compliance with laws and regulations governing conflicts of interest. In addition, Ms. Hill's complete statement will be printed as part of the record of these proceedings.

Chairman AKAKA. We have heard the introduction from Senator Dole and we are glad to have you as a nominee.
Senator Burr?

**STATEMENT OF HON. RICHARD BURR, RANKING MEMBER,
U.S. SENATOR FROM NORTH CAROLINA**

Senator BURR. Mr. Chairman, thank you. I have got one more reason to support Colonel Hill today than all the things that I have had an opportunity to observe: Her choice of individuals to introduce her, my colleague and senior Senator. Mr. Chairman, I am not sure if you have been exposed to Senator Dole's introductions of nominees, but she is most thorough. She picks up on things that date back in history that absolutely give us a picture of the person that has been nominated, and Senator Dole has done that as it relates to Christine Hill.

I want to welcome you. I want to thank you, Mr. Chairman, for expediting this hearing and it is my hope that we can expedite this process and have her in a position that is permanent and confirmed by the Congress.

Clearly, Senator Dole covered all of the experience that she has. Last week, I had the pleasure of visiting with Colonel Hill. I am confident that her experience as an Air Force officer, Capitol Hill staffer, an appointee at the VA, and most importantly, Mr. Chairman, as a veteran, will enable her to serve as the Department's chief liaison to Congress in an incredibly effective way.

I would like to welcome her husband, Greg. I would like to say to Colonel Hill, your nomination is a testament to your capabilities and to your qualifications and I will be proud when this Committee moves this nomination.

I thank the Chair.

Chairman AKAKA. Thank you very much, Senator Burr.

I would tell you, Ms. Hill, that we will give you the oath and ask you to please stand and raise your right hand.

I, Christine Hill—

Ms. HILL. I, Christine Hill—

Chairman AKAKA [continuing]. Will swear to tell the truth, the whole truth, and nothing but the truth, so help me, God.

Ms. HILL [continuing]. Will swear to tell the whole truth and nothing but the truth, so help me, God.

Chairman AKAKA. Thank you. Thank you very much for being here, Ms. Hill, and we will ask you now to proceed with your testimony.

STATEMENT OF CHRISTINE O. HILL, NOMINEE TO BE ASSISTANT SECRETARY, CONGRESSIONAL AND LEGISLATIVE AFFAIRS, U.S. DEPARTMENT OF VETERANS AFFAIRS

Ms. HILL. Mr. Chairman, Senator Burr, thank you for the opportunity to testify today. I am honored and humbled to be nominated by President Bush to serve as an Assistant Secretary of the Department of Veterans Affairs.

I also want to thank Senator Dole for taking her time to be here today. It is quite a privilege to have someone who I consider to be the ultimate role model for any woman nominated to serve in the executive branch to speak on my behalf. My time on her staff was

educational, inspirational, and my first opportunity to see just how rewarding it is to work on issues that are important to our Nation's veterans.

I am also most grateful to Secretary Jim Peake and Deputy Secretary Gordon Mansfield for their confidence in me. I have been given many wonderful opportunities over my career, most of which came about because of leaders who saw my potential and pushed me to further excellence. Both Secretary Peake and Deputy Secretary Mansfield challenge the professionals of the Department of Veterans Affairs, daily, toward greater excellence, and I am fortunate to have learned from their strong guidance.

With me today is my husband, Greg—a veteran Air Force pilot, and my constant loving support for over the past 28 years.

When discussing the importance of a veteran's family, I know only too well what is asked of a military spouse. We have both spent sleepless nights wondering if the other would come home safely. We have both missed numerous important milestones and holidays. And we have both served as surrogate families when fellow airmen needed support or a helping hand. If confirmed, I look forward to working with this Committee to ensure that veterans and the families of those veterans recognize the VA as that helping hand, as well.

I am proud that I am the daughter and granddaughter of veterans. My father was instrumental in sending me on the wonderful journey of a military career. My father-in-law was a Korean War Air Force veteran. These men served their country selflessly with no expectation of anything in return; but I, like you, want to make sure the best VA possible is there for them when and if needed.

As a veteran of 20 years of active service in the Air Force, I have a deep respect and appreciation for the personnel who serve in our Armed Forces. Time and again, I saw in my friends and my colleagues the honor, courage, and commitment that make our military the greatest in the world. I see that in the veterans of the wars before my time, and I see that in our newest veterans from today's War on Terror.

I am inspired by them to help set the footprint that will address the challenges in the future: the continuation of world class health care; the smoothing of transition from active military service to the status of veteran; and the efficient delivery of earned and deserved benefits. If confirmed, I look forward to continuing my work with the dedicated professionals at the Department of Veterans Affairs who clearly appreciate their mission and understand the many issues that are of concern to our veterans.

I am committed to clear and open communications with this Committee and all Members of Congress and their staffs. The work this Committee does is crucial to the success of the VA and only with the submission of timely, quality, and accurate information can we support you effectively as part of this team.

Thank you again, Mr. Chairman, Senator Burr, for your consideration of my nomination. I would be happy to answer any questions you have at this time.

[The prepared statement of Ms. Hill follows:]

PREPARED STATEMENT OF CHRISTINE O. HILL, NOMINEE FOR ASSISTANT SECRETARY,
CONGRESSIONAL AND LEGISLATIVE AFFAIRS, DEPARTMENT OF VETERANS' AFFAIRS

Mr. Chairman, Senator Burr, and Members of the Committee, thank you for the opportunity to testify today. I am honored and humbled to be nominated by President Bush to serve as an Assistant Secretary at the Department of Veterans Affairs. Senator Dole, thank you for taking the time to be here today. It is quite a privilege to have someone whom I consider the ultimate role model for any woman nominated to serve in the Executive branch, speak on my behalf. My time on your staff was educational, inspirational, and my first opportunity to see just how rewarding it is to work on issues that are important to our Nation's veterans.

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With me today is my husband Greg—a veteran, an Air Force Pilot, and my constant loving support over the past 28 years. When discussing the importance of a veteran's family, I know only too well what is asked of a military spouse . . . we have both spent sleepless nights wondering if the other would come home safely, we have both missed numerous important milestones and holidays, and we have both served as surrogate family when a fellow airman needed support or a helping hand. If confirmed, I look forward to working with this Committee to ensure that veterans, and the families of veterans, recognize the VA as that helping hand as well.

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As a veteran of 20 years of active service in the Air Force, I have a deep respect and appreciation for the personnel who serve in our Armed Forces. Time and again I saw, in my friends and colleagues, the honor, courage and commitment that make our military the greatest in the world. I see that in the veterans of wars before my time and I see that in our newest veterans from today's War on Terror.

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Thank you again, Mr. Chairman and Members of the Committee, for your consideration of my nomination. I would be happy to answer any questions you may have.

[The Committee questionnaire for Presidential nominees from Ms. Hill follows:]

QUESTIONNAIRE FOR PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

1. Name: HILL CHRISTINE ORZADA
(LAST) (FIRST) (OTHER)
2. Present Address: 422 Princess St Alexandria VA 22314
(CITY) (STATE) (ZIP CODE)
3. Position to which nominated: Assistant Secretary (Congressional Affairs) 4. Date of nomination: 23 Apr 08
5. Date of birth: 20 Feb 61 6. Place of birth: Dallas, Texas
(DAY) (MONTH) (YEAR)
7. Marital Status: Married 8. Full name of spouse: Gregory Clifton Hill
9. Names and ages of children

N/A

10: Education:	Institution (including city and State)	Dates attended	Degrees received	Dates of degrees
	United States Air Force Academy Colorado Springs CO	Jul 79- Jun 83	BS - Biology	1 Jun 83
	Troy State University Troy AL	Apr 93- Apr 94	MS- Management	May 94

11. Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Military Medals: Meritorious Service Medal (w/4 Oak Leaf Clusters [OLC]); Aerial Achievement Medal; Air Force Commendation Medal; Air Force Achievement Medal (w/2 OLC); Combat Readiness Medal (w/2 OLC); National Defense Service Medal (w/1 Star); Armed Forces Expeditionary Medal (w/1 OLC); Southwest Asia Service Medal (w/1 Star); Kuwait Liberation Medal.

15th Air Force Tanker Crew of the Year

Georgia Outstanding Woman in Aviation

First woman selected for and combat qualified in the B-1B program

12. Memberships List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable, and other organizations for the last 5 years and any other prior memberships or offices you consider relevant

Organization	Office held (if any)	Dates
USAFA Assoc. of Graduates		Life Member
USAFA Athletic Assoc.		Life Member
Veterans of Foreign Wars American Legion		95-06 01-06
Texas State Society		00-present

13. Employment record: List below all employment (except military service) since your twenty-first birthday, including the title or description of job, name of employer, location of work, and inclusive dates of employment.

- Military Legislative Assistant, Senator Elizabeth Dole, US Senate, Mar 03 - Mar-05
- Director, Congressional and Intergovernmental Affairs, Defense Base Closure and Realignment Commission, Chairman Anthony Principi, Mar 05 – Nov 05
- Deputy Assistant Secretary, Congressional and Legislative Affairs, Department of Veterans Affairs, Secretary R. James Nicholson, Jan 06 - Dec 07
- Acting Assistant Secretary, Congressional and Legislative Affairs, Department of Veterans Affairs, Secretary James Peake MD, Jan 08 - present

14. Military service: List below all military service (including reserve components and National Guard or Air National Guard), with inclusive dates of service, rank, permanent duty stations and units of assignment, titles, descriptions of assignments, and type of discharge.

- Jun 03: Retired (Honorable), Rank: Lt Col
- Aug 00-Jun 03: Rank: Lt Col; Pentagon, SAF/LLW (Secretary of the Air Force, Office of Legislative Liaison, Weapon Systems); Title: Chief, Long Range Power Projection
- May 99-Aug 00: Rank: Lt Col; Pentagon, AF/XPPI (Directorate of Programs Deputy Chief of Staff, Plans and Programs); Title: Chief, Information Warfare Branch
- Dec 97-May 99: Rank: Major; Dyess AFB TX, 7th Operations Support Squadron; Title: Deputy Commander, Weapons and Tactics
- Feb 96-Dec 97: Rank: Major; Dyess AFB TX, 9th Bomb Squadron; Title: Assistant Operations Officer
- May 95- Feb 96: Rank: Major; Dyess AFB TX, 28th Bomb Squadron; Title: B-1B Initial Qualification Student

- Jun 94-Apr 95: Rank: Captain; Langley AFB VA, ACC/XP (Air Combat Command, Director of Plans and Programs); Title: Executive Officer
- Aug 93-Jun 94: Rank: Captain; Langley AFB VA, ACC/XPP (Air Combat Command, Director of Plans and Programs); Title: Basing Programs Officer
- Jun 94-Apr 95: Rank: Captain; Langley AFB VA, ACC/XPE (Air Combat Command, Director of Plans and Programs); Title: Presentations Action Officer
- Jan 91-Aug 92: Rank: Captain; Dyess AFB TX, 96th Operations Support Squadron; Title: Wing Navigation Officer
- Mar 88-Jan 91: Rank Captain; Dyess AFB TX, 917th Air Refueling Squadron; Title: KC-135 Standardization/Evaluation Instructor Navigator
- May 86-Mar 88: Rank 1Lt; Dyess AFB TX, 917th Air Refueling Squadron; Title: KC-135 Instructor Navigator
- Jul 84-May 86: Rank 1Lt/2Lt; Blytheville AFB AR, 97th Air Refueling Squadron; Title: KC-135 Navigator
- Jun 83- Mar 84: Rank: 2Lt; Mather AFB, CA, 323d Flying Training Squadron; Title: Flight Training Student

15. Government

record: List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments other than those listed above.

N/A

16. Published

writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

None

17. Political affiliations

and activities: (a) List all memberships and offices held in and financial contributions and services rendered to any political party or election committee during the last 10 years.

- National Republican Senatorial Committee – Inner Circle
(Contribution 2006: \$2000, 2007: \$1000, 2008: \$250)
 - Senator Dole Campaign (Contribution 2007: \$250)
-

(b) List all elective public offices for which you have been a candidate and the month and year of each election involved.

N/A

18. Future employment relationships:

(a) State whether you will sever all connections with your present employer, business firm, association, or organization if you are confirmed by the Senate.

N/A _____

(b) State whether you have any plans after completing Government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization.

No _____

(c) What commitments, if any, have been made to you for employment after you leave Federal service?

None _____

(d) (If appointed for a term of specified duration) Do you intend to serve the full term for which you have been appointed?

N/A _____

(e) (If appointed for an indefinite period) Do you intend to serve until the next Presidential election?

Yes _____

19. Potential conflicts of interest:

(a) Describe any financial arrangements, deferred compensation agreements, or other continuing financial, business, or professional dealings which you have with business associates, clients, or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None _____

(b) List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

- Northrop Grumman and General Dynamics (Spouse's pension and stock interest) – per GC review

(c) Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None _____

(d) Describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any Federal legislation or for the purpose of affecting the administration and execution of Federal law or policy.

None _____

(e) Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements involved.)

- Recusal letter is provided. Should any legislation or interest regarding Northrop Grumman or General Dynamics require the attention of the VA Office of Congressional and Legislative Affairs, I would recuse myself from any involvement.

20. Testifying
before the
Congress:

(a) Do you agree to appear and testify before any duly constituted committee of the Congress upon the request of such committee?


Yes _____

(b) Do you agree to provide such information as is requested by such a committee?

Yes _____

AFFIDAVIT

Christine O. Hill, being duly sworn, hereby states that he/she has read and signed the answers to the foregoing Questionnaire for Presidential Nominees and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.


Signature of Nominee

Subscribed and sworn before me this 8th day of May, 2008


Notary Public

Donna M. Fisher
Notary Public, District of Columbia
My Commission Expires Jan. 1, 2010

[A letter from the Office of Government Ethics follows:]



United States
Office of Government Ethics
 1201 New York Avenue, NW., Suite 500
 Washington, DC 20005-3917

May 2, 2008

The Honorable Daniel K. Akaka
 Chairman
 Committee on Veterans' Affairs
 United States Senate
 Washington, DC 20510-6375

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Christine O. Hill, who has been nominated by President Bush for the position of Assistant Secretary for Congressional and Legislative Affairs, Department of Veterans' Affairs.

We have reviewed the report and have also obtained advice from the Department of Veterans Affairs concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated April 24, 2008, from Ms. Hill to the agency's ethics official, outlining the steps Ms. Hill will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date with any action she agreed to take in her ethics agreement.

Based thereon, we believe that Ms. Hill is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
 Director

Enclosures

Chairman AKAKA. Thank you very much for your testimony, Ms. Hill.

You have worked for the VA for over 2 years and have done the job you are seeking for over 5 months. What do you see as the biggest challenge facing VA in the near future, and VA Congressional Affairs?

Ms. HILL. Mr. Chairman, I see the biggest challenge in the short-term is to continue our effort to ease the transition between DOD and VA, to make it as seamless as possible. Currently, there is unprecedented dialog between senior leadership and the employees of DOD and VA to try and work forward in that effort and I want to make sure that that dialog continues. We are making considerable inroads in making that transition as seamless as possible in the short-term and for the future. We need to continue down that path.

Also, in the processing of disability claims, that system—it needs to be improved. As was mentioned earlier, we have rooms of paperwork, old-fashioned mailroom-type setups. We need to press forward in technological solutions to improve timeliness, efficiency, and to just provide the best customer support for our veterans as possible.

As far as Congressional affairs, short-term, not so much a challenge as an opportunity. In the short-term, we need to continue to educate and advocate and make sure that Congressional staffs, Congressional committees, and our veterans know what the VA is doing, how we are doing it, and how we can continue to improve.

Chairman AKAKA. Ms. Hill, what do you see as your role in VA policymaking?

Ms. HILL. Mr. Chairman, often I consider the Office of Congressional Affairs in the example of, we don't make the ball, we make the ball bounce. My role is not so much in making policy, but certainly in influencing it. By working with this Committee, with our other oversight committees, and Members of Congress, I have ready access to the trends and the views of your constituents, of our veterans, and for me, in a policy influencing role. I am in a unique position to help determine what direction that policy should proceed based on the inputs that you receive from veterans, which is often different from the inputs that we receive.

Chairman AKAKA. I trust that you will agree that if confirmed, one of your priorities will be ensuring the timely receipt of testimony and other deliverables to this Committee. As you know, we have had a number of unfortunate incidents with late testimony and late deliverables to this Committee this Congress. I would like your assurances that you will put timely and accurate receipt of information to this Committee at the top of your priority list.

Ms. HILL. Absolutely, sir.

Chairman AKAKA. Thank you so much for that, and with that, that is my final question.

Senator Burr?

Senator BURR. Mr. Chairman, thank you. I had an opportunity to ask her every question the other day that really was appropriate for me to ask, but I would like to reinforce a couple of points and make one additional one.

Mr. Chairman, I am convinced that if there is anybody that fills this role who can actually influence when testimony comes to this Committee, we are looking at her.

Ms. HILL. That is correct, sir.

Senator BURR. I have got unbelievable confidence in it, but I also understand that our expectations can't shoot higher than even what somebody like Colonel Hill can do.

I think it is also important that we tend to focus on the communications to Congress from a standpoint of your role, and I want to urge you to communicate back to the VA the true understanding you get from this Committee and from its Members of the things that we are concerned with. I think we have a tendency, as an institution—not as much this Committee but as an institution—to be a crisis management tool. I think our Founding Fathers envisioned that we would be a visionary institution, that we would address

problems before they were problems. Therefore, veterans never felt it. The American people never felt it.

I think we have failed at that. We don't accomplish that just with the communication coming from the executive branch to the legislative branch. It has to be a unique understanding by the executive branch of what the heartbeat of the Congress is at any given point in time, and I hope that that line of communication will work both ways from the standpoint of yourself.

Mr. Chairman, I think it is incredibly difficult. Most nominees that we have come in have quite a period of time to accomplish their own personal goals and, I think, the challenges that the job entails. That is not the case for Colonel Hill. It is a very short period of time.

I would encourage you, as you begin to look at your own personal goals and how you can make your mark on the role that you play, that you really take into account the length of time that you've got. It is advantageous to this Committee, its Members, to you, and to the VA, but, more importantly, to the veterans, that we succeed at whatever levels you shoot for and whatever impact you have targeted.

Again, Mr. Chairman, I thank you for having this hearing. I think this is a superb nominee. I would hope that the Committee and the Members and the staff would do everything they can to expedite this as quickly as we can.

Chairman AKAKA. Thank you very much, Senator Burr. We certainly will expedite it.

Let me ask Senator Isakson for any remarks and questions he may have.

**STATEMENT OF HON. JOHNNY ISAKSON,
U.S. SENATOR FROM GEORGIA**

Senator ISAKSON. Thank you, Mr. Chairman. I came back because I was so impressed with Colonel Hill when I met her. You know, a lot of times, we have people who are recommended for jobs and if you read their resume, you question sometimes the match between the life experience and the job ahead. Colonel Hill is a decorated veteran, a B-1B pilot, a KC-135 pilot, who also worked in Elizabeth Dole's office. So she has worked both sides of Congressional liaison, from being a veteran and being a distinguished officer to actually seeing how we work.

But I did want to make a point with regard to something both you and Senator Burr referred to. The VA has reminded me the last couple of years of a major league catcher without a mitt. I mean, they have gotten fired at, fast balls right and left. There are some really great stories coming out of what has happened in the last 2 to 3 years in this Congress and what the Veterans Administration has done.

So I hope as a Congressional liaison officer, you will help to bring those stories back to Members of Congress. I have 13 installations in my State, an awful lot of veterans, and I go visit them. So, I have seen the Warrior Transition Centers that have been brought about and what a difference they are making; the seamless transition between DOD health care at Eisenhower and Augusta and the Uptown Augusta VA Center; and these are all things that weren't

happening 4 or 5 years ago and they have happened because the VA has taken direction and has taken its own initiative, as well.

So, I just came to commend Colonel Hill and her service to the country and her desire to continue to serve, and tell you that this is one of those rare situations where we have someone who is absolutely, unequivocally qualified to do the job from day one, and I hope we will confirm her as quickly as possible.

Senator BURR. Mr. Chairman?

Chairman AKAKA. Senator Burr?

Senator BURR. May I, on behalf of Senator Isakson and I—since I am sure I have been asked and I am sure he has been asked, to—make the point that the Augusta VA facility is a unique facility; that the folks that work there are very proud of and would very much like the Secretary to come down and visit. I would be remiss if I didn't, on behalf of both of us, say that. As you are going through your confirmation hearing, Colonel Hill, please make sure that you pass that on to the Secretary, and I think you would find that Senator Isakson and I might both visit. We might even get the Chairman to go with us if, in fact, the Secretary can accommodate that.

Ms. HILL. Sir, I will certainly pass that on.

Senator ISAKSON. Mr. Chairman?

Chairman AKAKA. Senator Isakson?

Senator ISAKSON. Since Senator Burr brought that up, let me just tell you a remarkable story. I held a hearing there last August on veterans' benefits and seamless transition and wounded warrior and PTSD and TBI. After the hearing—of which there were 250 attendees and the *Washington Post* covered the hearing themselves—we took a tour of the hospital. And as we turned the corner in the VA facility, a sergeant walks by and the director of the facility stopped her and said, "Sergeant Harris, would you come over here a minute," and introduced Sergeant Harris to me.

Sergeant Harris is a Georgian. She went to Iraq. The second day she was in Iraq, her vehicle was hit with an IED. She had a Traumatic Brain Injury, came back to the DOD, came back to Walter Reed, and was finally severed because they couldn't quite get the TBI corrected. She moved back home, and in this seamless transition, Eisenhower handed her off, so to speak, seamlessly to the doctors at the Uptown VA facility, who immediately began treating the TBI. Within 3 months, it had been corrected. She reenlisted and went back to Iraq.

Now, that is one of the more remarkable stories, but it shows you how—with the coordinated effort between DOD and Veterans Health and the attention that is now being given in Veterans Health to TBI and PTSD—that we are making some remarkable recoveries; and it is a prime example that the Secretary should see as soon as possible. So we would love to have you all down any time.

Ms. HILL. Definitely.

Chairman AKAKA. Well, if there are no further comments, I want to thank you so much, Ms. Christine Hill, and your husband, Greg, for being here today. It is imperative that this position be filled by a dedicated and responsive leader and this is what has been mentioned. With this in mind, I will work to move Ms. Hill's nomina-

tion to the floor as soon as possible with their help. We will do that, and I am saying this for our staff to also help us do this. We need to get you confirmed.

So thank you very much for being here. This hearing is adjourned.

Ms. HILL. Thank you.

[Whereupon, at 11:25 a.m., the Committee was adjourned.]

**NOMINATION OF HON. PATRICK W. DUNNE
TO BE UNDER SECRETARY FOR BENEFITS
OF THE DEPARTMENT OF VETERANS AF-
FAIRS**

WEDNESDAY, SEPTEMBER 17, 2008

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:09 a.m., in room 418, Russell Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Committee, presiding.

Present: Senators Akaka, Murray, Tester, and Burr.

**OPENING STATEMENT OF HON. DANIEL K. AKAKA, CHAIRMAN,
U.S. SENATOR FROM HAWAII**

Chairman AKAKA. Good morning, everyone. This hearing will come to order.

The Committee convenes today to consider the nomination of the Honorable Patrick Dunne to be Under Secretary for Benefits. I am pleased to welcome Admiral Dunne and his family to today's hearing. Admiral Dunne is accompanied by his wife, Diane, his daughter, Erin, and his son, Patrick. We are glad to have you here, and I welcome each of you.

The nominee before the Committee today had a long and distinguished career in the United States Navy before retiring as a Rear Admiral in December 2005. He was nominated to serve as VA's Assistant Secretary for Policy and Planning in May 2006 and this Committee held a hearing and sent his nomination forward to the full Senate, which confirmed him on August 3, 2006. He continues to hold this position while also being designated as the Acting Under Secretary for Benefits since Admiral Cooper's retirement in April of this year.

Admiral Dunne, having performed the duties of this office for the past 5½ months, I know you are aware of the many challenges that are facing the Veterans Benefits Administration. The backlog of disability compensation claims remains a major concern, even as VBA continues to explore fundamental reforms to the structure of disability compensation benefits. Based on your testimony and thoughtful responses to questions at this Committee's recent hearing on claims processing, I know that you understand the Committee's concern that claims be processed as timely and as accurately as possible.

There are also important decisions to be made regarding the administration's G.I. Bill for the 21st Century, which was recently signed by the President. It is also critically important that the Under Secretary for Benefits be personally committed to the joint efforts of VA and the Department of Defense to meet the needs of servicemembers transitioning from active to veterans' status.

The Committee realizes that there are only a few months left in the current administration and it is uncertain how much time you will have to tackle these challenges. Typically, this late in the second term of an administration, I would really not seek to act on a nomination and would leave the acting official in place for the duration of the term. However, given the nominee before the Committee is the acting official and because you have been performing the duties of the office for 5½ months—and from where we are, you have been doing a good job—I believe it prudent to give you the clear authority and responsibility that accompanies Senate confirmation. This will enable you to effectively lead the VA to the end of the term and ensure a successful transition to the next administration.

I note that the nominee answered my pre-hearing questions and also has completed a Committee Questionnaire for Presidential Nominees, which will appear in the hearing record. Also included will be a letter from the Office of Government Ethics acknowledging that the nominee is in compliance with the laws and regulations governing conflicts of interest. In addition, Admiral Dunne's complete statement will be printed as part of the record of these proceedings.

I would like to at this time acknowledge the presence of the Deputy Secretary of Veterans Affairs, Gordon Mansfield, who I met before he appeared in this room today. He is joining us today at this confirmation hearing at the request of Secretary Peake. Secretary Mansfield, I want to thank you for your service. I appreciate the relationship you have with the Department of Defense and how you have worked well with Deputy Secretary England in talking about issues for our military and our veterans. So, thank you very much for being here, Secretary Mansfield.

Before I administer the oath to Admiral Dunne, I would like to call on our Ranking Member, Senator Richard Burr, for his statement.

**STATEMENT OF HON. RICHARD BURR, RANKING MEMBER,
U.S. SENATOR FROM NORTH CAROLINA**

Senator BURR. Aloha, Mr. Chairman. Thank you not only for holding this hearing, but thank you for the comments that you just made. I think it is particularly important—there is a tendency in this institution at some late date to leave the word “acting” in front of somebody's name. This is clearly an individual that deserves to have that part dropped.

Gordon, it is great to see you here today and thank you for being here to support the Admiral as we consider the nomination.

Admiral, welcome to you and to your family. I intended to say to your family a minute ago that the seeming lack of participation is a good thing. I don't want you to take that as a bad thing. That is an indication that people aren't concerned. They have tremen-

dous confidence. With the arrival of two additional Members, I look at them and would still tell you, don't worry. They are individuals that take very seriously the leadership that we have at the Department of Veterans Affairs. And we are all, collectively—us on this side as well as you, Admiral, and the staff that you have—anxious to sort out the benefits area as quickly and as efficiently as we can. And I personally know that that is your goal.

Some of the biggest challenges will involve the processing of claims. We all know the system has been plagued with many years of challenges and large backlogs and long delays. In fact, despite recent boosts in funding and staffing, it is still taking about 6 months to get decisions to veterans. There are more than 390,000 pending claims, among the highest level in 10 years. I know you think this is unacceptable, as does Congress.

Also, VBA still uses a largely paper-based claims processing system. This can cause delays and frustrations from our Nation's veterans whose files must be physically moved from one place to another, and only one person can work on a file at a time. I think most would agree that moving to a modern electronic system is long overdue.

There are also large differences in the services that are provided by VA's 57 regional offices around the country. Some have consistently exceeded expectations while others have historically struggled. On top of that, VA's Disability Rating Schedule, which is the cornerstone of the entire claims process, has been outdated for many years and it needs to be updated.

Now, I don't sit here today with any strong beliefs that between now and the end of next week, we are going to solve that, yet that seems to be the timeline that we are on. But I believe that the work that you do between now and the end of this year will pave the way to our ability, collectively, between Congress, the VSOs, and the Department, to change that system into a 21st century disability system: one that is understandable; one that is manageable. More importantly, one that truly does reach the needs of our veterans in a timely fashion.

Also, VBA is in the process of implementing the new veterans' education program. It would require an extraordinary effort to do that by next fall while making sure there is no disruption in service for our veterans or their families.

Admiral, this is a big undertaking. With the benefits of your military career, your work at the VA, as both Assistant Secretary for Policy and Planning and Acting Under Secretary for Benefits, I am confident that you are prepared to lead VBA through a very challenging period of time. You have extensive leadership experience, a lifetime of dedicated service to our Nation, and an understanding of the needs of our Nation's veterans, which I think is absolutely crucial.

Admiral, I thank you for your willingness to serve and, more importantly, to serve our veterans and their families in the role of Under Secretary for Benefits. I hope that in the few months remaining you will set in motion the types of improvements that will benefit veterans' lives for years to come.

Mr. Chairman, again, I want to thank you for holding the hearing. I intend to support Admiral Dunne's nomination. I hope the

Committee will support this nomination. I hope the Senate will act quickly and that Members will find ways to get over differences they might have with some aspect of what VA as an agency does, and bury the hatchet to allow good people to actually serve in the capacity that I think will help our Nation's veterans. I would urge my colleagues for quick action on this confirmation.

I thank the Chair.

Chairman AKAKA. Thank you very much, Senator Burr from North Carolina.

And now from the State of Washington, we will hear from Senator Murray.

**STATEMENT OF HON. PATTY MURRAY,
U.S. SENATOR FROM WASHINGTON**

Senator MURRAY. Thank you very much, Chairman Akaka, Senator Burr. I really appreciate you holding this hearing today on the nomination of Admiral Patrick Dunne. If he is confirmed to be head of the VBA, he will be responsible for a \$52 billion budget that provides compensation and pensions to nearly four million veterans and survivors; administer the G.I. Bill and VA Home Loan Guarantees; and will be responsible for many other programs, as well.

At a time of war, I think it is especially important that we do everything in our power to make sure that the benefits that we do provide to our veterans meet today's needs and don't lag behind. Mr. Chairman, I am sure I speak for every Member of this Committee and every Member when I say that our country has an obligation to give our servicemembers everything they need from the time they begin basic training to deployment to when they return home.

But still, too often today when I talk to veterans in my home State of Washington, I hear stories from veterans who are forced to wait months, if not years, to get their VA claims processed. I hear stories about veterans with the same illness getting vastly different ratings and benefits across the country. And I hear about the increasing complexity and number of claims being processed by the VBA.

Now, this Congress has taken some concrete steps to address these problems, but there remains an awful lot of work left to be done. The list of challenges facing the VBA right now is really long, but if confirmed, the time Admiral Dunne will have to tackle them is extremely short. So, I look forward to hearing from you today, Admiral, about how you are going to prioritize the many challenges that are facing the VBA today.

I also look forward, Mr. Chairman, to hearing from Admiral Dunne about the implementation of the Post-9/11 G.I. Bill. We had a meeting last week with Admiral Dunne. I appreciate the time you took, and I talked about the number of concerns I have about the VA's plan to outsource the launch of this updated program and I look forward to more time to talk about that today during the question and answer period.

But again, Mr. Chairman, thank you very much for holding this hearing and I appreciate the opportunity to talk to the Under Secretary—hopefully, soon, beyond acting—to deal with the issues facing our veterans today.

Chairman AKAKA. Thank you very much, Senator Murray. And now we will receive the statement of Senator Tester.

**STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA**

Senator TESTER. Thank you, Chairman Akaka, and thank you, Ranking Member Burr. I also appreciate this hearing. I want to welcome Diane, Patrick, and Erin. I appreciate your support of Admiral Dunne in his service to this country. I want to, of course, welcome you, Admiral Dunne, to this hearing. We have worked on some stuff in the past and I look forward to working with you during the remainder of your tenure.

I think the Senator from Washington covered much of what I had to say. I appreciate your service and I look forward to your statement and look forward to the questions and answers that follow. What I am going to be looking for is: your transition, your plans for transition to the next administration; implementation of the 21st Century G.I. Bill; how you plan on implementing benefits, particularly for rural frontier areas. It is a big issue, contracting, those kinds of things—what your vision is for the VA in those areas.

I can tell you that every time I go back to Montana—we have got a high percentage of veterans in the State, you know that—I do hear about discrepancies in ratings and things like that. So, hopefully, we can also have a discussion about that ratings schedule and the template and your vision for moving forward on that, because I agree with Senator Burr. I think it does need to be modified, updated, whatever you want to call it.

So, thank you. I look forward to the hearing. Thank you, Chairman Akaka.

Chairman AKAKA. Thank you very much, Senator Tester.

Now, may I ask Admiral Dunne to please stand to take the oath and repeat after me. I, Patrick Dunne, swear to tell the truth—

Admiral DUNNE. I, Patrick Dunne, swear to tell the truth—

Chairman AKAKA [continuing]. The whole truth, and nothing but the truth, so help me, God.

Admiral DUNNE [continuing]. The whole truth, and nothing but the truth, so help me, God.

Chairman AKAKA. Thank you. Will you please proceed with your statement, Admiral.

**STATEMENT OF HON. PATRICK W. DUNNE, NOMINEE TO BE
UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VET-
ERANS AFFAIRS**

Admiral DUNNE. Mr. Chairman, Senator Burr, Senator Murray, Senator Tester, good morning and thank you for the opportunity to testify today. I am honored and humbled to be nominated by President Bush to serve as Under Secretary for Benefits at the Department of Veterans Affairs. I am also most grateful to Secretary Peake and the Selection Commission for their confidence in me.

Mr. Chairman, thank you for acknowledging my family this morning. They are very important to me and I am, indeed, grateful for their constant love and support.

Twenty-six months ago, when I appeared before this Committee for confirmation to my current position, I spoke of my commitment

to public service based on a respect and appreciation for the personnel who I served with in the United States Navy. Today, my commitment is strengthened by my first-hand interactions, not only with our many veterans who rely on VA, but also with the many dedicated VA employees who serve those veterans.

As a Member of the Task Force on Returning Global War on Terror Heroes and the Senior Oversight Committee, I have been privileged to contribute to the efforts to improve all aspects of the continuum from active or reserve duty to veteran status. If I am confirmed, I am prepared to continue working with my fellow VA employees, the Department of Defense, and Congress to ensure our veterans are aware of their benefits, can easily apply for them, and receive an accurate and timely decision to their application.

To accomplish this, I think there are three areas that require continuous effort. First, communications with our veterans and servicemembers are essential.

Second, the best tools available via technology must be provided to our employees to help them work accurately and expeditiously. In addition, we must allow veterans to communicate with us electronically, consistent with the latest technology.

Third, I intend to ensure that every VBA employee has the requisite training to be effective in his or her job. Technology is not the magic wand that will deliver benefits rapidly and accurately. Rather, we need a well-trained workforce that can effectively use those tools.

But in the end, I think it is about leadership, and that is why I seek your confirmation. I am prepared to provide the leadership necessary to ensure VBA moves ahead with electronic processing, reaches out to all our veterans and servicemembers, and responds to their requests in the minimum time with an accurate answer.

The Under Secretary for Benefits is also a member of the One VA Team, and if confirmed, I intend to give my very best effort to work diligently with the other administrations and faithfully advise the Secretary and Deputy Secretary.

Mr. Chairman and Members of the Committee, thank you again for your consideration of my nomination and I would be happy to answer any questions you may have.

[The prepared statement of Admiral Dunne follows:]

PREPARED STATEMENT OF PATRICK W. DUNNE, NOMINEE FOR UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Mr. Chairman, Senator Burr, and Members of the Committee, good morning. Thank you for the opportunity to testify today. I am honored and humbled to be nominated by President Bush to serve as Under Secretary for Benefits at the Department of Veterans Affairs. I am also most grateful to Secretary Peake and the selection commission for their confidence in me.

With me today are my wife, Diane; my daughter, Erin; and son, Patrick. I am very grateful for their constant love and support.

Twenty-six months ago when I appeared before this Committee for confirmation to my current position, I spoke of my commitment to public service based on a respect and appreciation for the personnel who I served with in the United States Navy.

Today, my commitment is strengthened by my first-hand interactions, not only with many of our veterans who rely on VA, but also with the many dedicated VA employees who serve those veterans. As a member of the Task Force on Returning Global War on Terror Heroes and the Senior Oversight Committee, I have been privileged to contribute to the efforts to improve all aspects of the continuum from active or reserve duty to veteran status.

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But in the end, I think it is about leadership, and that is why I seek your confirmation. I am prepared to provide the leadership necessary to ensure VBA moves ahead with electronic processing, reaches out to all our veterans and servicemembers and responds to their requests in the minimum time with an accurate answer.

The Under Secretary for Benefits is also a member of the One VA team, and if confirmed, I intend to give my very best effort to work diligently with the other Administrations and faithfully advise the Secretary and Deputy Secretary.

Thank you again, Mr. Chairman and Members of the Committee, for your consideration of my nomination. I would be happy to answer any questions you may have.

[The Committee questionnaire for Presidential nominees for Admiral Dunne follows:]

QUESTIONNAIRE FOR PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

- 1. Name: Dunne, Patrick William
- 2. Present Address: 10308 Towlston Road, Fairfax, Virginia 22030
- 3. Position to which nominated: Under Secretary for Benefits
Department of Veterans' Affairs
- 4. Date of nomination: July 30, 2008
- 5. Date of birth: 11 March 1950
- 6. Place of birth: Washington, DC
- 7. Marital Status: Married
- 8. Full name of spouse: Diane Mildred Dunne

9. Names and ages of children

<u>Erin Dunne</u>	Adult			
<u>Patrick Dunne, Jr.</u>	Adult			
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

10: Education:

Institution (including city and State)	Dates attended	Degrees received	Dates of degrees
<u>United States Naval Academy Annapolis, MD</u>	<u>Jun66-Jun72</u>	<u>B.S.(Math)</u>	<u>Jun72</u>
<u>United States Naval Postgraduate School Monterey, CA</u>	<u>Jun72-Jun73</u>	<u>M.S.(Math)</u>	<u>Jun73</u>
_____	_____	_____	_____
_____	_____	_____	_____

11. Honors and awards:

List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Distinguished Service Medal; Defense Superior Service Medal (2); Legion of Merit (4); Meritorious Service Medal (2); Navy & Marine Corps Commendation Medal (5); Navy & Marine Corps Achievement Medal (2); Joint Meritorious Unit Award; Navy Unit Commendation (3); Meritorious Unit Commendation (3); Navy "E" Ribbon; National Defense Service Medal (3); Global War on Terrorism Medal; Humanitarian Service Medal; Expert Rifleman Medal; Expert Pistolshot Medal

12. Memberships List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable, and other organizations for the last 5 years and any other prior memberships or offices you consider relevant

Organization	Office held (if any)	Dates
Naval Submarine League	none	2001-present
US Naval Postgraduate School Alumni Association	none	2004-present
US Naval Academy Alumni Association	none	2001-present
American Association of Individual Investors	None	1981-present
Windy Hill Homeowners' Association	None	1998-present
Ronald Reagan Presidential Foundation	None	2006-present
U. S. Navy Memorial Association	None	2006-present

13. Employment

record: List below all employment (except military service) since your twenty-first birthday, including the title or description of job, name of employer, location of work, and inclusive dates of employment.

Assistant Secretary for Policy and Planning, Department of Veterans Affairs; Washington, DC; June 2006 - present

Gas Station Attendant, Navy Exchange, Monterey, CA; Sep72-May73

14. Military

service: List below all military service (including reserve components and National Guard or Air National Guard), with inclusive dates of service, rank, permanent duty stations and units of assignment, titles, descriptions of assignments, and type of discharge.

United States Navy; 7 Jun 1972 to 31 Dec 2005; highest rank Rear Admiral (lower half); honorable discharge

Jan04-Dec05 President, Naval Postgraduate School, Monterey, CA

Nov01-Dec03 Commander, U.S. Naval Forces Marianas; US Pacific Command Representative to Guam, Commonwealth of Marianas, Federated States of Micronesia and Palau; Guam

Jun00-Nov01 Deputy Chief of U. S. Navy Legislative Affairs, Washington, DC

Nov97-Jun00 Special Assistant to the Chief of Naval Operations for JCS Matters/Naval Planner, Washington, DC

Sep95-Nov97 Director, Naval Programs, U. S. Navy Office of Legislative Affairs, Washington, DC

Jul95-Sep95 Special Assistant for Plans and Liaison, Office of the Chief of Naval Operations (N87), Washington, DC

May93-Jul95 Commanding Officer, USS Frank Cable (AS 40), Charleston, SC

May90-May93 Submarine Liaison Officer, U. S. Navy Office of Legislative Affairs, Washington, DC

Mar88-May90 Commanding Officer, USS Baltimore (SSN 704), Norfolk, VA

Jul87-Feb88 Submarine Prospective Commanding Officer Course, Washington, DC and Norfolk, VA

May85-Jun87 Naval Aide to President Ronald Reagan, Washington, DC

Oct82-May85 Executive Officer, USS Baton Rouge (SSN 689), Norfolk, VA

Aug80-Oct82 Squadron Material Officer, Submarine Squadron EIGHT, Norfolk, VA

Jun77-Aug80 Engineer Officer, USS Batfish (SSN 681), Charleston, SC

Dec76-Jun77 Student, Submarine Officers Advanced Course, New London, CT

Jun74-Dec76 Division Officer, USS Nathanael Greene (SSBN 636) (BLUE), New London, CT

Dec73-Jun74 Student, Naval Nuclear Propulsion Training Unit, Idaho Falls, ID

Jun73-Dec73 Student, Naval Nuclear Power School, Vallejo, CA

Jun72-Jun73 Student, Naval Postgraduate School, Monterey, CA

15. Government

record: List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments other than those listed above.

none _____

16. Published

writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

none _____

17. Political affiliations

and activities: (a) List all memberships and offices held in and financial contributions and services rendered to any political party or election committee during the last 10 years.

none _____

(b) List all elective public offices for which you have been a candidate and the month and year of each election involved.

none _____

18. Future employment relationships:

(a) State whether you will sever all connections with your present employer, business firm, association, or organization if you are confirmed by the Senate.

Not applicable; currently serving at the Department of Veterans Affairs

(b) State whether you have any plans after completing Government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization.

I have no plans to return to active duty in the US Navy

(c) What commitments, if any, have been made to you for employment after you leave Federal service?

none

(d) (If appointed for a term of specified duration) Do you intend to serve the full term for which you have been appointed?

Not applicable

(e) (If appointed for an indefinite period) Do you intend to serve until the next Presidential election?

yes

19. Potential conflicts of interest:

(a) Describe any financial arrangements, deferred compensation agreements, or other continuing financial, business, or professional dealings which you have with business associates, clients, or customers who will be affected by policies which you will influence in the position to which you have been nominated.

none

(b) List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

none

(c) Describe any business relationship, dealing, or financial transaction which you have had during the last 5 years, whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

none _____

(d) Describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any Federal legislation or for the purpose of affecting the administration and execution of Federal law or policy.

none _____

(e) Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements involved.)

not applicable _____

20. Testifying before the Congress:

(a) Do you agree to appear and testify before any duly constituted committee of the Congress upon the request of such committee?

yes _____

(b) Do you agree to provide such information as is requested by such a committee?

yes _____

[A letter from the Office of Government Ethics follows:]



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

August 11, 2008

The Honorable Daniel K. Akaka
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510-6375

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Patrick W. Dunne, who has been nominated by President Bush for the position of Under Secretary for Benefits, Department of Veterans Affairs.

We have reviewed the report and have also obtained advice from the Department of Veterans Affairs concerning any possible conflict in light of its functions and the nominee's proposed duties.

Based thereon, we believe that Mr. Dunne is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosure

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. AKAKA, TO PATRICK W. DUNNE, NOMINEE TO BE UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Question 1. What do you believe are the most important problems and challenges currently confronting VBA? Which of these problems and challenges will you focus on and how do you intend to address them during what may be a short term in office? How might you set the stage for the next administration's work?

Response. Through my experience as the Department of Veterans Affairs (VA) Assistant Secretary for Policy and Planning and my work as a member of the VA Department of Defense (VA/DOD) Strategic Oversight Committee and Joint Executive Council, I have a strong understanding of the issues and challenges facing the Veterans Benefits Administration (VBA) as we work to proactively support our returning service men and women in their readjustment and reintegration to civilian life and deliver timely and accurate benefits to veterans of all eras.

I believe there are three areas that require continuous effort. First, improving communications with our veterans is critical. Second, the best tools using technology must be provided to our employees to help them work accurately and expeditiously. In addition we must allow veterans to communicate with us electronically consistent with the latest technology. Third, I intend to ensure that every VBA employee has the requisite training to be effective in their job. Technology is not the magic wand

that will deliver benefits accurately and rapidly. Rather, we need a well-trained work force that can effectively use those tools.

I am prepared to provide the leadership necessary to ensure VBA moves ahead with electronic processing, reaches out to all our veterans and servicemembers, and responds to their requests in the minimum time with an accurate answer. My top priorities include improving the timeliness and quality of benefits delivery, transitioning to paperless claims processing, training, and implementing the new GI Bill. If confirmed, my strategy will be to provide strong management attention to the initiatives currently underway and continue to examine the business processes we use to serve veterans.

Question 2. What is your management style? Are you a “hands-on” manager? Do you rely on significant delegation? Do you seek consensus with those on your management team before making a decision or do you generally gather relevant information and input, and then make a decision?

Response. Certainly in an organization as large as VBA and with the complexity of the programs that VBA administers, significant authority must be delegated. However, I consider myself a “hands on” manager in that I am actively involved and engaged in all major operational and policy issues and aggressively follow up to ensure progress is achieved and accountability maintained. While achieving consensus in some instances is appropriate, if confirmed, I will seek the best technical advice and input from subject matter experts and make key decisions—with or without consensus.

Question 3. One of the biggest challenges that VA is facing is the implementation of the new Post-9/11 GI Bill, which was signed into law on June 30, 2008. The full effective date of the new program of educational assistance is August 1, 2009, which means that VA has less than 1 year to prepare for massive changes. What are your thoughts on how VA might best prepare for implementation of the new program?

Response. First, communicate to veterans the details of the program so that those who are eligible and desire to participate are ready to apply as soon as the application process begins. We are already using the internet, call centers, and the media to provide information.

Second, VA does not currently have an information technology (IT) system capable of implementing this program. We moved expeditiously to procure the IT development capabilities needed. The goal is to apply current technological standards to create a rules-based system which will expeditiously and accurately enroll our veterans and make the necessary payments.

Third, ensure VA employees are properly trained to provide the necessary oversight of the IT solution and be prepared to intervene under circumstances that do not fit the rules-based engine.

Question 4. Concerns have been raised to me about VA’s decision to utilize the services of a contractor for initial implementation of the new program. Please share your thoughts and any concerns you may have regarding this decision.

Response. The new eligibility and payment structure created by the Post-9/11 GI Bill is a significant departure from VA’s current payment system, and is far more complex than the current monthly payments made under other benefit programs. VA’s existing eligibility and payment system, developed in the 1970’s, is unable to support the new structure required for implementation of this program. To meet the statutory deadline of the Post-9/11 GI Bill, VA is seeking private-sector contractor support to develop and provide an IT solution for a new eligibility and payment process.

Based on the implementation strategies being pursued, VA does not anticipate the loss of Federal employment for any present VA education employees. Since the Post-9/11 GI Bill will result in tuition and fee payments being made to educational institutions, some current claims processing resources will be shifted to increased compliance and oversight responsibilities. VA employees will continue to staff and operate the nationwide Education Call Center in Muskogee. VA employees will also continue to respond to all on-line inquiries received through the VA Web site, including Post-9/11 GI Bill inquiries.

Question 5. In your view, how long should a veteran have to wait to have his or her initial claim for compensation adjudicated?

Response. The transition between military and civilian life can be challenging for all servicemembers, but especially to those who have incurred a disability in the military. I believe the benefits delivery at discharge process, the goal of which is to deliver benefits within 30 to 60 days of separation, is the best method. I will continue to work with my counterparts at DOD to expand the program beyond the current 152 sites and work to ensure benefits information is provided to service-

members at the earliest possible time so that more claims are received prior to discharge.

Question 6. Describe how you intend to work with the Secretary and two other Under Secretaries.

Response. If confirmed, as a member of the “One VA” team, I intend to give my very best effort to work diligently with the other administrations and faithfully advise the Secretary and Deputy Secretary.

Question 7. How do you plan to work with the veterans service organizations? Do you anticipate meeting with the VSO representatives on a regular basis?

Response. I understand and appreciate the important partnership VA has with the veterans service organizations (VSO). I plan to work collaboratively with the VSOs—and with complete transparency. I have had several opportunities since April 2008 to discuss issues with VSO representatives and have found these sessions very helpful. If confirmed, I intend to continue to regularly consult with them in the future.

Question 8. VBA has come under fire for the lack of timeliness of its claims processing. While VBA has made progress in improving timeliness and accuracy of disability claims processing, further improvement is needed. VBA turned its attention to decreasing the amount of time it takes to process a claim, but that improvement seems to be at the cost of a decrease in the quality of its decisionmaking. Do you have any views on how a more balanced approach can be reached?

Response. In my short tenure as Acting Under Secretary, I have participated in numerous discussions with Secretary Peake and VBA staff on the issue of claims accuracy. We are currently closely tracking not just production but also accuracy of the production. I believe all those involved in claims processing are dedicated to getting it right the first time. Accuracy means less rework and therefore increased production. I am aware that the former Under Secretary made considerable investments in training programs, and I believe this is critical to the future success of VBA. I also believe a robust system of oversight and quality assurance is an essential component of a balanced approach to claims processing. Improvements will be achieved with appropriate levels of resources, more and better training, and up-to-date tools and technologies to support the decisionmaking and oversight process. If confirmed, I will explore all avenues to improve decision accuracy and consistency, as well as claims processing timeliness.

Question 9. Accurate forecasting of usage of veterans benefits is essential in planning for resources to administer those benefits. What do you see as the Under Secretary’s role in forecasting the need for additional staffing resources so that Congress can appropriate those resources in a timely manner?

Response. If confirmed as Under Secretary, I will monitor program needs and analyze usage and performance data to ensure that VBA appropriately addresses the needs of the veterans we are charged to serve. I will also ensure strategic plans are formulated to ensure we are accurately addressing staffing and other budgetary needs. An open dialog will be maintained with stakeholders, including Congress, to proactively address resource issues.

Question 10. Many in the newest generation of veterans are technologically savvy. Veterans can submit claims for compensation over the Internet. However, such applications are not integrated into the claims process. Do you believe VA has a role in improving the use of technology for the processing of initial applications for compensation and to aid in the timeliness and accuracy of claims adjudication?

Response. I believe that the best technological tools must be provided to our employees to help them work accurately and expeditiously and that we must allow veterans to communicate with us electronically, consistent with the latest technology. Since appointed as Acting Under Secretary for Benefits, I have aggressively worked to develop the paperless delivery of veterans benefits initiative and achieve rapid progress. This initiative employs a variety of enhanced technologies to support end-to-end claims processing. In addition, I have directed that we redesign and enhance our existing on-line application process. As part of this redesign, the data supplied by the veteran will be integrated into the claims processing system to alleviate the redundant re-keying of information from the application. This redesign will also provide the framework for providing other types of “self service” capabilities to veterans, such as change of address or banking information, checking the status of a pending claim, and submission of evidence.

Question 11. For some medical conditions that occur after service, the scientific information needed to connect the medical condition and the circumstances of service may be incomplete. When information is incomplete, Congress or the Secretary of Veterans Affairs has authority to presume disabilities and diseases as service-con-

nected for purposes of compensation. If confirmed as Under Secretary, what would be your approach for recommending whether presumption is warranted?

Response. I believe presumptions are appropriate when information and the state of medical knowledge are incomplete and, as a result, there is a substantial risk that meritorious claims would otherwise be denied. However, any decisions must be fully informed, and supported and guided by the medical science that does exist.

Question 12. At the present time, military recruiters are actively recruiting servicemembers from countries in the Pacific Islands, such as the Federated States of Micronesia. Some veterans' benefits, such as vocational rehabilitation services, VA home loans, and health care are not normally provided outside of the United States. In your view, what obligation does the government have to provide non-citizen disabled veterans benefits and services needed to compensate for and overcome the disabilities which they incurred after being recruited into United States military service?

Response. During my tour as Commander, Naval Forces Marianas, I had the opportunity to work with many of the fine servicemembers in Micronesia, so I am somewhat familiar with the challenges in that part of the world. I believe that all disabled veterans, both United States citizens and non-citizens, are entitled to the benefits they earned through their military service. I have been advised that VA-guaranteed home loans cannot by regulation be made to veterans living outside the United States and its territories because of problems in administering the benefit to veterans in foreign countries where there is no VA presence. However, VA is revising the Specially Adapted Housing (SAH) regulations so that, as authorized by Section 2602 of Public Law 110-289, veterans living outside the United States can take advantage of the SAH program. Additionally, the law does not provide for independent living services outside the United States. However, other vocational rehabilitation programs and services can be provided to both citizen and non-citizen veterans living outside the United States. VA also furnishes veterans living outside the United States with medical care and services for the treatment of their service-connected disabilities.

Question 13. In 2004, a blue-ribbon panel completed an exhaustive review of VA's Vocational Rehabilitation and Employment program. In its findings, it made more than 100 recommendations. Of those, VA reports that 88 recommendations have been implemented to some extent. I remain concerned, however, that there are far too many eligible veterans who do not apply, complete the evaluation process, have a rehabilitation plan developed, or complete their plan. No one seems to really know why there is such a low completion rate when measured against the number of veterans who apply and who are determined entitled. What priority do you believe VA should place on determining why the successful completion rate for individuals in this program is so low?

Response. I believe that the Vocational Rehabilitation and Employment (VR&E) program is a key benefit program, crucial to the successful transition of disabled veterans. I am committed to ensuring that veterans are aware of the VR&E program and that the program meets its commitment to assist disabled veterans throughout the transition process to achieve their individual rehabilitation goals. As Assistant Secretary for Policy and Planning, I directed the planning to contract for a complete program evaluation of VA's VR&E program. This evaluation will examine the outcomes of our VR&E veteran population and why individuals discontinue the program, as well as a customer satisfaction study. If confirmed, I will make certain that a high priority is given to identifying and resolving any issues that may be impeding some veterans from successfully completing the program.

Question 14. VA's Vocational Rehabilitation and Employment program is one of the smallest, yet most important, programs within the Department. It is the linchpin for helping veterans who incur service-connected disabilities achieve a fulfilling and gainful future. I am deeply committed to making sure that this program lives up to its full potential, especially when individuals who have sustained serious injuries in combat are concerned. What are your thoughts on the role that vocational rehabilitation plays in terms of the total rehabilitation of an individual recovering from severe combat-related injuries?

Response. I agree that the VR&E program is vitally important to the successful transition of veterans with service-connected disabilities, particularly those with disabilities resulting from combat-related injuries. I am aware that the VR&E program provides a continuum of services that help veterans adjust to their disabling conditions and translate their military experience into marketable civilian skills, so that they can obtain and maintain meaningful careers in the civilian job market. Helping disabled veterans find meaningful jobs is one of the most important transitional services VA can offer. I believe of equal importance are the independent living serv-

ices provided to the most seriously disabled veterans who are unable to work to enable them to live more independently in their communities.

Question 15. Through VA's vocational rehabilitation program, VA assumes certain responsibilities for the provision of employment assistance to veterans who complete a plan of vocational rehabilitation. This assistance can take a variety of forms. I am concerned that VA cooperate and coordinate with the Department of Labor's Veterans' Employment and Training Service so that duplication of effort can be minimized. If confirmed as Under Secretary, what will you do to involve both DOL and DOD in efforts to ensure that employment-related issues are addressed seamlessly and without duplication of effort?

Response. Since mid-2007 I have served as an ex-officio member of the Secretary of Labor's Advisory Committee on Veterans Employment which is coordinated by Charles Ciccolella, Assistant Secretary for Veterans Employment and Training Service, Department of Labor. Together we have used this as a forum to coordinate our efforts with both the Department of Labor and DOD. In addition, the action items from the Task Force on Returning Global War on Terror Heroes have contributed to our collective efforts through job fairs and the transition assistance program. If confirmed, I plan to continue these efforts.

Question 16. Under the VA's vocational rehabilitation program, there is authority for a program of independent living services for individuals who are severely disabled. However, there is an annual cap of 2,500 enrollees in this program. Concerns have been expressed that this enrollment cap may be adversely impacting the provision of services to those most severely injured in combat. Do you believe that this cap is appropriate or should these services be available to all who need them?

Response. Independent living services must be available to all service-connected veterans who need them. Although I have been advised that the cap is not a barrier at this time to providing independent living services to any eligible veterans, if confirmed I will monitor this issue closely to ensure VR&E is providing services to all qualified veterans.

Question 17. Under current policies, there is a protracted period of evaluation and multiple reviews of decisions concerning seriously disabled veterans seeking independent living services. If confirmed, will you look into what steps might be taken to shorten the evaluation period and reduce the layers of the review?

Response. Yes, I will look into that if confirmed.

Question 18. VHA has had considerable success using electronic health records. What are your views on how technology might be used to address problems that arise from VBA's reliance on paper files?

Response. My vision is that those veterans who choose to communicate with VA electronically should be able to do so through an interface which incorporates the best tools available. For those veterans who choose to communicate with VA by paper, VA should be able to expeditiously convert that into an electronic file. I believe the standard should be that, as a servicemember transitions, all the appropriate administrative and medical records are immediately transmitted from DOD to VA and become part of the veteran's electronic file.

Question 19. In 1941, Congress passed legislation, which, in recognition of the difficulty of using official military records to establish the disability of veterans who were disabled in combat areas, provided for a relaxed evidentiary standard in the case of claims from veterans who served in combat areas. It has recently come to my attention that VA defines "combat" very narrowly when applying this standard, requiring a veteran claimant to produce proof of direct combat with an enemy. Do you believe this is an appropriate definition of "combat"?

Response. 38 U.S.C. § 1154(b) currently enables "any veteran who engaged in combat with the enemy" to establish service incurrence for an injury or disease using only lay evidence. The United States Court of Appeals for the Federal Circuit has held that "[t]he statute does not provide a relaxed standard of proof for determining whether a veteran engaged in combat." Rather, according to the court, a veteran must first establish that he or she engaged in combat with the enemy in order for a veteran to be able to show service incurrence for an injury or disease under the standards provided by 38 U.S.C. § 1154(b).

A number of decisions from the Court of Appeals for Veterans Claims deal with defining combat status and the evidentiary standards to apply when determining such status. However, I understand the most recent combat-related holding is from the Federal Circuit in the case of *Moran v. Peake* (2008). The court held that:

"the term 'engaged in combat with the enemy' in § 1154(b) requires that the veteran have personally participated in events constituting an actual fight or encounter with a military foe or hostile unit or instrumentality, as deter-

mined on a case-by-case basis. A showing of no more than service in a general 'combat area' or 'combat zone' is not sufficient to trigger the evidentiary benefit of § 1154(b)."

This is the definition followed by VA.

Question 20. VBA has had some success in the past with improving the efficiency of claims processing by consolidating certain services into fewer offices. What are your views on the pros and cons of such consolidation?

Response. I am aware that VBA's prior consolidations in education, loan guaranty, and insurance resulted in improved timeliness, quality and consistency of benefit decisions, as well as overall improved customer service. As Acting Under Secretary for Benefits, I have reviewed and approved the continuation of consolidation initiatives that include all original pension claims processing to the three pension management centers, general inquiry phone calls to nine national call centers, and the future consolidation of survivors' benefits processing.

Many organizations studying disability claims processing have suggested that VBA's challenges could be addressed by more comprehensive restructuring and consolidation than has been done to date. Potential benefits of greater consolidation of disability claims processing activities would include:

- Improved efficiency
- Greater decision accuracy and consistency
- Facilitate the delivery of training and quality control efforts
- Reduced administrative overhead and infrastructure costs
- Optimize our ability to recruit and retain qualified staff
- Availability of greater processing expertise, particularly in critical technical areas

If confirmed, I will continue to examine areas for potential consolidation to better serve veterans. However, as VA's past experience has proven, consolidation is not just a shift in human resources and real estate, but often a complex process that requires input and support from service organizations, Members of Congress, and other stakeholders. Even with greater consolidation, VA must maintain a presence in each geographical region in order to meet the unique needs of veterans and ensure all veterans have access to VA benefits information and services.

Question 21. What changes do you anticipate making to the way quality is measured at VBA?

Response. Based on my experience to date with VBA's systematic technical accuracy review program, I believe it is technically sound, but should be expanded. VBA is now significantly increasing the national quality assurance staff to add review areas previously not covered, expand the rating consistency review program started in fiscal 2008, and increase regional office sample numbers. If confirmed, I will continue to support this effort.

Question 22. Short of a legislative solution, what actions do you intend to take to ensure the continuity of the Senior Oversight Committee process in the next administration?

Response. I am working with my DOD counterpart as co-chair of the Senior Oversight Committee integrated process team to ensure all action items from the lines of action are incorporated into the Joint Strategic Plan, which will be finalized before the end of the year. I reorganized the Office of Policy and Planning staff and directed hiring additional personnel to work exclusively on coordination of issues with DOD. We continue to work with DOD to properly align the duties of the VA/DOD Joint Executive Council work groups with those of the lines of action.

Question 23. The VA IG recently identified problems in 2006 with sending VBA sending benefit packets to recently separated reservists. What is VBA doing to ensure that all who previously did not receive benefits packets now receive them?

Response. In early 2008, VBA identified problems with the Veterans Assistance at Discharge System (VADS) process. VBA is unable to determine which separated reservists did not receive benefits packets during 2006. However, immediate corrective actions were taken to ensure that all separating servicemembers now receive the benefits packages. Staff at the Austin Automation Center were given access to contract locator services to obtain correct addresses for packages that are returned as undeliverable. Additionally, VBA is investigating methods to switch to a real-time data feed from the Defense Manpower Data Center rather than relying on the current process of waiting on DOD to provide us with a hard copy DD-214. This will allow VBA to issue the *Welcome Home Package* more efficiently and timely.

Question 24. I am interested in hearing about your view of the IOM's report for the VDDB on Evaluation of the Presumptive Disability Decision-Making Process for

Veterans. That IOM Committee recommended a new process for VA to follow in establishing presumptions. Can you please comment on your view of this new process?

Response. VA's current policies are consistent with many of the suggestions contained in the report. However, the Institute of Medicine (IOM) recommended changes to the process that included a more stringent standard of evidence and the establishment of new advisory committees. These are policy considerations that have not been vetted in the Department, and I have formulated no opinion on them.

Question 25. With respect to presumptive disability decisionmaking, IOM also recommended a standard of "causal effect." In some cases, servicemembers may have been subjected to multiple potential exposures of uncertain dosage. If causation is unclear, should evidence of increased incidence of certain disabilities be a basis for service-connection?

Response. I am advised that a standard of "causal link" is a higher standard of proof than VA has traditionally used in establishing presumptions. Using that standard would, most likely, result in fewer disabilities being designated as presumptives. This is a policy consideration that has not been vetted in the Department, and I have formulated no opinion on it.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BERNARD SANDERS, TO PATRICK W. DUNNE, NOMINEE TO BE UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS

Question 1. Admiral Dunne, the VBA disability claims processing process continues to be fraught with problems in decisionmaking that causes undue burden on veterans and results in inefficient allocation of scarce government resources.

Specifically:

- The average claim takes 120 days to adjudicate; far from the 78-day VA goal.
- VBA admits 15% of its claims are inaccurate, but the true number is probably much higher. Recent data shows wide variations in payments to veterans by different regional offices, for example.
- A wave of VBA's most experienced raters are retiring, and at the same time the attrition rate for new raters is inexplicably high at 16% in their first year.
- The average veteran submits five claims.
- 50% of veterans appeal their claim, adding further time and resources to the claims process.

Given these longstanding and deep structural deficiencies, do you think there would be a benefit to the VBA of automating the VASRD (VA Schedule for Rating Disabilities)? Do you have any plans on moving forward with any VBA information technology enhancements between now and January? If so, please describe them.

Response. In late fiscal 2007, the Office of Information and Technology supported the Veterans Benefit Administration's (VBA) market research of business-rules-engine software and other decision-support technologies that could be leveraged to support improved decisionmaking by claims processing personnel. During September 2008, the Department of Veterans Affairs (VA) will engage the services of a lead systems integration contractor (LSIC) to assist in refining and documenting VBA's strategy and requirements for a claims process that is less reliant on paper. This will include decision-support tools that can be used to enhance decisionmaking and evidence-gathering throughout the claims process, as well as streamline elements of claims workflow. We will continue to evaluate appropriate uses of business rules technology as part of our overall claims processing improvement strategy, including the disability rating process.

The concept of operations for enhancing the claims process with automated decision support tools is part of the overall strategy for the paperless delivery of veterans benefits initiative. During the first quarter of fiscal 2009, the LSIC will assist VBA in examining the disability claims process to elicit the business requirements for the paperless initiative. The LSIC will advise VA on technologies available to enhance the business processes as well as to support the implementation of a more efficient business model. The initial hardware and software release in support of the paperless initiative is expected to be implemented in fiscal 2010. In parallel, VBA will continue its successful paperless claims processing efforts in the loan guaranty, insurance and education business lines. Paperless claims processing in the compensation and pension line of business will also continue to be enhanced, using the current virtual VA platform. The end-state hardware and software platform, designed by the LSIC to meet VBA's business requirements, is envisioned to replace the current virtual VA platform, and provide enhanced paperless claims processing capabilities across VBA.

A core element of the paperless delivery of veterans benefits initiative is on-line self service. The existing veterans on line applications capabilities will undergo extensive modernization to increase efficiency and improve customer service. Enhancements will include the capability for E-authentication through an enterprise portal, offering the capability of identifying and authenticating veterans through the veterans information portal, which uses the Veterans Affairs Defense Identity Repository as a means of authentication.

Chairman AKAKA. Thank you very much, Admiral.

Given the relatively short time you will hold office and that VBA is facing seemingly unsurmountable challenges, what do you think you can accomplish in these few remaining months?

Admiral DUNNE. Sir, as you mentioned, it is a big challenge, and I think what I can accomplish is to set a plan in motion which we can continue to progress along as we are currently, taking advantage of technology. Recently, last month, I established a billet for a long-range planner. I hired a veteran last month who has planning experience, both short-range and long-range, to come in and work closely with me and to gather up the efforts of the senior executives within VBA so that we establish a plan for the G.I. Bill implementation, for paperless implementation, and for really taking a look at the claims process; and seeing, while we are waiting for the technology to get us paperless, what parts of our business process we can modify, reevaluate, and change. So, we are in the process of building a plan over the next several months which we will be able to turn over in January.

Chairman AKAKA. How do you think you will prepare VBA and your successor for the transition that will likely occur with the next administration?

Admiral DUNNE. Mr. Chairman, as part of this plan, we will have a detailed analysis of those items that need to be completed, monitoring and managing the parts of the contract, ensuring—the different contracts, ensuring that the proper training is available to all our VBA employees so that they can continue on. As you know, we have hired almost 3,100 new employees. Many of them are still in the stage of completing their training to get to the journeyman status. We need to follow through on those and be prepared.

Chairman AKAKA. Admiral, I understand that it may be necessary to reach outside of VA for assistance in implementing the new Post-9/11 G.I. Bill in a smooth and seamless fashion. However, I believe strongly that outsourcing the processing of these important benefits on a permanent basis would be very ill-advised. Do you have plans for bringing this function back into VA in the future?

Admiral DUNNE. Mr. Chairman, in the implementation of all our education programs, our knowledgeable VA employees are the crux of the process and we are going to rely on them just as much under the new G.I. Bill Program as we are on the current one. As you know, our IT capabilities are such that the timeline that we need to work on and the complexity of the benefit is such that we needed to bring in outside assistance to develop an IT system capable of doing that. I would intend to work with the Chief Information Officer to make sure that we have those capabilities in-house which are necessary for us to be able to serve veterans. So, the priority is to be able to serve veterans; and I will work closely with the CIO

on those IT issues that we currently have to contract out to make sure we are doing them in the best manner, sir.

Chairman AKAKA. Well, thank you. I have further questions for another round. Let me call on our Ranking Member, Senator Richard Burr, for his questions.

Senator BURR. Thank you, Mr. Chairman. I will be very brief. I want to explore the same area, because I would like every Member to be very clear on exactly how you envision implementation and the specific areas where contractors may be used. In a conversation that we had, I believe that you highlighted the need to use contractors to create the software program to implement the G.I. Bill, and the potential to use contractors to actually make the payments. I think those payments were the payments, specifically, that dealt with the housing allowance, because there are incredible variations on where that is.

Now, I had the opportunity to sit down after I met with you and after we had the American Legion meeting last week, which the Chairman and I attended, where they were outraged at the thought of contracting. It just so happened that, an hour later, I sat down with you and got it from the horse's mouth. Here is what we are trying to do. Later in the day, I had Legion members come in and explained to them that we don't have the capabilities within the Federal Government. We have tried before at the FBI and spent a billion dollars to find out the billion dollars created a program that we couldn't use and we had to throw it away. So, I applaud the fact that we are recognizing that writing software is not our strength, that the outside world, the private sector does it better.

When I referenced the fact that the payment might come from an outside vendor that is processing the checks—the VA is intricately involved in determining who qualifies and where they live—but the processing of that payment may be from outside, they said, we don't care who processes and sends the check as long as we get the check.

Now, have I simplified it too much from the standpoint of your incorporating outside vendors? Is there an area that we should be concerned with or alarmed? I might say to the Chairman's question, I am not sure that either of the areas is necessarily something that I envision that I would like to move back in because I think, historically, government doesn't do that piece real well. I point to numerous agencies that make payments, that my staff spends hundreds of hours trying to chase down Social Security payments, hundreds of hours trying to chase down IRS payments. The thought that we could turn it over to somebody to process in a timely fashion and, more importantly, to make sure that a check actually got to the person whose address it is supposed to get to, is refreshing to me. I turn it to you to correct me anywhere I might be wrong.

Admiral DUNNE. No, thank you, Senator. You have the essence of where we are headed. We are implementing the Post-9/11 G.I. Bill today and VA employees are involved in that, as they should be. We are staffed up at the Education Call Center to answer questions from veterans now so that they are ready to apply when it is time to apply next summer to go to school. We are manning the Internet Web site that we have. VA employees are answering ques-

tions from veterans on that Web site as they come in. And that is how they should be involved.

As you mentioned, due to the complexity of the different payments, we do not currently have the IT capability to do that. We have payment systems that pay compensation, that pay pension, et cetera, but they are not configured to make the payments that are required under this new G.I. Bill.

So, what we are contracting for is to build a service and have a contractor provide us a service through software which is rules-based. In essence, this new program—we are taking the opportunity to bring the right technology tools to the VA decisionmakers from the start. We want to bring the best of technology. One of the things that we understand technology can do is provide us this rules-based engine, which in many cases a servicemember or veteran would be able to go to his or her computer, log in, answer the questions that establish their eligibility, and hit “submit.” It goes to the computer program, the rules of which have been determined by VA employees.

If everything matches as the computer’s logic has been told, then a letter would go to the veteran, servicemember, saying you are accepted in the program. We are going to make the payments to your college that you have told us that you are going to. You will get your housing benefits in this amount on a monthly basis, et cetera. That would all be happening by the computer—the printouts, et cetera.

And the VA employees would get involved when an application goes in and the computer says, this doesn’t match my logic. Perhaps the veteran has broken service and has two segments of service which have to be added up. Hopefully, we get the computer to be able to do that, too, but just as an example, say it couldn’t do that. Then it would queue up on an Education Service employee’s screen to say, this doesn’t match the rule. Is it OK? At that point, the VA employee gets involved and either says yes, add the broken service, and approves it, or gets information back to the veteran and says, we need this additional information to explain it, et cetera.

Senator BURR. And this is VA personnel, not contract personnel?

Admiral DUNNE. These are the same Education Service personnel who are out there today administering the other programs that are currently in effect. And we are in the process of training them so that they will be able to understand the criteria of the new bill, and then understand the rules-based engine that we have once it is built.

Senator BURR. Mr. Chairman, if I could, and I appreciate the Members’ indulgence here, if you took the greater Washington area and I said to you, how many different potential housing reimbursement numbers would exist in the greater Washington area, is that a number that you know? Does it have as many variations as I think it might, the way the bill was written?

Admiral DUNNE. I would start by counting zip codes, sir, and—

Senator BURR. And every zip code could have a different housing reimbursement in the Washington area?

Admiral DUNNE. Potentially. Often, adjacent zip codes in some areas would have the same amount, but that would be a good place to start.

Senator BURR. Mr. Chairman, my reason for pointing this out is we passed this piece of legislation and now we have asked VA to implement it. This is a very difficult piece of legislation to implement. And the fact is, I think VA has put a lot more time into how they do it—more importantly, how they do it correctly—than we give them credit for and that the VSOs give them credit for. The attempt here is to make sure that, in a timely fashion, individuals who qualify get the right amounts and that their intent to enroll actually is followed by a check that pays for their education.

I think this is one that we have figured out up front how to do it, not necessarily waited until later on and figured out how to fix it, and it is refreshing to me. But I just want to stress to my colleagues, nothing will make this easier to implement if the reimbursement rates change, and they do annually around the country, depending upon the zip code that you live in. Without that computer software foundation, this becomes a manual process of trying to reassess what the changes are in that living allowance and it would become a nightmare down the road if, in fact, we did not make this attempt up front to get it right. So, I applaud you for this and I thank the Chair for his indulgence.

Chairman AKAKA. Thank you, Senator.

We will now have questions from Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman, and I want to follow up on this, as well. We are hearing from a lot of veterans and VSOs about the outsourcing of the implementation. I guess I don't understand how the VA has been able to administer the G.I. Bill since its inception but suddenly doesn't have the ability to administer this new Post-9/11 G.I. Bill. I think there are plenty of examples inside and outside of government of trying to implement systems that don't come in on time or don't come as promised, whether it is a private company or within the government. So, outsourcing can bring us problems, too.

But I was reminded yesterday of a saying that says, you can delegate authority, but you can't delegate responsibility, and I think what a number of people are concerned about is that you are delegating both the authority and the responsibility with the contract that is out there, and I wanted to ask you how you plan on maintaining responsibility over the administration of the Post-9/11 G.I. Bill benefit under this new contract.

Admiral DUNNE. Well, Senator, I don't think that—I do not feel that responsibility for the program would go to the contractor. I feel that the responsibility would come back directly to me and the members of VBA who are responsible for it. We already have a management team in place of senior executives, all of whom, short of their own retirement, will be involved in this process right up through and beyond August 2009, implementing it.

We have been working this process since—well, before the bill was even signed and became law in anticipation, and we are involved in it every day, tracking the elements, not just the work of the contractor. We are working on the Yellow Ribbon Program and talking with the American Council of Education and other associa-

tions so that we can get the information out there. And as I mentioned before, we are deeply involved in getting the information out to the veterans so that they understand the program and can apply for it.

Senator MURRAY. Specifically, do you have a contingency plan in place if the contractor fails to meet their obligations time-wise?

Admiral DUNNE. Senator, I am looking at three contingency plans right now, and I am actually scheduled to brief Secretary Peake on those this afternoon.

Senator MURRAY. So, you are already looking at that. How long is this contract designed to last for?

Admiral DUNNE. The contract has a base period of performance of 3 years and two option years after that.

Senator MURRAY. Can you define for us the benchmarks that you have within the contract that the contractor needs to meet?

Admiral DUNNE. I am trying to make sure I stay in the acquisition roles here. I think the best way to describe it is that there is a requirement in there for continuous improvement. Although it is IT software, the software we are procuring as a service and the anticipation would be—the requirement within the contract is that the contractor would continuously improve this. So, they have written software which we would use, but they are also able to be trying after we get started to make improvements, revisions as is commonly made with software to improve the efficiency or the effectiveness of it and then come to us and recommend changes to that over the course of the program, and the contract would be incentivized for them to do that.

Senator MURRAY. OK. I think all of us are clearly on the same page. We want the G.I. Bill out there. We want the checks to start going. We want this to work seamlessly. We have all had enough experience to know that doesn't always happen, whether it is within your agency or contracted out. I think you will see this Committee following this very closely and I think there are a number of concerns. I hope that within the agency, you are really looking at this as you move forward.

I just have a few seconds left. I did want to ask, you are going to be in place for a short amount of time. Can you define for this Committee perhaps what your top three specific changes you hope to implement in your tenure?

Admiral DUNNE. Top three. I would put the G.I. Bill, as we have just been talking about, right up there at the top because of its short timeframe. I intend to remain intimately involved in that and tracking that.

Claims processing is another one of my concerns. We have a number of initiatives underway. As I mentioned, we are not waiting to be able to go completely electronic. We are looking at the business process itself. For instance, as an example, we are aware of the fact that both the National Cemetery Administration and VBA process a first notice of death from a veteran in various methods. We are working together with the other administration right now so that they will be able to do the majority of processing on that and their computer system will update ours automatically and that will keep the VSRs on our side from having to do that one ele-

ment, so they can be working on claims instead. So, we are looking at business processes from that standpoint.

Another element that is very important to me is we are about to commence on a review of the VR&E system. My intent is to get a program evaluation in place. We have been working that since the July timeframe, so that over the course of a year, we can do a complete evaluation of that program, because as I am sure you know, less than 10 percent of the eligible veterans actually participate in the VR&E program and we would like to understand why that participation level is so low and do whatever is necessary to increase that.

Senator MURRAY. OK. Thank you very much. Thank you, Mr. Chairman.

Chairman AKAKA. Thank you very much, Senator Murray.

Senator TESTER?

Senator TESTER. Thank you, Mr. Chairman.

Admiral Dunne, we visited previously about the backlog, 182 days, I think currently, about that, give or take a few. In previous discussions you had talked about senior leadership forcing down on the bureaucracy ways to cut that time down. How do you see this playing out in transition now, and how can you get—just how is it playing out in the transition and go from there?

Admiral DUNNE. Senator, I guess the best way is that we continue to move along on making the changes that are necessary and just, you know, work as if there is no seam there in January. I am fortunate enough to have some very experienced senior executives in VBA who have been through transitions before and so they are accustomed to that.

But we can't stop. I mean, we just keep right on marching. And as you know, as an example, we have put in teleconferencing capability with Fort Harrison and folks have been able to take advantage of that, and as recently as last month, we increased the number of hours per week up to 10 hours per week to make it available to more folks. As we become aware of those things, I don't want to save them for January. We are going to do them now and just keep marching.

Senator TESTER. There will be a new administration. There will be some turnover in senior management. We don't know how much at this point in time. I guess the question is are the folks underneath you as committed as you are, as least as I think you are, to cutting down the time for the disability claims?

Admiral DUNNE. One of the reasons I am anxious to take on this responsibility, sir, is because I have had the opportunity to work with the folks there and I understand their dedication to it. It is almost a competition amongst us to understand the numbers the best, and be able to understand not just production, but also accuracy. And taking a look at what we need to do to be as accurate as possible the first time around, because if we get it right the first time, we don't have to handle it again.

Senator TESTER. On the Guard and Reserves and the denial of claims, are you doing anything special in that regard? I think the disparity is 2-2½ times more likely that Guardsmen are denied benefits. I understand that it is kind of the nature of the beast; but

have you come up with any ideas to help reduce the denials, complaints?

Admiral DUNNE. Sir, first off, we are continuing to track it and I am pleased to report to you that since we last talked in April, the numbers have actually closed in terms of we are now at 89 percent versus 96 percent, which is a 2-percentage point increase since the last time we talked. But we are still at the same level in terms of those factors that we see there, in terms of length of service and number of disabilities that are reported in the first place. But we continue to work very diligently to get the information from the Guard and Reserve as soon as possible.

I think there are a couple of elements to that. First off, in the recent past, Secretary Peake hosted a meeting with General Blum and the Reserves and we talked very specifically about getting the information and getting the records. We now are opening up the benefits delivery at discharge program to everyone, not just at the 152 sites.

We have also put in place what we are calling the Quick Start Program for those Guard and Reserve who oftentimes don't meet the 60- to 180-day criteria, and we said, still come to us. We will start working with you. We will take your record. We will get you all the information so that we can process those in the same time standards, hopefully, as the BDD claims.

Senator TESTER. Good. One last question for now. Among veterans who begin getting disability compensation in 2007, the dollar amount of compensation varied wildly. I think in New Mexico it was \$12,000, compared to Minnesota, I think it was \$5,500. Montana is somewhat lower, at about \$6,700. Is this something that you are working on understanding—why this is occurring and is it something that something can be done about?

Admiral DUNNE. It is something that we are concerned about and that we are taking a look at through our STAR Program. One of the things they specifically are evaluating now is to expand their review for consistency and to determine why there might be a variation from one area to the other. And in fact, when it is discovered, actually drilling down and taking a look at the actual case and look at the parameters of the case to see why that difference exists, because what we need to do in the long run to get rid of it is to conduct the training that is necessary so that the people making the ratings understand the fine points of the disability system and can apply it the same way.

Senator TESTER. So, you do think it is a problem with the ratings initially being done in the States?

Admiral DUNNE. If there is variation, then we need to get rid of the variation, whether it is on a state-by-state basis or a zip code-by-zip code basis.

Senator TESTER. OK. All right. Sounds good. And then you are proceeding on that, because I think it is a bone of contention, so thank you. Thank you, Admiral.

Chairman AKAKA. Thank you very much, Senator Tester.

Admiral, in your testimony, you identified improving communications with veterans as one of the Veterans Benefits Administration's top priorities. Can you elaborate on what specifically you are

referring to and describe how VA has made progress in this area in the 6 months that you have served as Acting Under Secretary?

Admiral DUNNE. Mr. Chairman, I think I would provide two examples. The first is with the G.I. Bill in that we moved expeditiously to get information available to veterans both with press releases and our Web site and setting up within that Web site a capability for a veteran to sign up and say, please email me whenever you change any of the information on this page or any of the information is updated. We have also created a tri-fold handout which has the essence of the benefits on it and we make that readily available at a lot of the locations where we are, where veterans or active duty may be looking for information.

The second example I would provide is in the loan guaranty area. We were very concerned about veterans needing or wanting to use their VA loan guaranty for mortgages in the current environment and we have made several press releases as well as updated our Web site to ensure that veterans understand that we are not a subprime entity. We are not a lender of last resort. If they are eligible, we want them to come see us. Recognizing the concern among veterans, we increased the number of people on our phone line to be able to answer more questions, not just from veterans who have VA loans already but from those who might have a loan which they want to try to replace with a VA-guaranteed loan.

Chairman AKAKA. In your testimony before this Committee in July, you stated the Senior Oversight Committee was scheduled to meet on August 12 to discuss the future of the Single Disability Evaluation Pilot Program. Can you share with us the results of that meeting, including any plans for offering the next administration a template that can be followed in additional locations?

Admiral DUNNE. Yes, sir, Mr. Chairman. We did have that meeting and there has been a great deal of work within both DOD and VA since then. We have identified a number of sites, also 15 specific VBA Regional Offices who would participate in the next phase. The first week in September, we had a 2-day conference where we sat down with the VA employees from those sites and they have gone through and created a checklist for each of their sites on the very specific things—whether it is IT or staffing or furniture or private meeting rooms, et cetera—that they need in order to make their site functional within this DES pilot. DOD is doing the same thing with their complementary bases, and I expect over the next few weeks that we will be merging that and then going back to the Senior Oversight Committee with a recommendation for a timeline for each of those areas.

Chairman AKAKA. The Joint VA/DOD Senior Oversight Committee has been successful in solving many of the problems which stem from Walter Reed. Because I believe there is much work to be done, I am concerned about how the work of the Senior Oversight Committee will be transitioned to the next administration. What is your view on how VA can sustain the Senior Oversight Committee's high level of focus and energy to solving these ongoing problems into the next administration?

Admiral DUNNE. Mr. Chairman, I agree that the Senior Oversight Committee is essential to continued progress, and accordingly, I am working very closely with Mr. Mike Dominguez, who is

my counterpart on the OIPT that we run, and we have charged each of the lines of action with ensuring that the next Joint Strategic Plan that comes out by the end of the year contains all the action items from those lines of action so that they are written down, they are formal, they are part of a plan which will then be available to the next administration.

In addition, within my Office of Policy and Planning, I have also added additional staff who are dedicated only to the VA/DOD relationship.

Chairman AKAKA. Thank you very much.

Senator Burr?

Senator BURR. Thank you, Mr. Chairman. I am sorry my colleagues left. I am going to go back to the G.I. Bill, because I want to try to sort of tie this together. Senator Murray started her inquiry of you by saying VA did the existing G.I. Bill. What is different and why can't they do the new G.I. Bill? Now, tell me where I am wrong.

The G.I. Bill education benefit that has been in effect was one payment. That payment went to the veteran. That payment was for tuition and for housing. It was a pretty standard amount. Everybody got the same. So, it was fairly easy to target. If somebody qualified, here is the amount they get and they applied that wherever they went to school, and wherever they lived, they used the housing allowance for that.

Under the new G.I. Bill, we have three separate payments. One payment goes for housing. One payment goes for tuition and fees. One payment goes for books and miscellaneous. It is likely that these payments go to different entities. Within each category, there are multiple different levels of payment that can be made. Within housing, it is determined based upon the zip code of where one might choose to go to school. Within the tuition and fees area, it is determined by the highest amount of a State institution in the State that they choose to go to school in.

So, one can't just look at the choice that an individual makes. They have to look further at what the highest public tuition is to understand what the qualification amount would be that would be applied to that institution. And at some point after enrollment in the university, that veteran would access their books; and the courses they chose might determine whether that rates the maximum of \$1,000 or was some figure less.

So, I point this out for my colleagues. Before, we had one payment. That payment went to a veteran. That payment included tuition, fees, housing, which was the definition then. Now we have a program that has three distinct different payment areas: Housing with multiple different levels of reimbursement; tuition and fees with multiple different levels predicated by the State; and three, books. Have I pretty much gotten it—

Admiral DUNNE. Yes, sir, that covers it.

Senator BURR. If this were a chart we had on the board, you would have one that had one big area and payment. The one over here would have so many lines and so many variables, you couldn't display it on a chart. So, I just want to say for the record, to suggest that because you could handle internally all the aspects of an education benefit in the VA today and that that should suggest

that you should be able to do whatever, then one has to look at the construction that we have brought to this program and question just how difficult this is going to be.

I just want to tell you, I applaud you because I think you understand the difficulty of it. You have tried to design and you have reached out to experts to design a system that won't eliminate 100 percent of the mistakes, but surely will allow us to take the easy pieces and to expedite that process and to make sure one thing happens—that veterans get their education benefit. The payment goes to the school; they show up on the day that they are supposed to sign up for classes and go to classes, their payment has been made. They have got their housing allowance so they have got the place they are going to live; and, hopefully, at some point the books that they buy at the bookstore are paid for and they are not getting delinquent sheets. I applaud you for what I think is well-thought-through in a very brief period of time for a very difficult piece of legislation.

Admiral DUNNE. Thank you.

Chairman AKAKA. Senator Burr, do you have any further questions?

Senator BURR. No, sir.

Chairman AKAKA. Thank you, Senator Burr.

Well, in closing, I want to thank you very much for being here and for having your family join you here. While there is little time left in the current administration, I do believe veterans and their families would be better served in this period with a Senate-confirmed Under Secretary leading the Veterans Benefits Administration. We would like to move the nomination as quickly as we can. With this in mind, I will work to bring your nomination before the Committee and the full Senate as soon as possible.

Of course, we want to wish you well, and again, thank Secretary Mansfield for being here.

This hearing is adjourned.

[Whereupon, at 11:06 a.m., the Committee was adjourned.]