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STRUCTURE, PROCESS AND TOOLS FOR IMPROVING DEPARTMENT OF DEFENSE MANAGEMENT

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES
ONE HUNDRED TENTH CONGRESS
FIRST SESSION

HEARING HELD
JUNE 26, 2007

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STRUCTURE, PROCESS AND TOOLS FOR IMPROVING DEPARTMENT OF DEFENSE MANAGEMENT

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, Tuesday, June 26, 2007.

The committee met, pursuant to call, at 10:07 a.m., in room 2118, Rayburn House Office Building, Hon. Ike Skelton (chairman of the committee) presiding.

OPENING STATEMENT OF HON. IKE SKELTON, A REPRESENTATIVE FROM MISSOURI, CHAIRMAN, COMMITTEE ON ARMED SERVICES

The CHAIRMAN. Ladies and gentlemen, today's hearing is focused on improving the management of the Department of Defense (DOD).

And we have with us today the Deputy Secretary of Defense, Gordon England, a seasoned executive, one of the most capable managers serving in government. We appreciate him being with us. Also David Patterson, the Principal Deputy Under Secretary of Defense; Paul Brinkley, the Deputy Under Secretary of Defense for Business Transformation.

These gentlemen will outline the management challenges confronting the Department and tell us how they are addressing them.

The Department of Defense has acknowledged that it has significant management challenges, including managing people and business systems at over 3,000 locations worldwide, managing $1.4 trillion in assets and $2 trillion in liabilities, managing annual operating costs in excess of $700 billion.

For example, in 2006, the Department had information sufficient to obtain either a clean or qualified audit opinion on only 21 percent of its assets and 77 percent of its liabilities. This results partly from the fact that the Department still has over 770 legacy business systems in service, few of which are capable of sharing information with each other.

The Department has some high-profile programs to correct these management problems. However, these programs themselves have experienced some challenges.

In 2005, the Government Accountability Office (GAO) designated the Department's approach to business transformation as high risk. GAO has previously designated the Department's business systems modernization and financial management modernization as high risk in 1995.

These programs are extremely complex undertakings involving literally thousands of moving parts. Their success depends on care-

ful management. And yet GAO has also identified significant management weaknesses which have impeded the Department.

Congress has worked to spur change in the Department's business processes. The Fiscal Year 2005 Defense Authorization Act mandated the creation of the Defense Business Systems Management Committee to oversee the business functions.

The Fiscal Year 2006 Defense Authorization Act required the Secretary of Defense to conduct a study of whether to establish a chief management officer for that Department. The study was performed by the Institute for Defense Analysis, which is called the IDA, and was delivered to Congress in December of last year.

The House and Senate passed defense authorization bills that take different approaches to implementing the IDA report's recommendations.

The House bill would provide significant flexibility to the Secretary of Defense in structuring his management team. However, it would hold the Department accountable for meeting essential management goals. These goals would include modernizing and integrating the Department's business systems to better support the warfighter, preparing the Department's books to pass an independent financial audit.

The Senate bill is more prescriptive in assigning specific management roles to certain individuals at the Department.

Hopefully, we will leave here today better prepared to finalize our legislative work with the Senate on this topic when the time comes for conference.

And, Mr. Secretary, we look forward to hearing from you, as well as your colleagues, Mr. Patterson, Mr. Brinkley.

And now I call my friend, my colleague, my friend from California, Mr. Hunter.

STATEMENT OF HON. DUNCAN HUNTER, A REPRESENTATIVE FROM CALIFORNIA, RANKING MEMBER, COMMITTEE ON ARMED SERVICES

Mr. HUNTER. Thank you, Mr. Chairman.

And to our guests, thanks for being with us today.

And thanks to the chairman for holding this hearing. I note the importance of today's topic.

The structure, processes, and tools for improving DOD management is sometimes overlooked. National security experts, members of the media, and government officials often focus on other important, more pressing issues, such as the ongoing operations in Iraq, Afghanistan, and elsewhere.

And yet these current topics are indeed critical. And in fact they oftentimes relate to our capability in the warfighting theaters. And they obviously deserve our attention.

American success in military endeavors over time depends in large part on the long-term health of the DOD. So in holding this hearing, we are exploring the business-related plans, as articulated by senior Defense officials for that organization's transformation investments and future health.

Recently, a Department of Defense official noted that the Department's budget for Fiscal Year 2007, including the supplemental, is more than $700 billion.

The Department holds $1.4 trillion in assets and $2 trillion in liabilities. And both of these figures are more than the assets and liabilities of Wal-Mart, IBM, and Exxon combined.

It has over 3 million employees, operates more than 4,000 information technology systems, and has over 3,000 locations worldwide. When people refer to corporate DOD, there can be little doubt that this Department is, in so many ways, like a corporation, with the American people as its shareholders.

As a result of its size and scope of responsibilities, the DOD faces unique management challenges. Congress has recognized this fact, has often pushed the Department to improve its management, and has even imposed management-related requirements on the Department.

For example, the Fiscal Year 2005 National Defense Authorization Act mandated the creation of a Defense Business Systems Management Committee to coordinate DOD business initiatives, update the business enterprise architecture, and help with integration of transformation efforts.

More recently, in the Fiscal Year 2006 National Defense Authorization Act, Congress required a study on whether the Department should have a Deputy Secretary of Defense for management. The Institute for Defense Analysis released its study last December, and the GAO has also made recommendations on this topic. In fact, both the House-passed and Senate Armed Services Committee versions of the Fiscal Year 2008 Defense Authorization Bill contain language that reflected some recommendations from IDA and GAO.

The House version, for example, directed the Secretary of Defense (SECDEF) to designate a senior DOD official with management duties, establish essential management goals, and adopt a management structure that defines roles, processes, and accountability to achieve those goals.

This language provides the management flexibility that is necessary for such a large corporation while forcing Defense officials to develop and clearly articulate to Congress the key management goals that will help the long-term health of the department.

Secretary England, Mr. Patterson, and Mr. Brinkley, again, thanks for coming today to talk about this important topic. And I look forward to hearing how the current and planned corporate Department of Defense can provide our warfighters with the best training, equipment, and other support needed to accomplish the missions required of them.

And I would also like to hear and understand your thoughts on the IDA and GAO recommendations, as well as your positions on the House and Senate language. Clearly, Congress would like to help the Department in this area, so let us know how we can do that.

And, Mr. Chairman, thanks for holding this hearing.

I might just conclude on this note. There are stories in the media this morning about the Iraqi army, statements made by American trainers that the Iraqi army is not yet equipped to the degree that it should be to be able to undertake a handoff of military responsibilities in important parts of Iraq, to take this handoff of the security burden from American forces to Iraqi forces.

And it is interesting, the equipment that is discussed is not technical stuff. It is trucks, it is some armor, some carriage capability, ammunition, rifles, basic communications gear.

And I would like your comments, too—and, gentlemen, you all have provided great service to our country, and we appreciate that—like your thoughts about how we can effect quickly a handoff or a supply of basic military equipment that will allow the Iraqi forces to at least have the equipment that they need to take a basic handoff in the warfighting areas, the contentious zones in Iraq. That seems to me to be a pretty basic thing.

And looking at the fact that we have—for example, the Marines have had for a long time a very large contingent of Marine Armor Kit (MAK)-kitted Humvees, and they now have replaced those with 114s. And, at least in one location, they had 1,800 MAK-kitted Humvees parked, the fact that they had a lot of five-ton trucks that were superseded by the new acquisition of seven-ton vehicles.

The idea that we can't effect a handoff of basic military equipment to the Iraqi military and that that might be the long pole in the tent of transferring the security burden I think is troublesome. So if you could speak to that, that would be great.

So once again, Secretary England, thank you for your many years of great service to our country and your support for this committee and all the good things you have done for our country.

And, Mr. Brinkley and Mr. Patterson as well, welcome. I look forward to your comments.

The CHAIRMAN. Thank the gentleman.

Secretary England, as I understand it, you have opening remarks. And as I also understand, the other two gentlemen, Mr. Patterson and Mr. Brinkley, are here to support or answer questions. Is that correct?

Mr. ENGLAND. That is correct.

The CHAIRMAN. Mr. Patterson and Mr. Brinkley, would you in 25 words or less tell us about yourself before we call on Secretary England?

Mr. Patterson.

STATEMENT OF DAVID PATTERSON, THE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE

Mr. PATTERSON. Thank you.

The CHAIRMAN. And what you do.

Mr. PATTERSON. I am the Principal Deputy Under Secretary of Defense for the Comptroller Shop. And the Office of the Under Secretary of Defense for Comptroller has the responsibility to organize and establish and present the Department's budget to the Congress, as well as maintain—I am sorry?

Is it better now?

The CHAIRMAN. Good. Thank you.

Mr. PATTERSON. Well, we are the part that doesn't get necessarily the first of the technology, so you will have to excuse me for not being familiar with a button. [Laughter.]

But as I was saying, we are responsible for providing the Congress with the budget and all the justification material that goes with it as it is provided to us by the components.

Additionally, and more importantly in the long run, I would say that we are responsible for the processes and the systems that present a healthy financial management circumstance for the taxpayer of this country.

The CHAIRMAN. Thank you so much.

Mr. Brinkley.

STATEMENT OF PAUL BRINKLEY, THE DEPUTY UNDER SECRETARY OF DEFENSE FOR BUSINESS TRANSFORMATION

Mr. BRINKLEY. Yes, thank you. I serve as the Deputy Under Secretary of Defense for Business Transformation.

This office was created under the leadership of Mr. England in 2005 to address many of the shortcomings that you mentioned in your opening testimony, sir, regarding our ability to integrate and modernize the business processes and systems of the Department of Defense.

We have also established—since the Office of Business Transformation was created within OSD, we have established the Business Transformation Agency, a focused group of career professionals augmented by industry expertise that is overseen by my office.

And we also direct a task force working in Iraq to address business issues and shortcomings that affect our forces in theater and, as a supplemental element of that, working to bring industrial leverage to help the economic revitalization of Iraq in support of the mission.

So thank you for the opportunity to speak here today.

The CHAIRMAN. Thank you.

And now, Secretary England, we appreciate your being with us, and we look forward to hearing your comments, please.

STATEMENT OF HON. GORDON R. ENGLAND, DEPUTY SECRETARY OF DEFENSE

Secretary ENGLAND. So, Mr. Chairman, thank you. Mr. Hunter and members of the committee, thanks for the opportunity to be here today.

I actually don't have this long opening statement. I thought I would, frankly, just make a couple of comments and then address your questions. I did provide a written statement which tried to provide my views on this subject. And hopefully that was of some help to the committee in advance.

I also thank you for your willingness to help. Obviously, improving the efficiency and the effectiveness of the department is something we are all interested in. And myself and Paul and Dave and all the people in DOD work at that every single day. And we also appreciate the willingness of the Congress to help.

Regarding the two bills, I guess the one question is which of the two bills do we prefer. I mean, we obviously prefer the House bill over the Senate bill because the House bill provides a lot more flexibility for the Department.

That said, I don't believe, frankly, either bill is actually needed in the Department. The Department already has a lot of structure. If anything, we have too much structure, and we have a lot of rules and regulations that we go by.

One of my initiatives when I came to this job, because I felt that we just had such a burden of rules, regulations, et cetera, that we started to reduce our own internal directives. So we have been working very hard to reduce our own directives and trying to shrink the bureaucracy as much as possible.

As you commented, both Mr. Chairman and Mr. Hunter, this is an extraordinarily complex enterprise. We have 44 major operating commands. And if you look at just the Army itself, by the way, the Army has 7 combat training areas, 11 depots, 14 institutes, 19 laboratories and 93 medical centers in addition to all of their 12 major commands, 11 direct reporting commands.

So this is a huge enterprise. It is in 146 countries around the world. And we have 600,000 facilities, literally, around the country and around the world.

Now it may be counterintuitive, but with that kind of enterprise, at least my judgment, my experience is, that you want to decentralize this operation as much as you can with the appropriate measures and metrics, that you know the health of the organization.

So I am of a mind, when it comes to management, that less is better. That is, have the authority and responsibility, but move it down as far in the organization as you can, hold people accountable, and we provide the top level direction and the oversight.

So there is a philosophy here in terms of how the Department should be managed.

Another comment I will make is that everyone is always looking to "change the organization." The organization is not nearly as important as the leadership and the people who populate that organization, so, frankly, my emphasis is getting the right people. The right people can withstand any organization, but not vice versa.

So this is really about people in both our military and our civilian, which is most important to us. We do need to be effective. At the end of the day, what we do in the Department of Defense affects the welfare of our nation, and so effectiveness is important. And that is, by the way, the way you achieve efficiency.

But we work at this every day. I believe there are fundamental questions about what the structure should be. But I will tell you, I am very hesitant to make significant changes without a really good pilot and understand the outcomes because my own experience is: It is very easy to destroy value and extraordinarily hard to create value. So I will tell you, I am very careful as we proceed.

The other comment I will make is that the structure is not nearly as important as how you tie the structure together. So what I call horizontal integrating elements, and why we have DBSMC and the business transformation agency and why we have things like what I call the DAWG, the Deputies Advisory Working Group.

We have put structure in place so that we get horizontal interconnects and so we get better awareness and understanding throughout the organization. And in my judgment, those approaches are far more valuable than anything we do with structure itself as to how we go integrate across the large structure that we already have. Look, that is the approach we have been on.

I do want to, though, end at my last comment. This is about great people. And we are absolutely blessed as a nation. We have these wonderful, magnificent people who wear the uniform of our

country and then we have these great Americans, civilians. And, if it wasn't for their work, we couldn't have our people at their frontline doing the job they do. So we are blessed to have great people. And that is really where we place our emphasis, providing an environment for every one of those people to excel every day for their nation.

So, look, we would be happy, Mr. Chairman, Mr. Hunter and members, obviously, to discuss any aspect of this that you would like to talk about today, but I am anxious, so you know, I am not anxious to bring about change.

I would much rather have a high degree of flexibility in the Department for both the Secretary and the Deputy to have an adaptable organization rather than one that is structured at any given point in time. So an adaptable, flexible organization, in my judgment, is hugely valuable for the country.

And that would be all I have to say today, sir.

[The prepared statement of Secretary England can be found in the Appendix on page 43.]

The CHAIRMAN. Thank you so much.

In my opening comments, I made reference to the fact that it is difficult to obtain audits in a good number of the sectors of your Department, so there is a gnawing question, Mr. Secretary: Why are so many elements of the Department, including the various services, that are unable to obtain clear audits for the record?

Secretary ENGLAND. Well, we are making progress, and I asked Mr. Patterson to do this more directly. But last year, I believe we had five or six of our components with clean audits, and we have a full-time team working on the audits. As you commented, I mean, we have enormous assets and liabilities, and so getting a clean audit has been difficult.

But we have been working at it. I will let David talk in a little more detail about the clean audit process.

By the way, we conduct, in the Department, like, 36,000 audits a year. So we do a lot of auditing. But of course, a clean audit, that is at the macro level of both assets and liability.

So, David?

Mr. PATTERSON. Mr. Chairman, I think that that is really an important question because it is a question that a lot of folks ask.

And I think that one of the things it is good to understand is that, for the past 60 years, we have used an audit approach that is based on the appropriations. And so we have accounted for all of the money that has been provided to the Department of Defense by appropriations, and then how it has been spent in that way.

Starting in 2001, on the other hand, we have chosen to take on a much more conventional approach that you would find in the general accounting—accepted accounting principles, in that we are looking at the money that is being spent at the lowest level, and then working upward.

I would point out that we have, in fact, had clean audits on 7 of our entities. And as you so rightly pointed out, 15 percent of our assets, about $215 billion, approximately, 49 percent of our liabilities, which amounts to $267 billion—but the important point of that is the progress that we have made in the last 5 years is in evidence by the fact that those seven entities represent an accumu-

lated value in liabilities and assets that exceeds the amount of the liabilities and assets of the next government agency, which is Health and Human Services (HHS), which has gotten a clean opinion.

So we are really plotting new territory here. We have got a good plan, we believe, in the financial improvement audit and audit readiness plan. It has been talked about by the GAO in positive terms. And we believe that we are on the road to a clean audit. And I think that is important because it is the way that people judge our financial management.

The CHAIRMAN. Thank you.

Mr. Hunter.

Mr. HUNTER. Thank you.

Mr. Chairman, let me go quickly to this issue that I think is important to our country right now. It is a little bit off-subject but a little bit on-subject too. And that is simply being able to move quickly to supply the warfighter.

And again, I go back to the statements of the moment that are percolating out in the media, to the effect that America's military leadership in Iraq is saying, in so many words, that the Iraqi army doesn't have, at this point, the basics; that is trucks, transport, enough ammunition, small arms, et cetera. Which seems to be pretty simple stuff, pretty basic stuff.

And against the backdrop of the transition that has been made by American forces in theater, and for example, the fact that the Marines, again, had parked at one time over the last several months some 1,800 MAK-kitted, that is armor-kitted Humvees, at one location, and that they had made a switch or a transition from five-ton to seven-ton trucks, which should, in theory, free up tons of five-ton trucks.

The idea that we can't satisfy the requirements of this freshly minted Iraqi military with some of the handoffs from the American forces is troubling.

And so, I guess my question would be, Mr. Secretary, do we have a system for doing some real basic things? Number one, ascertaining what we have over there? What is available? Are there some trucks that are parked in Kuwait or in Iraq that could be transferred over?

Number two, what is the present bureaucratic circuit for getting that done? Does that have to be ID'ed by the acquisition bureaucracy back here in the States and then implemented, a transfer has to be made pursuant to a foreign arms sale?

Can a leader, for example, a divisional leader or General Odierno or General Petraeus say, "Hey, we have got this stuff parked over there. You guys in our Iraqi counterparts over here need them. Go get it?" Or is it a fairly complex circuit that has to be followed to be able to make that handoff of equipment?

Because that appears to me to be something that is crucial right now to warfighting success in those two theaters. And I would say one indicia of an effective system is one that can move quickly to do what you have to do in the warfighting theaters.

So what do you think? Is this something that can be handled easily or is it pretty complex and pretty burdensome?

Secretary ENGLAND. Mr. Hunter, I would like to help you here, but, frankly, I just don't know the answer to those questions. That is really handled in Central Command (CENTCOM), it is handled in-theater.

I do know that Congress provided funding for both training and equipping. I mean, that has been in the supplemental here the last couple supplementals. But, frankly, I just don't know the status. I don't believe it is a complex process.

You are right, we have been upgrading vehicles now for literally four or five years and replacing vehicles, so you would tend to think there are vehicles available. But, frankly, I just don't know that, sir. So it would be just supposition, and I just can't provide detail for you.

Mr. HUNTER. Could you maybe take that for the record, Mr. Secretary, and——

Secretary ENGLAND. Definitely will. And we will try to get an answer to you today yet, Mr. Hunter, so we will have someone work that for you quickly. And, again, my apologies. I just don't know that system in-theater.

[The information referred to can be found in the Appendix beginning on page 87.]

Mr. HUNTER. Appreciate that.

And the last thing is, you know, we put together this law that enables SECDEF to sign his name one time and waive every acquisition reg on the book to get something to the warfighting theater if we are taking causalities, which we certainly are in Iraq and Afghanistan.

That has only been used, I believe, twice. I think we used it for the little jammer a couple of years ago. We got 10,000 jammers from Research and Development (R&D) into the field in 70 days using that. And I think it was used one other time on the so-called crew-type jammer. But it hasn't been used since then.

Are you up to speed on it?

I guess my question, Gordon, would be this, because we rely on you so heavily and you have done such a great job for DOD. Are you satisfied that we are getting equipment into the field as quickly as we need to move it? And do you think we need to use that what I would call the rapid-equipping waiver? Do you think we are using it enough?

Secretary ENGLAND. Mr. Hunter, we know it is available. We use it whenever we need it.

I mean, frankly, most of our lead time is not in the acquisition; it is literally in the build and the fielding and the equipping and the designing. So our new MRAP equipment, by the way—I mean, we are doing that as quick as industry can possibly build those new vehicles for us.

So I would tell you there is a great sense of urgency. Every time there is a need identified in the field or any time we can perceive a need in advance, I mean, we crash those programs as quickly as we can.

My view is that does work effectively. I mean, there is a great deal of heightened awareness by everybody. As you know, my close partner is Admiral Giambastiani, and so we work very closely to-

gether, the civilian and military leadership, being responsive and using everything at our fingertips to do that.

I, frankly, don't see delays in the system. I don't see bureaucratic delays. I do see the inevitable delays of just adapting and building and designing, you know, the next generation of equipment to field for our men and women in combat.

So there is, obviously, that inherent delay of just being able to build and supply, but I don't see that as being a system-type error.

Mr. HUNTER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Dr. Snyder.

Dr. SNYDER. Thank you, Mr. Chairman.

Thank you, gentlemen, for being here this morning.

And, Secretary England, we appreciated your work through many years now for your government, and thank you. The team of Gates and England are a powerful one for the country, and we appreciate you all's service in managing the Department.

I was struck when the gavel went down there was not so many members here this morning, but three of them were three of our freshman members: Dave Loebsack, Brad Ellsworth and Nancy Boyda. And it, kind of, struck me that this is one of those topics that is pretty frustrating for members. We can get bogged down pretty quickly in the complexity of it.

And, you know, your last paragraph in your written statement, what you said, you know, to recognize the Department's leadership and people are far more important than any organizational construct.

The problem we have is like what Mr. Hunter just pointed out. We hear about the problems, and then we want to know, "Well, where is something wrong?" And then we are going to say, "Where is something wrong that we can correct by statute?" And then that starts muddling up the system because statute should really be the last hammer that comes down in trying to correct a problem.

But I wanted to ask several specific questions. The first one you are probably going to say is not part of this hearing today, but it is part of this whole issue of management.

Why isn't there a unified command in Iraq? And whose decision is that to have a unified command in Iraq?

Secretary ENGLAND. Mr. Snyder, again, I am going to tell you, I don't deal with Iraq. I mean, that is just not my area. That is not the deputy's arena. So I just can't tell you about the management structure in Iraq and what is the most effective military organization. I mean, frankly, I just don't deal with the military organization in Iraq. And so, unfortunately, I just can't comment on that. I am not knowledgeable enough to do so.

Dr. SNYDER. The reason I ask that is, I am taking your last paragraph here: "The department's leadership and people are far more important than any organizational construct."

The problem is, if we don't have a unified command in Iraq and so multiple messages come down, from the State Department, from the military leadership, that may or may not be working in synergy together, I would think that makes it confusing for the people down the line in terms of the kinds of issues that Mr. Hunter just brought up.

Or there was an article, recent press reports out in the last few days about Marines for the last couple years wanting these dazzlers, some kind of laser device, a non-lethal way of stopping cars that are speeding toward checkpoints, and have been frustrated in the delay getting those.

Secretary ENGLAND. So here is my only comment, I guess as a general comment, Mr. Snyder.

I mean, in any organizational construct there are always advantages and disadvantages, so we always talk about the disadvantages. But whatever the alternative is will also have disadvantages of another sort.

So, I mean, generally people of good faith, you know, evaluate these pluses and minuses of different alternatives and decide that they will accept some downside, right, for certain benefits, and that being the best combination at that given point in time.

So I am not sure of that in this particular case, but I would tell you, yes, there are probably disadvantages to it, but there will also be other advantages that people consider more important than the disadvantages.

Dr. SNYDER. I wanted to ask specifically with regard to the big acquisitions that occur in the military.

Dr. Hamre's group came out, I guess, I think it was in their "Beyond Goldwater-Nichols" report of May 2006, they thought that the reason that we have had some problems in big acquisitions is that the service chiefs are left out of the line of authority in the acquisition projects until far late in the game. And by the time they have some authority to say, "That is not exactly what we wanted," it has taken on a life of its own.

Do any of you have any comment about that issue with regard to the service chiefs having more involvement in large acquisition projects?

Secretary ENGLAND. Putting on my previous hat as Secretary of the Navy when I dealt directly with the service chief, the Chief of Naval Operations (CNO) and the commandant of the Marine Corps, that was not an issue, because they were involved early on.

There were some discussions as to—when I first came on, there was some discussion, were they allowed to be? That is, because of the separation, particularly in the test community and the evaluators and the designers, et cetera. But it turned out that was not an issue.

And my view today is, is that there are forums. So, for example, in the Deputies Advisory Working Group we have the vice of every department—so the four-star of every department sits in every one of those meetings. And in those meetings we discuss literally every acquisition program that we have.

In the past, we didn't have those kind of venues in place, but now we do have a venue where every service gets to look at every single program across the entire department. So they are all participants in the decision-making and the understanding, the evaluation, and the way forward.

So I would say, particularly for the last two years, there has been a very specific venue for them to participate in acquisition-type decisions.

And in that meeting is also the head of acquisition, technology and logistics (AT&L), along with other departmental senior people. So all the senior people come in, everybody has a say. We decide what sort of studies and analysis to do, and my view is it works very well.

Dr. SNYDER. You may want to have some conversations with present and past service chiefs, because I don't think there is unanimous agreement on what you just stated. I think there is a need for some difference in process.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Bartlett.

Mr. BARTLETT. Thank you very much, Mr. Chairman.

And, gentlemen, thank you very much for your service.

Secretary England, I read with considerable interest your prepared testimony. You say in one of the paragraphs, "Allowing a future Secretary of Defense to adjust the organization to fit his senior leadership team is infinitely preferable to forcing the team to fit the organization," which appears to be what we are about.

You go on to say, "To accommodate personnel rotation, the DOD organization needs to be flexible and adaptable. Presenting specific legislative attributes would run counter to this objective."

When I read that, I thought of what has been happening for a number of years now in our educational system in this country. We have ever more meticulously detailed curricula that the teachers are forced to follow.

I think I know why we are doing that in the educational arena. I think we are doing that because we want to make sure that the teachers that really are mediocre will somehow be forced into a regimen of behavior so that they will be productive.

My sense is that if we paid our teachers twice as much and got rid of most of the bureaucracy on top of them that we wouldn't need all of those meticulously detailed curricula.

I am trying to understand how we got where we are in the regulations with DOD. I know that you are burdened with our regulations, that we see that you are not working effectively. And our solution to that is to pile on more regulations.

How did we get here, and what do we have to do to reverse this?

Secretary ENGLAND. If I could give you one data point, Mr. Bartlett. The other day we had a discussion dealing with flag officers; that is, stars, generals and admirals. And it was brought out that there are 219, I think, legislative passages or regulations dealing with flag officers, which is, you know, sort of astonishing to me when I heard that number, that there are 219 different types of legislative directions dealing with flag officers alone.

So it builds up over time. Whenever there is an issue, we add something to it. I think that is, sort of, what Mr. Snyder said: It tends to be in addition to, and after a while you just have a much larger bureaucracy that has to deal with all this.

Again, my view would be for very large, complex organizations, which DOD is—the simplest structure is the most effective structure. So what you like to do is simplify the organization, put authority and responsibility at the lowest level you can, and find ways to interconnect—that is, have horizontal interconnects.

We tend to try to solve the problem by adding to the top. I tend to think that instead of adding to the top you tend to have interconnects between the large number of organizations that make up DOD.

That is obviously an organizational philosophy. I mean, people have different views of this, but at least that is my view. It is the way I address it.

It is interesting, by the way, when I wrote my comments, I didn't know this, but I since found out that this is what David Packard said in his final report: "Excellence in defense management will not and cannot emerge by legislation or directive. Excellence requires the opposite. Responsibility and authority placed firmly in the hands of those at the working level who have the knowledge and enthusiasm for the task at hand."

So at least I find myself in good company with David Packard in terms of my approach, although I didn't know he said that until after I had written my comments.

Mr. BARTLETT. Mr. Secretary, it might be productive if you could prepare for us a list, prioritize it, from the worst, the most difficult to deal with regulations.

And, Mr. Chairman, if we, then, every time we passed a new regulation, we had to do away with two of those old regulations from the secretary's list, maybe we would be making some progress.

Do you think?

Secretary ENGLAND. You know, back in 1991 there was what is called a Section 800 panel, and at that time they were dealing with streamlined defense acquisition. And they identified at that time over 600 relevant statutes and recommended 300 of them for appeal or amendment. And some were addressed in later acts by the Congress. I think they took some action. I am not sure how much.

But at that time, in that one area alone, there were 600 regulations that they felt—not in total, just that they felt like could be either eliminated or repealed or amended.

Look, we would be happy to help this, Mr. Bartlett, but I will tell you, it is a huge amount of work just to go back and do all this. I mean, there have been whole boards and committees that have worked this. I am not hopeful that we are going to go streamline all of this.

I would, however, like to retain whatever flexibility we can for the next Secretary and the next President as opposed to constraining them further by legislation.

Mr. BARTLETT. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Mrs. Davis.

Ms. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman.

Good to see you, Mr. Secretary. I know you have worn so many different hats that sometimes it probably is confusing to relate back to which hat you are wearing, I am sure. [Laughter.]

But I really appreciate the service to our country, and thank you all for being here.

I wanted to just go back to the GAO report for a second, because they had pointed out that among the issues that they addressed was the "lack of sustained top-level leadership, cultural resistance to change and inadequate incentives to change."

And I wonder if you could, number one, say whether you think that was a fair characterization. And, two, what do you see is actually moving toward some changes in that area, toward eliminating some of those concerns?

Secretary ENGLAND. Could you read the words again for me? Because there are a lot of comments on GAO. Let me make sure I have the right ones, please.

Ms. DAVIS OF CALIFORNIA. Just the "lack of sustained top-level leadership, cultural resistance to change and inadequate incentives to change."

Is that a fair characterization? And, if so, do you think there are some changes that you are seeing? And how do you evaluate that? How do you even see that if those are issues?

And if they are not issues, then, that is fair, go ahead, and let us know what you think.

Secretary ENGLAND. I don't think it is a fair characterization today, obviously. However, I think in fairness to GAO, they look over a long period of time.

And so, again, it is a function of leadership and what the leadership is trying to accomplish. And they look ahead in terms of, what are the qualifications for the people who are in these leadership positions, particularly the Deputy Secretary position?

It is important, in my judgment, to have someone that has experience in large organizations to run an organization of the size and complexity of DOD. So you do want somebody with a background both in carefully bringing about change, because of my comment about making sure you create value and not destroy value. So it is important to have somebody with the right sort of attributes.

And we have suggested—and by the way, and I have endorsed this in my comments to the Congress—to have a criteria for the Deputy Secretary. I mean, the Deputy Secretary, in my judgment, should fulfill the function of the chief management officer, should be the COO of the organization, rather than the CMO. He should be the COO, or she should be the COO, of the organization, and therefore——

Ms. DAVIS OF CALIFORNIA. Is that where you would be ultimate responsibility for management of the department?

Secretary ENGLAND. Well, the ultimate responsibility is with the Secretary. I mean, by law, the Secretary has Title X responsibility for the management. And he is also the key adviser to the President. So it is the Secretary. And the Secretary, though, I would say, typically passes on the COO function to the Deputy Secretary.

So the secretary is the CEO. That is, policy, broad direction, priorities, international, et cetera. And the deputy, then, is responsible for the resource allocation, the overall general management, the planning for the Department. So the deputy would do the classic COO functions.

Now, unlike, however, in the case of, say, the comptroller for David Patterson, for the comptroller itself, there is a set of requirements for a comptroller. That is, a comptroller, you obviously want to have a financial background. The acquisition executive, there are criteria in law, in terms of having acquisition background.

For the deputy, there is no such criteria. And so we have proposed putting in the DOD system a set of responsibilities that a

deputy would need to perform as part of his function, and to do that in the directive system, recognize that the Congress always has final approval because of the confirmation process.

But right now, there is no role like that called out in DOD. So calling out, so having that role prescribed, and then making sure you selected people that would fit that role, would indeed be helpful, in my judgment, going forward for the Department of Defense.

Ms. DAVIS OF CALIFORNIA. How would you want to see the Congress really providing then the oversight and, at the same time, the flexibility for that position? What role vis-a-vis if you were sitting in that seat and we were sitting here trying to ascertain the extent to which—

Secretary ENGLAND. So here is the dilemma, Ms. Davis. The dilemma is, on one hand I can, myself, being in the role, can easily say, "Gee, this is the role that the deputy should fulfill." On the other hand, what if the next Secretary has very extensive management experience and actually decides to take on more of that role him or herself and have the deputy in another, you know, lesser function.

So this is the question about providing the flexibility, in my judgment, for both the President and the Secretary in terms of: How do you build the whole management team?

I would tend to come down, frankly, to leave it to the next President, the next Secretary to decide how they want to structure it, and the Congress sort of understanding that they need to know what that structure will be so when they confirm people, they make sure they have the right mix of talents to do the job.

But I, frankly, have concluded I would not tie the hands of the next Secretary or the next President in terms of the mix of people that they have or the kind of talents that they bring together, because at the end of the day it is about a management team.

It is not about this one office. I mean, this one office is one office of a thousand people who do a great job at leadership positions every day. So I just wouldn't make this the center of this. I mean, it is the management team and not a person, and I believe that will be the case going forward.

The CHAIRMAN. Thank the gentlelady.

Mr. Thornberry.

Mr. THORNBERRY. Thank you, Mr. Chairman.

Mr. Secretary, we appreciate, I think, the situation that you are in, which is rather a pragmatic one. You have to make this place work day to day and get the most productivity you can out of it.

And yet I think that this kind of broader question of management of the Department is an important one at a variety of levels, including the trust and confidence the American people have in how their money is being used.

All our constituents have heard stories about soldiers having to buy their own body armor, about decisions to buy weapons that don't fit the current conflict or in past conflicts.

Regardless of the merits of some of those things, there is the management issues about whether government works very well and makes common-sense decisions is challenging, not just in your Department, but maybe because of the importance of the Defense Department, as much as anywhere.

And, as you know, there are think-tanks all around town that are going to take the next 18 months and develop a vision or their idea, an ideal scenario of how things could be better for the next administration. I have written down, just listening to you so far: simplest structure possible, the greatest flexibility possible.

If you were guiding some of these think-tanks in setting forth what is desirable, understanding it is a long way between here and there and how you achieve it, but just thinking about the tools and authorities you would like to have the next Deputy Secretary of defense have, other than those two general principles of simplest and flexibility, are there other things that you would advise them to consider and think about as they are trying to paint a picture for going ahead?

Secretary ENGLAND. I would like to answer maybe a little bit different question.

First of all, the deputy has the full authority of the Secretary of Defense. So by law, the deputy carries the full authority of the Secretary. So frankly, my view is the deputy has all the authority and responsibility you could possibly put on a deputy today.

If you asked me what is the single largest detriment in DOD, I would tell you I believe it is the budgeting, the entire money process. Because it is about a two-year process. You know, when we start working our budgeting, we work all year to put our budget together. We turn it in to the Congress. Congress spends a year reviewing and modifying, et cetera, you know, doing what they do to the budget.

At the end of that year, we then get authorization to spend money. So we then start spending money literally that we were talking about two years before. So it is literally a two-year budgeting cycle, which is a very long time in the kind of environment we live in today, frankly.

If you will pardon me, I will use the example I use. I mean, one time it was our steel mill against their steel mill, and their steel mill went bankrupt and we prevailed as a Nation. And so we still have a little bit of the steel mill organizational mentality, with long investment cycles and long, deliberative times. And, I mean, it is built into the system, these long cycles.

In the meantime, the threat is no longer a steel mill. The threat is very agile, adaptable, quick. And we still pretty much have the structure, the national structure, with the Congress, that we have had during the entire Cold War.

And so, while we can adapt for certain things and turn around, nonetheless, we still pretty much have the structure we have had in the past, in terms of our total national way of dealing with this.

And you know, we need to think, I believe, in broader terms than just the Department of Defense. We really need to think about how the Nation is more agile and quicker and adaptable for the kind of threat we now face, as oppose to the threat that we have faced for 40 years.

Mr. THORNBERRY. Thank you.

The CHAIRMAN. Ms. Boyda is recognized for five minutes.

Mrs. BOYDA. Thank you, Mr. Chairman.

And thank you, Secretary England, for being here today and your service in the Navy.

Secretary ENGLAND. My pleasure. Thank you.

Mrs. BOYDA. I am one of the freshmen. So I am just trying to get some bearings on some things and trying to actually learn things about culture. And I had two questions that are, again, trying to get into the mind of the military, the Army, all of the different branches of the armed services. And one of them comes back to, again, contractors.

Obviously, there is so much conversation about contractors. But when we are trying to get our arms around everything, again, how does the military, specifically the Army, view contractors, in light of management decisions? And how, when we take on contractors, how does that play into your management decisions and style? What works, and what doesn't work?

Secretary ENGLAND. We contract for whatever we need to contract for to get the mission accomplished. And it is literally that simple.

So, where we have capability in the government, we utilize that capability. If we don't have that capability, we contract out. And that is everything from different services to building ships and airplanes and designing goods and equipment and cafeterias.

And so, whatever it takes, frankly, to do the mission—and we utilize the resources of the Nation to do that. And sometimes it is military; sometimes it is civilian government. And sometimes it is contract in the U.S.; sometimes it is contract in-country.

Mrs. BOYDA. I appreciate that.

Part of the perception of the American people is that part of what is out of control is this sense of, how do we hold them accountable? How do we know what is going on?

And again, I have to deal with the perception—and I certainly say that I support contracting. We need to pull in all the resources of the American people, as you just said. But the sense is that contracting has reached a point where we have lost the ability to manage that function.

Tell me, how I should respond? Or do you feel like that is accurate? Should we start pulling back on contracting?

Secretary ENGLAND. I would say that it is a valid concern, and I am not sure I know the answer.

I do know this: It was enough of a concern that I brought together all the legal and contracting people just to make sure that we had the right legal framework to manage contractors around the world in terms of understanding their liabilities and our actions if they did not live up to our expectations.

Mrs. BOYDA. When they don't live up to our expectations, because——

Secretary ENGLAND. When they don't. But recognize that at least contractors in a combat zone have a very difficult environment, right?

Mrs. BOYDA. Exactly.

Secretary ENGLAND. So we ask them to do quite extraordinary things. And they do quite extraordinary things for us.

We also have contractors, by the way, from other countries who repair equipment. In theater we have people in the country who do things for us—Iraqi business, et cetera. So there is a wide range of "contractors."

Anyway, the conclusion of all that is yes, we do have the right legal basis and structure that we can contract effectively with the correct remedies, et cetera.

Mrs. BOYDA. My concern is twofold. One is I have so much military in my district that I do hear back some sense of just—maybe "resentment" is too strong of a word—but what our soldiers are doing right there every day at base pay, and they are so committed to this country and the concept of where we are going with contractors.

What I would just offer as something that I guess you must be painfully aware of: As we see more contractors, this body will probably put more of those regulations on top of things to make sure that those monies are being used well. And again, it will be one of those things that continues to complicate as things go on.

So this body is struggling to figure out what we need to do to let the American people know that those monies and those projects are being—so we are headed for one of those very difficult intersections.

Secretary ENGLAND. We need to do this very, very thoughtfully, because for all those great men and women who wear the uniform in your district to do their mission, they do need contractors' support and assistance to do that mission.

And our military will always be of some reasonably limited size, and we will always want to contract out certain functions, particularly peak functions that you don't want to have on a long-term basis if you only need them for a short period of time, et cetera.

So there are valid issues and concerns. It is something we need to work through together.

But I would say before we overburden the system with a lot of regulation, we really need to understand what the mission is and how we accomplish that, because ultimately, that is what America needs to have accomplished.

Mrs. BOYDA. We are out of time, and I will yield back. I agree with what you are saying. Thank you.

The CHAIRMAN. The chair recognizes Congressman Kline.

Mr. KLINE. Thank you, Mr. Chairman.

Thank you, gentlemen, for being here.

Mr. Secretary, always a pleasure to see you.

Secretary ENGLAND. Mr. Kline.

Mr. KLINE. And I want to add my thanks for all of your service. And however many hats, you have worn them all very well.

A couple of comments. You talked, as Mr. Thornberry said, about fewer and simpler regulations and more flexibility. And I think it is clear that we need that.

But I want to go back to what Mr. Hunter was talking about, about the rapid acquisition authority that the Secretary has and how few times it has been used. He said twice. It was zero for a very long time, and frankly, I thought it was just one having to do with IED defense. So two is a terrific increase over what I thought.

But I am shocked——

Secretary ENGLAND. Can I ask a question?

Mr. KLINE. Sure.

Secretary ENGLAND. Do you know how many—David, do you know? I don't have somebody with me to—do you know how many?

Mr. PATTERSON. We used the authority that established the joint rapid acquisition cell, I would guess, about one or two times a month. And what we find is—and when I say that, you gave us authority for about $100 million. What that has prompted us to do is to find other base budget or supplemental ways of funding that. But we use that authority on a regular basis to do a wide a variety of things and many classified things.

Mr. KLINE. Okay. Could I ask for the record, please, to get that?

Mr. PATTERSON. Absolutely.

[The information referred to can be found in the Appendix beginning on page 88.]

Mr. KLINE. Because we obviously are dealing with misinformation here.

Secretary ENGLAND. Mr. Kline, what I do for the IED task force is I have literally passed my authority on to that organization, and they can directly spend, I believe, $25 million without any, "Mother, may I?"

So part of my hesitancy in this is understanding how often they use it, because I give them total authority. They can spend up to $25 million without coming back to me, and then they do whatever they have to do quickly to be responsive to our men and women.

So they may use it a lot of times I am just not aware of, because I give them that authority so they can respond quickly.

Mr. KLINE. Fair enough, Mr. Secretary, but we obviously don't understand that. Mr. Hunter said two. I thought it was one. You are saying many, many times.

We would like to know that, because we believed here in this committee that was a very important thing that we did, to allow the waiving of those Federal acquisition regulations: Buy it if you need it; buy it wherever in the world it is made; and get it to the troops to save lives.

And I don't want to start to argue you with you, Mr. Secretary, but you essentially said that the acquisition system was sort of working like it is supposed to. At least, I thought that is what you said. And I don't see that.

It seems to me that the acquisitions system—the whole system, what we have imposed from Congress, what DOD has done, how it is organized—has not functioned very well. It is the steel-mill, with all apologies to our steel producers, approach to acquiring things for our military.

And we are dealing, as you said, in a different age with a different enemy, and we need much more speed and agility than we are getting from the big defense acquisition systems.

So if you really think it is working well—and I applaud improvements in the JROC which I think you have made—but it seems to me that it is awfully slow. So did I misunderstand you?

Secretary ENGLAND. I would say yes and no. Is that a safe answer? [Laughter.]

Mr. KLINE. It is not a satisfactory answer, but go ahead.

Secretary ENGLAND. If I could explain just a bit. I believe when we need to respond quickly, we are doing that. When somebody needs a piece of equipment, we quickly do that, and we use whatever authorities, and we are very quick and adaptable.

When it comes to very large integrated systems, huge complex, huge command and control system, large integrated space systems—and I will tell you our systems are getting more complex by orders of magnitude—we have concluded that, frankly, the way we were doing that was not effective, because we were dealing with individual programs and then integrating those programs into these large systems.

So we now have what we call joint capability portfolios. We have four large integrated portfolios that we are doing as an experiment, but we are really doing it for real. And we will pass this on to the next team where we now manage the programs that need to operate together as one large joint portfolio.

And it is interesting when you talk to our people in the command and our combatant commanders, this has made a remarkable difference in understanding how this all comes together, the milestones to be met, et cetera.

So I believe that, look, there is always going to be room to do this better. There are now some new approaches that I am at least hopeful——

Mr. KLINE. Well, I will look at those with interest. And I also am hopeful.

I see my time is up. Mr. Chairman, I yield back.

The CHAIRMAN. Thank you.

The chair recognizes Ms. Bordallo for five minutes.

Ms. BORDALLO. Thank you very much, Mr. Chairman, and thank you for calling the hearing this morning.

And I wish to welcome our witnesses, especially Secretary England, whom I have known for several years.

Secretary ENGLAND. Ms. Bordallo, how are you today?

Ms. BORDALLO. Very good.

Mr. Secretary, this question is for you. DOD controls a significant amount of Federal Government contracting dollars, and it controls the vast majority of the Federal marketplace in my district, Guam.

America's small businesses, I feel, deserve fair treatment. So I am concerned about this, because Guam will be home to a significant amount of military construction and other work during the near future. Our small businesses, which comprise the majority of the businesses, want to be partners in the department's plan to build up Guam.

Do integrating small businesses into DOD contracting efforts pose challenges to the business transformation effort? And more specifically, will integrating Guam's small businesses into building up the bases on Guam pose certain challenges?

Secretary ENGLAND. Ms. Bordallo, I don't know if it poses unique challenges. We do have a commitment to small businesses. In fact, I will comment, I believe when I was running the Fort Worth company then of General Dynamics and Lockheed, about 80 percent of our contracts were with small business—not in dollar value, but number of contracts, as I recall.

So small businesses are hugely important to our Nation and to DOD, and we do have objectives of small business offices, and we do that for various types of small businesses. So we will continue

to emphasize the small business of Guam and every place our view is. It is good for America to develop small businesses.

Now on the one side it is, I will tell you, sort of the catch–22. We make the small businesses very successful, and they grow out of being a small business, so now they have a contract and they don't count anymore in terms of a small business. So when you are very successful, you find yourself that the scorecard goes against you if you are very successful.

But I would say, look, that is the bottom line: small business, making them successful and grow. And that is part of our commitment, and that is the way we operate. And we will do that on Guam as we do every place else.

Ms. BORDALLO. Very good. I like that answer.

Mr. Secretary, my second question is, over the past several years, we have heard from many components of the United States armed forces, particularly the National Guard and reserves, about staggering equipment shortages. Questions have been raised as to how the equipment is accounted for at home and abroad.

As DOD reforms its business practices, to what extent has DOD incorporated equipment asset tracking into its business transformation program?

Let me just give you a quick example. The Army will track equipment literally to each nut and bolt. On the other hand, the Air Force tracks equipment by platform. The difference in accounting methods would make it very difficult to create a uniform process for asset management.

How would you tackle that?

Secretary ENGLAND. So, David, do you want to—I don't know if I—you know, this is interesting. I am sitting here, and as you were talking about this, I can remember this conversation, frankly, about asset tracking and at what level and having common standards across DOD, but I can't recall our conclusion.

Do you recall, Paul, the conclusion?

Mr. BRINKLEY. I think we can take a crack at it, anyway.

Secretary ENGLAND. Okay.

Mr. BRINKLEY. There are two key elements in your point about the differences between the uniform services and how they have historically developed their own mechanisms for both accounting and just asset visibility.

That nomenclature they use—you can go to a 7–11 and there is a standard bar code on things. Well, within the Department of Defense often, because of the history which goes back so many years, we lack those standards.

And putting those standards in place is a key element of the integration Mr. England was defining earlier. In other words, how do we standardize our nomenclature for how we identify an asset so that a Humvee that the Marines are using is identified the same way as a Humvee that the Army is using? That helps support the joint warfighting effort.

But we have also defined a standard financial information structure in partnership with the comptroller's office so that, as those asset standards are defined, the way we roll up an account for them and depreciate them and track them from an accounting perspective also becomes standardized.

And these are key elements of both the enterprise transition plan for the DOD's business transformation effort, as well as the financial improvement and auto readiness plan that Mr. Patterson mentioned earlier.

Ms. BORDALLO. Good. Thank you very much.

Secretary ENGLAND. Thanks, Paul.

The CHAIRMAN. Mr. Jones.

Mr. JONES. Mr. Chairman, thank you very much.

Mr. Secretary, it is good to see you again.

Secretary ENGLAND. Mr. Jones, how are you, sir?

Mr. JONES. I am fine, sir.

I was a little disappointed that your answer to Mr. Snyder, that you said you were the former Secretary of the Navy. You should have said Secretary of the Navy and Marine Corps.

Secretary ENGLAND. Or Secretary of the Marine Corps and Navy. [Laughter.]

Mr. JONES. Hopefully we will change that this year with the help of the Senate.

Mr. Secretary, I have great respect for you, and you know that.

For the moment, can you tell me, in your opinion: Is the Department of Defense more efficient today or less efficient than it was in 2001, from a financial standpoint?

Secretary ENGLAND. I don't know 2001. I can tell you that it is more efficient in my judgment in the last two years, when I personally had a hand in tracking and putting systems together.

So I am not sure I can go back to 2001. I can tell you I believe that the Department has made great progress in terms of what I call, again, the horizontal integration, the effectiveness and efficiency. I can tell you the Department of Navy is more effective and more efficient than it was in 2001. They still are today. And, again, so I can speak with that firsthand.

The agencies, I would say, are vastly better than they were in 2001. So our defense agencies, we did start back in 2001 with integrated approaches in terms of those very, very large and complex enterprises. And they, I would tell you, they are just vastly better today than they were in 2001.

So I am not sure about the total enterprise. I think the total enterprise, I would tell you is much better than it was just a couple years ago. And I can at least speak for agencies and Navy and Marine Corps. And the other services I just don't have insight back to 2001.

Mr. JONES. Mr. Patterson or Mr. Brinkley, would you be able to go back to 2001 and answer that question, whether it is less or more or the same, as far as efficiency, the spending of the taxpayers' dollar?

Mr. PATTERSON. I think that I would feel very comfortable saying that we now have a very clear strategy, a very clear way ahead with the systems that the Secretary and the Deputy Secretary have been the sponsors of.

And this, perhaps, speaks to Congresswoman Bordallo's point, that we now have 15 percent of our assets that we can track. We have a standard financial information system that we did not have before. And we track 49 percent of our liabilities, $967 billion worth.

And we have now the beginning of an enterprise transition plan, the Business Transformation Agency. And, of course, Paul can speak to that in much greater detail.

But we now have the beginnings of tools which we did not have before. And I can speak with some knowledge, having been in the Pentagon from 1983 to 1990, and these kinds of things would have never occurred to us, quite frankly, because we did in fact have a system of accounting that was driven by the appropriators and appropriations.

Now we have a clear way ahead with the, as I said, the financial improvement and audit readiness plan, the enterprise transition plan and all of the systems now that we are beginning to bring online and evaluate and vet for their effectiveness and efficiency.

And I am very hopeful that we will start to see clean audits.

We have the Army Corps of Engineers which has just gone through an audit. And I think that, for the first time of an agency of that magnitude, the outcome will be very positive.

We are beginning the audit procedures, the pre-audit procedures for the Marine Corps, and have started to put into position a relatively new approach to that, with an audit readiness intermittent step, so that when we assert that the Marine Corps is ready to undergo an audit, we will have a significant amount of confidence that that will be done well.

So I am much more comfortable now, seeing the progress that has been made over the last six years, than I might otherwise have been, sir.

Mr. JONES. I appreciate that response. And I guess the only other question—well, my time is up. I yield back.

The CHAIRMAN. Mr. Cooper.

Mr. COOPER. Thank you, Mr. Chairman.

Mr. Secretary, for many of us on the committee, the issues are like swimming in molasses: It is slow and sometimes painful work.

But in response to Mr. Bartlett's very helpful suggestion, I thought perhaps we could start with your statement that you have discovered 219 different regulations that apply to flag officers. If you wouldn't mind supplying that to the committee, perhaps we could start with that list and whittle it down, perhaps get rid of some of the unnecessary rules.

Secretary ENGLAND. Well, Mr. Cooper, we will do it. And I am not familiar with the 219, but our personnel people actually brought that to my attention just the other day. But we will articulate those for you. I appreciate your help. Thank you.

[The information referred to can be found in the Appendix beginning on page 88.]

Mr. COOPER. Whatever information is already supplied and available. We do not want to create more work for you. But it would be helpful to have clear communication so that we can learn.

Secretary ENGLAND. Good.

Mr. COOPER. I wanted to focus on Mr. Brinkley for a moment. He seems like an interesting addition to the management at the Pentagon, having come from the outside with apparently no prior defense contractor experience. I would be interested generally in your observations of what it was like to come in from the outside.

And also I want to learn from you about your position as leader of the Task Force for Business and Stability Operations in Iraq.

Both issues are important for me. I only have five minutes. So if you wouldn't mind elaborating on both, I would be glad to hear from you.

Mr. BRINKLEY. Certainly. Thank you. I will be brief on the first part so I can focus on the second.

The observations I would have on the transition from Silicon Valley to DOD have to do with just the whole set of measures that are applied. You have a profit and loss. We have talked here today about financial audits, why can't the Department of Defense get a financial audit. And Mr. Patterson articulated that until 2001, that was never part of the focus of the Department of Defense. It wasn't designed to do that. It was designed to project force and support a national security objective. It was not designed to create profit for shareholders.

So the whole set of motives that one lives with and really become ingrained in the way you think when you are working in a private-sector corporation are now part of what are ingrained in you when you are working in a Federal agency.

And so being able to shift and understand and translate the principles and the best practices that come from industry that everyone wants to see—everybody goes to Amazon and wants to point and click and have access to information; why can't I do that in the DOD?

Well, there is a host of reasons why that is complicated in the DOD. They have to do with history, the fact that we were adopter of technologies always. The DOD is the first to adopt new technologies to support our men and women in uniform. That creates fragmentation. As standards emerge over time, those initially adopted technologies, some of them become standardized, some of them don't.

So these are all things that are unique about government that make it very difficult for the Department and any government agency to quickly monitor behaviors that we take for granted in our day-to-day lives in the private-sector world.

Regarding the work in Iraq—and I will tie to this—one of the things great companies do is they understand what their customers' needs are. And the customer for the business mission of the Department—Mr. England has driven this home repeatedly—the customer for the business mission of the Department are the guys in uniform in the desert today. It is the warfighter.

Great companies understand, from the very top to the very bottom, how their work, regardless of how arcane it might seem, matters to the customer.

And for us, the task force effort, taking our business transformation leaders, the people with industrial expertise, putting them in Iraq to support the mission in a way that leverages our business expertise to help restore economic vitality in Iraq, while also working through a lot of our business process issues, which can affect contracting, maintenance, financial management—all of those things go to war with our warfighters. And some of them work really well, and some of them don't.

So how we address those things quickly in theater creates urgency back in the back office, so people who typically don't see how their work affects the guys in uniform suddenly can see that financial accounting matters to the guys in uniform.

And then one thing I will say about the Department. There is a huge amount of passion at all levels of the organization. If you can get people to see how their work matters to the people in uniform, the amount of energy you can harness is tremendous. That is why people work in the DOD. It is a patriotic impulse, it is a desire to serve.

And so those are things, I think, that have made our task force effort extremely rewarding and have helped invigorate our business transformation effort as we have engaged with our forces in theater.

Mr. COOPER. What did you think when you read in the paper last week that Iraq is now judged the second-most unstable country in the world, and you are the leader of a task force on stability?

Mr. BRINKLEY. I think it is a testimony to the struggle we have in our government today to bringing the economic leverage of the American force to lever, along with the political and the military leverage that we are designed to bring forward.

The fact that we are not able to leverage the $12 trillion American economy to effectively engage a $40 billion economy and uplift the livelihoods of people in Iraq I think is a challenge that, again, the unique situation in Iraq has illustrated and that we are working to try to address in our efforts to forge economic growth.

Mr. COOPER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank the gentleman.

Mr. Wilson.

Mr. WILSON. Thank you, Mr. Chairman.

And thank all of you for being here.

It is particularly very meaningful to me to have Gordon England here. He is a folk hero in the 2nd District of South Carolina with his service, Mr. Chairman, twice as Secretary of the Navy.

And I was yesterday visiting again at Parris Island, the Marine air station, also the naval hospital in Beaufort, and your successor, Secretary Winter, has done a fine job of coming by to visit. But you helped create the tradition. So thank you for your service.

Secretary ENGLAND. Thank you, Mr. Wilson.

Mr. WILSON. And I am really pleased to hear from all of you as to the success of improved business practices at the Department of Defense. I was very happy to hear Congresswoman Bordallo's interest in small businesses. I have a keen interest in that, and she has done a wonderful job of promoting the small business of Guam, and truly that is reflected across the United States.

And this has been touched on by Mr. Patterson, and that is the ordered opinions of so many elements of the Department of Defense, including the military services and their inability to have a clean financial audit opinion.

Could you please explain that a little bit further?

Mr. BRINKLEY. Yes, it is, in my opinion, not necessarily that they can't have a clean audit opinion. At the very lowest level on bases, the base commander knows every single item that he or she has.

The problem that we have has been, over the course of, as I said, the last 60 years, we have not emphasized that kind of an audit approach. Our audit approach has been, historically, one in which we deal with the appropriations that were given and then we account for those appropriations in the various categories: MILPERS, operations and maintenance, and investment.

We have changed, and we are now focused on those standards as outlined in the generally-accepted accounting procedures, which are far more conventional in the way people think about an audit.

Our motivation to do this began in 1990 with the Chief Financial Office Act, and later fortified by the Sarbanes-Oxley. But it is the right thing to do, and we are now focused on that.

Mr. WILSON. And being focused on it, do you have a timetable when you believe this could be achieved?

Mr. BRINKLEY. Yes, sir, we have a rough timetable, and I would say that we would be able to produce a fairly consistent, clean audit in the next eight to ten years. I know your first reaction is, "Eight to ten years, my gosh."

Mr. WILSON. Well, you have been working on it 60, so I——

Mr. BRINKLEY. Well, we have been working on it differently for 60. But we now have the tools available to us to provide some assurance that we will be there.

Secretary ENGLAND. So if I can add to it, Mr. Wilson, I think what is different now is we have put together a full-time team to do this. They have schedules, they have measures. I mean, we have metrics. We review it regularly to see what the progress is. And I believe that our interim metric is, like, 2010 we will have 70-some percent of both assets and liabilities clean audit.

So we do have interim milestones and as Dave said, we already have seven components with clean audits. We have the Marine Corps in work right now. We have the Corps of Engineers in work.

So we now have a program, we have a plan, we have dedicated people, we have money and we actually measure this progress. So it will get there now because there is a process to do that.

Mr. WILSON. Well, again, I am impressed by the reputation of all three of you to achieve that.

A final question, going back to Iraq. I was there earlier this month. I have been there seven times. And your work with the private sector is so important.

What do you see the status of where we are, where it is going?

Mr. PATTERSON. Sir, our effort is specifically focused on the revitalization and the restoration of employment, to drive the unemployment rate, which is chronically high in Iraq, significantly down as a stabilizing effect in support of General Petraeus's strategy.

Our status is we have restarted six factory operations in Iraq. We put a few thousand people back to work to date. We anticipate restarting dozens of factories this year and putting thousands more Iraqis back to work in sustained positions within industrial operations geographically distributed around the country.

Mr. WILSON. Thank you again for your service.

The CHAIRMAN. Thank you, Mr. Wilson.

The gentleman from Hawaii, Mr. Abercrombie?

Mr. ABERCROMBIE. Mr. England, good morning. Aloha.

Secretary ENGLAND. Aloha.

Mr. ABERCROMBIE. Mr. Secretary, I have been through—let me start again. I want to make sure I had you correct. Did you say to Mr. Snyder that there is a complete disconnect between yourself, organizationally speaking, the gentlemen at that table, and operations in Iraq?

Secretary ENGLAND. No, I didn't. I said the operation in Iraq is really under CENTCOM. There is a military operation. As the deputy, I actually don't deal with the military operation.

Mr. ABERCROMBIE. That is astounding to me. And I think part of the difficulty here is embodied in that.

If you are not doing that, does that account for the fact that the mine resistant ambush protected (MRAP) vehicles were unable to get any attention in the DOD for apparently up to two years, the requests for forces in the field that were not met because of the inability of the Pentagon to respond to the direct requests of forces in the field?

Secretary ENGLAND. No, that is not correct, Mr. Abercrombie.

Look, when a request comes from the field, it obviously comes in and is responded by OSD. If there is an issue, obviously it comes to my attention. So when there is a request for equipment, it comes to the chairman's office, CENTCOM chairman's office. It gets addressed. Programs are funded, developed to whatever extent necessary.

We have had different models——

Mr. ABERCROMBIE. Excuse me, I only have the five minutes.

But it wasn't in this instance. And I want you to know, I have read through all of your material dated as of June 25th, "Defense Business Transformation." I have it here. You are no doubt familiar with it.

It includes organizational entities, the congressional requirements fact sheet, so I think some of the answers are already here for us—the fact sheet on governments and transition tools, and, most important to me, the fact sheet on components overview.

It says here that the transformation efforts of the six most significant business operations listed here are to do the following: identify the transportation visions and goals. For the Army it includes processes to equip the force and for the Navy to increase the readiness, effectiveness and availability of warfighting forces by employing business practices to create more effective operations reduced cost.

One of the items here is optimize investments for mission accomplishments. If all this is under way, how is it possible that the MRAP requirement was ignored?

Secretary ENGLAND. It wasn't ignored.

Mr. ABERCROMBIE. There is no money for it in the budget. One of the reasons we have a reallocation argument taking place right now in today's budget, and push-back coming from defense contractors to what this committee's decision-making was, is that there was no money in the administration's budget to address the request being made by the Marine Corps and the Army just for the MRAP vehicles alone required for this year.

Secretary ENGLAND. I believe there are over 3,000 vehicles on order right now, and——

Mr. ABERCROMBIE. Yes, but the request is for 6,000 to 8,000 or even higher now. And the Secretary of Defense says it is his highest priority, but I don't see your business transition groups, including your organizational entities, being able to respond in a timely way.

Secretary ENGLAND. We have had, first of all, tests of those vehicles. We have had, I believe, six different contractors in tests at Aberdeen. They have been undergoing various types of explosives and evaluation. There has been——

Mr. ABERCROMBIE. I am familiar with that.

Secretary ENGLAND. Okay. And we have been up talking to the Congress about what we do in the upcoming budget to extend that production line in terms of funding. So we had initial small funding. It grew until we could get into a high production rate.

Mr. ABERCROMBIE. Do you understand, Mr. Secretary, that there is a disconnect between what you are doing here organizationally and in terms of governance and transition tools, that there is a disconnect between that and the practical realities of equipping and training and getting the readiness of the warfighting force? We are working at odds with what you want to accomplish.

Secretary ENGLAND. I understand.

Mr. ABERCROMBIE. I am trying to help you here. What I am saying is you can't have this disconnect.

Secretary ENGLAND. No, I understand. I don't believe there is a disconnect. I mean, when people come in from the field—and, Mr. Abercrombie, again, I put my other hat on. Back in 2001 we were working quick reaction to the field for the Marines and the Navy. We have been working this whole aspect of IEDs literally around the clock since the first troops were deployed.

Mr. ABERCROMBIE. How can we account for the fact that we are having to reallocate funds out of the proposal of the Administration—reallocate funds in our defense budget working with the appropriators in order to fund the MRAP vehicles alone?

I will set aside all the questions about the expeditionary fighting vehicle increases and all that kind of thing.

Secretary ENGLAND. Well, we had money in the base budget last year. We had money in the supplemental last year.

Mr. ABERCROMBIE. But not enough.

Secretary ENGLAND. Well, okay, but as more requests have come in, we have increased the funding, so we have been responsive to the field.

Mr. ABERCROMBIE. I won't argue that point.

Do we have a moment, or am I through?

The CHAIRMAN. Go ahead.

Mr. ABERCROMBIE. One moment. I don't notice anything in what I have read, all of the testimony and virtually every word in this, there is nothing in here in terms of your organizational entities about capital budgeting. And I would sure like to see something in there about trying to address the question of how we are actually going to finance these things.

Secretary ENGLAND. We have had a number of conversations in the building on this, and we are still trying to wrestle to see if there is a way forward on the capital budget.

Mr. ABERCROMBIE. Do you suppose you could put a sentence in one of these things sometime saying that we are wrestling——

Secretary ENGLAND. We will do it.

Mr. ABERCROMBIE [continuing]. With capital budget?

And thank you.

The CHAIRMAN. Thank the gentleman.

Let me follow through on two examples, Mr. Secretary.

A brigade commander sends a request in from the field through Central Command: We need more jammers for a specific reason, which might require some research and development. The same brigade commander requests something that is already on the line, conventional Humvees.

Trace those two requests, one that might require some research and development, though urgent, and the other something that is readily available. Trace that request from that brigade commander all the way through how it works through your office and how it gets back to that brigade commander.

Secretary ENGLAND. I would say it doesn't go through my office. I am happy to say it is not that bureaucratic. If they need vehicles, Army will directly respond. If they need Humvees, Army will pull those Humvees from wherever they have them, either in stock or somewhere in the states or another command, and they will provide those directly. So they will respond directly.

[The information referred to can be found in the Appendix beginning on page 87.]

The CHAIRMAN. So that goes to the Central Command, obviously.

Secretary ENGLAND. Pardon me?

The CHAIRMAN. That will go to the Central Command, someone in the Central Command, and then——

Secretary ENGLAND. Well, it gets shipped directly overseas, so Central Command will validate, and then it gets shipped to theater.

The CHAIRMAN. No, no, no. Where does that initial request go from that brigade commander? To his division commander, I suppose.

Secretary ENGLAND. Yes, I am not sure where it goes. It eventually goes to Central Command to get validated.

The CHAIRMAN. All right, it is validated. Then where?

Secretary ENGLAND. It comes in to the Pentagon, and it would——

The CHAIRMAN. Where in the Pentagon?

Secretary ENGLAND. It would come in to the Joint Chiefs, I believe. It would come into Joint Chiefs and then directly to the Army, and the Army would respond by providing whatever vehicles they had available to respond.

The CHAIRMAN. Why would it go to the Joint Chiefs? That is not part of their statutory duty.

Secretary ENGLAND. Again, I believe that is where it would go. I would have to verify that for you, but I would expect it would go through the operations part of Joint Chiefs again just to make sure it then goes to the right place in the Pentagon, the right organization to respond, because it would go into the military chain to ship whatever equipment they have. I would expect that is the way that would operate.

The CHAIRMAN. Let's go to something that needs some research and development. It is urgent—for instance, a jammer. The brigade commander is saying we need a jammer that does such and such.

Secretary ENGLAND. So again, once it is a valid, it would go directly to—we have a very special office dealing with IEDs, and it would go to that office. And they look at the whole broad spectrum of jammers and equipment and whole classified areas.

The CHAIRMAN. Now is this General Montgomery Meigs' office?

Secretary ENGLAND. Yes, it would. Yes, sir.

The CHAIRMAN. Okay. Keep going.

Secretary ENGLAND. And then he would see what is available or modify.

And again, he has funding and he has authority to do what is necessary to respond to that request, so he would immediately just start working that. He can do that with industry or with the services or——

The CHAIRMAN. Okay. He gets to develop. Then what?

Secretary ENGLAND. It gets produced and sent to theater, so it goes——

The CHAIRMAN. By way of——

Secretary ENGLAND. It goes through tests, and they have to validate it.

The CHAIRMAN. Assume all that is done.

Secretary ENGLAND. He does all that.

The CHAIRMAN. Assume all that is done and the brigade commander says, "Hey, where are my jammers?" Who takes it from General Montgomery Meigs' office? It is perfected.

Secretary ENGLAND. I believe they go to CENTCOM. They make the decisions in terms of allocation, because they decide where it is most needed in theater and what numbers and those sorts of decisions.

And that would be the same thing with vehicles. Maybe there are conflicting needs. So they make that decision. The same with MRAPs. They make those decisions in terms of where they are most needed at that point in time.

The CHAIRMAN. But all of that takes, unfortunately, time. Am I correct? Even in the case of needing some additional Humvees.

Secretary ENGLAND. Well, I believe that is all done really pretty quickly. I don't think that is a long timeline to do that. My general feel of all this is that it is very responsive, Mr. Chairman.

If they need something that is available, they get that as quickly as the need is known, and then it gets delivered to them. So certainly, there is some time lag. In the shipping and all that, it is a long wait. But even then, equipment is flown in.

For example, we are flying MRAPs in today, a combination of both air and sea, to get the most number in the shortest period of time. So we fly in whatever we have to in quick reaction. Obviously, things that could be longer, we ship.

The CHAIRMAN. Thank you very much.

Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

And distinguished panel, Secretary England, thank you for coming today.

Secretary ENGLAND. Mr. Hayes.

Mr. HAYES. I wanted to pick up on Mr. Wilson's comments as to the extremely great nature of your service. I couldn't do much better than he did, so along those lines, I want to thank you as well, and all members of the panel.

And, Mr. Brinkley, I want to thank you for a particularly thoughtful and helpful description of the blending between military and government and best business practices. That was very, very helpful.

And picking up on your comments, I want to come back to Secretary England and frame my question about the Berry Amendment in that context. Mr. Secretary, you are very familiar with this process.

And again, thank you to Mr. Brinkley.

DOD has the primary objective of protecting force, making sure that our folks have everything they need. And that is absolutely perfect.

At the same time, those of us on this side of the desk have obligations and responsibilities to our constituents, many of whom are the defense industrial manufacturing base. Using these objectives and blending our voices obviously gives us the best possible product under tough circumstances.

And I want to compliment you and all of you for the incredible improvement that I have seen in my nine years here in the acquisition process. We work very closely on a number of different issues. General Dale and General Cross and many others have really been fantastic. So don't ever lose sight of those accomplishments and what those men and women do for the folks in uniform.

I refer back in time a little bit to a meeting that I wish I had known about and attended between the specialty metal folks and the aerospace folks. And you, unfortunately, were the victim of being in the middle. I wish I could have been there to referee.

Secretary ENGLAND. I wish I hadn't been there. [Laughter.]

Mr. HAYES. I wish I had been there, because I would have either set them both down or whatever. The point is they were talking about each other and not about solving the problems that impact our men and women in uniform.

With that context, it is absolutely imperative, and I think eminently possible, to blend our desires on both sides of that spectrum and make the Berry Amendment work for our men and women in uniform.

And I am pledging again publicly to you, had I been at that meeting, I would have said, "Hold on here, ladies and gentlemen. We are going to make this work, because that is the only reason the Berry Amendment exists."

And more specifically, Mr. Krieg recently issued a blanket waiver for fasteners. Maybe you needed them; maybe you didn't. But if he had said something to me and us here on the committee, we could have possibly avoided getting poked in the eye with a sharp stick.

Looking forward, I want to make sure to the extent we can that the benefits of Berry accrue to you and the department and all of our men and women in uniform.

And at the same time, any problems that occur because of the changes in theater, changes in the way we have to do business, that we, as Ms. Bordallo and others have said, have piled regula-

tion upon regulation to clarify—which we have really modified; new word for you—but that is my intention. That is our desire.

And if you would just comment back to me on what, from your perspective, and Mr. Brinkley and also Mr. Patterson, how we can better work with you so that all our objectives to the men and women in uniform are met.

Sorry for the long dissertation, but thank you for being here.

Secretary ENGLAND. No, it is okay. This is a difficult issue.

My view of this is as long as people are reasonable and practical, it all works very well. We support the Berry Amendment. We think it is good for America. It is good for the military. It is not good when taken to extreme.

And so people tend to take "limit case" and try to make this work out in situations where it just does not apply. This just takes practical, reasonable people of good faith to work this out. And once in a while, people are working it out in areas where there is just no practical solution to this.

So I am not sure I know everything about the blanket waiver on fasteners, but this is part of the issue in the past dealing with extraordinarily small parts and keeping track and knowing where the sources of the metal came from and all of those things that became extraordinarily burdensome to do, as opposed to the very large applications for titanium.

So as long as everybody is reasonable and practical, it works terrific. But when you get down to the minutiae and the whole expense of dealing with minutiae, then, of course, that is something that we obviously can't support. So you will find us in great support of the Berry Amendment, but not in the extreme case.

And we will work with you, Mr. Hayes, and I appreciate your instructive help and comments.

Mr. HAYES. Thank you very much, Mr. Chairman.

Minutiae don't matter, and we are standing ready to help you anytime.

Secretary ENGLAND. Thank you. Thank you.

The CHAIRMAN. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

And, Mr. Secretary, thank you for being here.

Secretary ENGLAND. Mr. Taylor.

Mr. TAYLOR. Mr. Secretary, I read your remarks and listened to your remarks. And I guess as one Member of Congress, I wish we could legislate a sense of urgency in your department. We saw it first with SAPI plates. I distinctly remember——

Secretary ENGLAND. Pardon me. With what?

Mr. TAYLOR. SAPI plates, small arms protective inserts. I distinctly remember the Secretary early on saying not everyone needs them, just the frontline troops. So as guardsmen and reservists died needlessly, it eventually got fixed.

Then we saw with up-armored Humvees, "Not every vehicle needs to be up-armored." So as people died needlessly, it eventually got fixed.

Jammers, I remember being told that when we went over in December of 2003 that our vehicles would have jammers, and I said, "Well, great. What about the troops?" "Oh, not every vehicle needs them." So people died needlessly.

Now we see with MRAPs. It took a retired Army colonel in January of 2005 to come see me and say, "You know what? The South Africans have been using this for 20 years. Why aren't we using it?"

And so if there is some frustration from Mr. Abercrombie, myself and others, it is that we apparently can't legislate a sense of urgency within the bureaucracy over there to do the things that will translate in saving people's lives.

Let's go back to the MRAP.

Secretary ENGLAND. Mr. Taylor, now, look, I have to disagree with you.

Mr. TAYLOR. The request issue was $400 million for MRAPs. This committee put in $4 billion, and then miraculously, that very day when we passed it on the House floor, former Secretary Pete Geren, former colleague, a friend, comes back and says, "Oh, did we say $400 million? We meant $18 billion."

Well, heck, why didn't he say that in January? And why didn't he work with us?

And that is exactly how that timeline went down. And so that is the fourth example of people dying needlessly.

Secretary ENGLAND. I disagree, Mr. Taylor. I believe that is an inappropriate comment, and I do not agree with that. People have not died needlessly, and we have not left our people without equipment.

Mr. TAYLOR. Well, why did it take so long to get the up-armored Humvees? Why did it take so long to get the jammers on every vehicle? Why did it——

Secretary ENGLAND. Pardon me. We have had six versions, I believe, of up-armored Humvees, so we have continuously adapted. When you said every Humvee doesn't have armor, every Humvee outside the wire does——

Mr. TAYLOR. Now.

Secretary ENGLAND [continuing]. And did.

Mr. TAYLOR. We have been there since 2003.

Secretary ENGLAND. And did.

Listen, as the threat has evolved, we have evolved with the threat. We have been upgrading Humvees. We went out and developed, I guess, a wide variety of jammers, depending on what the threat is.

And the threat changes. It is an adaptable enemy. They are also very, very smart. And we continue to adapt. This is not just a static operation. It is a continual upgrade modification change. It is warfare. It is not just a constant out there. So we work very, very hard to be responsive to our troops in the field.

Mr. TAYLOR. Again, at the beginning of this session and after questions were asked in 2005—what are we doing about MRAPs, what are we doing about we just described them as a V-shaped hull vehicle—and it came back, "Well, not every vehicle needs that. We just need a few."

So why does it take until the day that this committee passed the $4 billion on the House floor for the Secretary of the Army to come back and say, "You know what? I need $18 billion. I don't need $400 million."

You are telling me no one could see that coming? No one could recognize that the bottom of the Humvee was acting to shape the charge? That is why the gunner is being thrown around like a jack in the box? That is why the kids inside are losing their lives?

Secretary ENGLAND. Mr. Taylor, I think we need to take this into a more classified area. I don't want to say it in a——

Mr. TAYLOR. I think that the enemy has figured that out, Mr. England.

Secretary ENGLAND. I think that is too simplistic a description and I think not appropriate for this discussion. I would be happy to talk to you about MRAPs. I would be happy to talk to you about the threats.

I will tell you this. There is a continuing evolution in terms of equipment—there will continue to be—the numbers and types of those vehicles still being discussed in terms of what the threat is and how the threat is evolving. And that is a subject I would be happy to have a whole separate afternoon or hour with you.

But I would not arrive at the conclusions you have arrived at, not based on the data and the information I know. And I believe it requires much more discussion than just sitting here in five minutes in an open committee hearing.

Mr. TAYLOR. Mr. Secretary, I am going to tell you—and I know that you don't enjoy this any more than I do—but I have been to funerals and looked at moms and dads in the eye. And I usually don't have the guts to ask the mom or dad, so I ask an uncle or an aunt. And the answer in many instances is they were not in an armored Humvee. The answer in many instances is that they did not have a jammer, once the word got back to me.

If it was good enough for the politicians when they ride around Iraq in 2003, then it should have been good enough for the troops in 2003. And if we knew about the need for up-armor by December of 2003—because I remember my colleague Mr. Simmons and I, who had just come back from trips about the same time, saying, "How come my unit had to go weld some stuff on? How long did it take to fix that?"—the answer was, sir—and I will provide testimony to you—that not every vehicle needs it.

Same mistake with the jammers. Same mistake with the up-armor. And you are making the same mistake now on MRAPs. You are dragging your feet, and people are needlessly dying.

Secretary ENGLAND. That absolutely is categorically not the case. That is not a correct statement, Mr. Taylor.

Mr. TAYLOR. What was the Administration's request for MRAPs this year in your Defense request? Do you want me to answer? $400 million. How many are you going to buy with $400 million?

Secretary ENGLAND. And we had money also in the supplemental last year for MRAPs, and we had money in the upgrade to the supplemental on MRAPs, and then we also asked for additional money for MRAPs, and we are——

Mr. TAYLOR. And you wait till this summer to come back and say, "No, we really need $18 billion."

Secretary ENGLAND. And the question is the effectiveness, and that is something we should discuss off-line. Again, I believe this is not the appropriate discussion to have sitting here in this hear-

ing, but I will be happy to meet with you and go through this in great detail.

Mr. TAYLOR. I will meet with you at your convenience.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

I have Mr. Akin and Mr. Johnson, and then the ranking member and I may have additional questions.

Mr. Akin.

Mr. AKIN. Thank you, Mr. Chairman.

I am on the Oversight Committee, and we just finished up the study on the Iraqi security forces. And a bunch of us were sitting around—Republicans, Democrats—kind of talking about that report, as we are finishing up on that.

And one of the things that kind of came forward was—I don't know that it is even really included in the report—but there was a time when Bremer basically said we don't want any of these Baathists, the former military people that were military under Saddam, we don't want to adopt them as the new military people in Iraq, so we are going to basically say the former Baathists and these people are out of here.

And when Bremer made that decision, the effect in the Army was all of a sudden, "Hey, we weren't really planning this, but now we have got to come up with hundreds of thousands of Iraqi security forces that we have got to find and train and build into an organization" in that the previous organization was pretty much let go by someone who was not military.

The question is: Do we have a problem of jointness at the very top in the case of Bremer being someone who is non-military versus military people and getting their signals straight as to how are we going to put together security forces for this new country, now that we have won the war?

Is there sort of a jointness thing between—I don't know if you think of Bremer as State or not; I think he was kind of operating independently—but is that a difficulty from an organizational point of view?

And if you think my premises are wrong and the question, fire away. I know you are not shy anyway, so——

Secretary ENGLAND. I am not shy, but frankly, I am just not familiar with the whole organization back at that time. That was just not in my area, and I am just not familiar how those decisions were made and who made those decisions. So I just can't help you there, sir. You are on a topic that is outside my knowledge.

Mr. AKIN. Do either one of the other gentlemen want to comment on that kind of scenario and the question about the Iraqi military, or is that sort of outside of where you——

Secretary ENGLAND. I don't think anybody here at this table was dealing with that issue back at the time of coalition provisional authority (CPA).

Mr. AKIN. Okay.

Then the other question I had was, Mr. Brinkley, my understanding is you have been involved with trying to get some of the factories and different free enterprise and things going in Iraq.

Do you run into the same problem that we are finding everywhere, that the big problem seems to be finding, in maybe Nixon's

term, "leadership-class people" or people that are educated, literate, that have some level of integrity that you can put in charge of things? Is that a continuing problem that you are finding?

Mr. BRINKLEY. I will divide the three: educated, literate and——

Mr. AKIN. Integrity.

Mr. BRINKLEY [continuing]. Integrity. I will divide the three.

The lesson that we have learned is that everything from a business perspective in Iraq is local. There are no generalizations one can apply to anything we found in factories in Iraq.

We have assessed in detail over 60 manufacturing operations: forensic detailed assessments of the capacity, their leadership teams, their workforces, their customers, their suppliers. And in those cases, generally speaking, to apply a generalization, the issues of having a workforce in place, a talented management team, are not a problem in terms of our ability to get those localized factories restarted.

The third category you mentioned is integrity, and that is something that has to be tested. I cannot comment on whether a particular factory manager is or is not corruptible or possesses integrity, but we have put processes in place so that, as we restart factory operations, every transaction that is executed is monitored in detail in partnership with the Iraqi government to ensure that there is nothing that takes place that would first and foremost put our forces at risk, but also contribute to a longstanding culture that was present there under the Baathist regime that encouraged corruption.

And so that would be my response.

Mr. AKIN. So you are saying you have no trouble finding leadership people to run the factories particularly.

Mr. BRINKLEY. I wouldn't say "no trouble." There are cases, especially in areas of Baghdad, the Diyala province, parts of Al-Anbar where unrest is greatest, where we have seen a brain drain and people have fled areas of violence.

But in the south and the north and even parts of Al-Anbar that have seen stabilization, surprisingly, one finds factories and workforces that are waiting to go back to work. And so those represent opportunities for us to go in and provide a sense of normalcy to a population that hasn't experienced a lot of normalcy in recent times. And we are going to take advantage of that.

Mr. AKIN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Chairman, I must apologize because I came in late to this hearing, though I did read the information before I came. But it all benefits to be here and listen to the full testimony and the dialogue between congressmen and the witnesses.

And I do appreciate the witnesses being here.

I wish to associate myself with the comments and questions that I have heard from Mr. Taylor, Mr. Abercrombie, and Chairman Skelton.

I will say, though, that I do recognize that the problems at the Department of Defense in terms of the inefficiency of the processes

there began long before you gentlemen arrived. And you all are part of the apparatus to help streamline the business systems and the financial systems, and it is a very extremely complicated task.

I am not even in the position as a six-month member to ask an intelligent question about this issue, so I will decline to ask any questions, but I do appreciate the fact that Congress is exercising oversight.

And since we are talking about the lives of human beings who are in theater, it makes it all the more important that we do the streamlining with all deliberate speed so that some of the issues that have been highlighted by Mr. Taylor, Mr. Abercrombie, and Chairman Skelton are not allowed to continue.

And so I will end my comments with that, even though being a lawyer, it pains me to not have a question to be able to ask. Thank you.

The CHAIRMAN. I thank the gentleman.

I have one question. Before I ask you this, does Mr. Hunter have an additional question?

Mr. HUNTER. No, Mr. Chairman.

I think I would like to pursue, Gordon, when we get a chance here, this handoff of the equipment, the transfer of equipment from our forces to Iraqi forces that I talked about early in the opening statement. So I know you are going to get back with us on that.

I think that is kind of the order of the day, and that is percolating right now as a main—it is a long pole in the tent on this handover. So I have been briefing myself up after we talked initially.

It is largely a State Department function because of foreign military sales, but I think we need to have a little prayer meeting with State, with you and with our warfighters and figure out how we are going to get this thing done quickly.

Secretary ENGLAND. Can I interrupt just a second and ask my staff a question here?

Okay. We have passed that on after your comments, so people are working that right now, Mr. Hunter, and I just want to make sure we actually had somebody working it when you brought that up earlier. And so we will respond to you just as quickly as we can on that subject.

Mr. HUNTER. Okay. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Let's look at each of the separate services, if we may. My question is: Who fulfills the chief management officer duties of each of the services? Or, subject to your answer, should Congress designate someone, such as an Under Secretary of each service?

Secretary ENGLAND. Mr. Chairman, I would strongly recommend not designating a chief management officer in the service. That is the job of the Secretary of the service departments.

For the service secretaries, that is their responsibility, and then they may choose to delegate that either to an Under Secretary or their Assistant Secretaries. Their Assistant Secretaries, frankly, are typically the experts, like their Financial Assistant Secretary for finance, for installation, for acquisition. And I would not put that in the Under Secretary.

I believe you would dramatically weaken the Service Secretary if you said it had to be in the Under Secretary. I would leave that, frankly, to the discretion of each service Secretary to decide how to do that, based again on his team of both Under Secretary and Assistant Secretary.

The CHAIRMAN. And let the buck stop with him or with her, whoever the case may be me.

Secretary ENGLAND. And I will tell you, I definitely want to be able to talk to the Service Secretary, not the under, for issues in the Department. So I would leave that at the service Secretary, Mr. Chairman.

The CHAIRMAN. I appreciate it.

Well, gentlemen, thank you for coming. We have met your deadline, you will notice. You have not turned to pumpkins. So we do thank you very, very much.

Secretary ENGLAND. And, Mr. Chairman, there is some feedback we said we would provide people with questions today. We will do that promptly. And again, thanks for the opportunity to comment. Thank you.

The CHAIRMAN. Appreciate it. Thank you.

[Whereupon, at 12:08 p.m., the subcommittee was adjourned.]

A P P E N D I X

JUNE 26, 2007

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

JUNE 26, 2007

Statement of the Honorable Gordon England
Deputy Secretary of Defense
Before the House Armed Services Committee
26 June 2007

Chairman Skelton, Representative Hunter, distinguished members of the House Armed Services Committee, thank you for the opportunity to discuss the management processes of the Department of Defense and specifically to comment on key provisions of the proposed legislation, H.R.1585.

With me today are Principal Deputy Under Secretary of Defense (Comptroller) Dave Patterson, and Deputy Under Secretary of Defense for Business Transformation, Paul Brinkley. The three of us look forward to this discussion, and to using it to further the mission of the Department of Defense.

The comments in this statement are ordered to correspond to the relevant sections of the proposed legislation, namely:

(1) Management System of the Department of Defense (Section 906);
(2) Joint Requirements Oversight Council, additional duties relating to core mission areas (Section 944);
(3) Presentation of future years mission budget by core mission area (Section 946); and
(4) Sections dealing broadly with the quadrennial roles and missions review, core competencies and review of capabilities (Sections 941, 942, 943).

Item 1: Management System of the Department of Defense

The Department appreciates the Congress' interest and willingness to provide legislative assistance to help the Department implement more effective and efficient processes. However, in my judgment, the Department today is overburdened with rules, regulations and legislation that limit effectiveness. As you are aware, the Department is a large and extraordinarily complex institution with over 3 million military and civilian employees and an asset base of one trillion dollars, with installations in every state and around the world.

While it may appear counterintuitive to some, an organization of this size and scope needs to have a high degree of management flexibility and largely decentralized operations with authorities and responsibilities distributed throughout the enterprise, down to the lowest effective management level. Mandated organizational constructs tend to impede rather than enhance organizational effectiveness.

The key management issue to be addressed in the Department is not the organizational structure per se – rather, it is how to ensure integration among otherwise diverse operations. Over the past several years, the Department has taken advantage of existing authorities to put horizontal integrating elements into place. The Department appreciates the flexibility reflected in H.R.1585, Section 906, which allows the Secretary to assign management duties, at the Under Secretary level or above, as appropriate. In our judgment, the intent of the legislation is being

accomplished. In general, it is most helpful if the Congress focuses on outcomes, rather than prescribing organizational methods. Further statutory language would not achieve the outcomes that the Congress and the Department both desire.

Allowing a future Secretary of Defense to adjust the organization to fit his senior leadership team is infinitely preferable to forcing the team to fit the organization. Leadership positions in government organizations tend to have high turnover due to the inherent nature of political appointments, with the added issue in DoD of regular programmed turnover of the military leadership. To accommodate this personnel rotation, the DoD organization needs to be flexible and adaptable. Prescribing specific legislative attributes would run counter to this objective.

The specific goals of more agile and effective management include improving support for the warfighters – getting them what they need, where they need it, when they need it, anywhere in the world; improving strategic decision-making through more inclusive processes; and reducing the cost of business operations … thus saving the American taxpayer money. Effectiveness and efficiency are the fundamental objectives for DoD management.

With the management flexibilities already inherent within the Department, the current management team has been able to significantly improve the operation of the Department by building horizontal interfaces and processes among different operating elements. Some of those processes are herein briefly described, since they largely accomplish many of the objectives being sought by the House and the Senate, the Government Accountability Office, and outside advisory groups.

The Department makes use of a highly inclusive governance process for articulating and updating its strategic vision, for determining the reorientation of capabilities and approaches required to meet it, and for refining budget priorities. That process includes the governance body, the Deputy's Advisory Working Group (DAWG), which was established during the 2006 Quadrennial Defense Review (QDR) process. The DAWG now meets twice a week, under the chairmanship of the Deputy Secretary and the Vice Chairman of the Joint Chiefs of Staff, and includes senior civilian and military leaders. Supporting the DAWG is a federated system of boards and committees, chaired by senior civilian and military officials, each focused on a broad functional area.

The Department's overall management team participates in the direction and integration of DoD's integrating processes. For example, the Director of Program Analysis and Evaluation (PA&E) also serves as the secretary of the DAWG and organizes the DAWG agenda and schedule. The Director of Administration and Management (DA&M) has enhanced the Department's capabilities to monitor the progress of major DoD initiatives and priorities. In addition to tracking implementation of the 2006 QDR, which is reported to the Congress on a regular basis, the DA&M monitors and helps provide integration among key priorities and milestones for thirteen DoD components. Those initiatives include, for example, the joint Department of Defense – Department of Veterans Affairs assessment of healthcare support for our wounded warriors, and the Secretary of Defense's action plan to implement recommendations made by the Commission on the National Guard and Reserves.

In addition to these discrete roles, the Directors for PA&E, and for Administration and Management, along with the Principal Deputy Under Secretary for Policy, the Under Secretary for Acquisition, Technology and Logistics, the Under Secretary Comptroller, and the Director, Joint Staff, work closely with me to establish the overall leadership agenda for the Department and to manage the priorities, plans and schedules for work to be jointly accomplished by the Office of the Secretary of Defense and the Joint Staff, Military Departments, and Combatant Commands.

This integrated team approach also includes the introduction of "joint capability portfolios", focused on the system level, rather than the level of individual platforms. The four portfolio test cases to date are providing senior decision-makers with greater visibility, and better ability to propose trades and make investment decisions, across portfolios of related options.

The Defense Business Systems Management Committee (DBSMC) meets monthly, under my chairmanship, to set corporate-level policy and programmatic priorities for business systems modernization, and to monitor and direct progress. The significant overlap of DBSMC and DAWG membership helps assure close linkage between strategic and budgetary priorities, and the systems designed to help achieve them. Business management is federated – the DBSMC provides data standards and business rules to ensure interoperability. Each component, in turn, manages its own unique mission-support requirements – developing strategies, schedules and budgets for business transformation, and making sure they are integrated into the broader enterprise effort.

In October 2005, the Business Transformation Agency (BTA) was established, with the mission to modernize, streamline and coordinate business transformation efforts across the Department. Today, the Office of Business Transformation and the BTA integrate the work of the OSD functional domains on a day-to-day basis, and encourage further collaboration across the Department by providing visibility on enterprise-wide efforts. Additionally, these organizations work closely with similar business transformation 'engines' in the various components, to ensure alignment and integration.

The Department's Business Enterprise Architecture (BEA) provides the 'blueprint' or framework – a set of processes, data, data standards, business rules, operating requirements, and information exchanges. The BEA focuses on enterprise-level business priorities – those likely to have the greatest impact. Over time, the framework and products developed will be extended to the entire business mission area. The BEA is regularly updated – the latest version was released in March 2007.

The Enterprise Transition Plan (ETP) provides the roadmap for making progress on the basis of the BEA framework – including plans, schedules, budgets, metrics and milestones. Like the DBSMC-led governance structure, the planning effort is federated – components develop their own transition plans, which are then incorporated into the DoD-wide ETP. The most recent ETP was issued in September 2006, and the Department provided an update on progress to the Congress in March 2007.

Rigorous financial management is a critical component of business management in general. The Department has launched an aggressive effort – the Financial Improvement and Audit Readiness Plan (FIAR) – aimed at achieving an unqualified audit opinion. The approach is incremental – preparing the Department for audit while institutionalizing improved systems for doing so.

As of March 2007, Department had achieved 72% of all the key milestones scheduled to be completed in the FIAR plan. The goal is that by 2010, 72% of the Department's assets and 79% of its liabilities will receive 'clean' audit opinions. That may seem like a long lead time for change, compared to industry, but it is actually quite ambitious given the size of DoD's asset base – over $1 trillion, more than double the combined total of $480 billion for IBM, Wal-Mart and Exxon/Mobil.

The Department's most valuable resource is its people – the key to success for any management structure or process. For the civilian workforce, the Department is implementing the National Security Personnel System, linking pay to performance and importantly, connecting individual job efforts more explicitly with organizational and Departmental goals and strategic vision.

Item 2: Joint Requirements Oversight Council, additional duties relating to core mission areas

Drawing on the recommendations of a 2005 Defense Science Board (DSB) study, the House proposal includes the addition of the Under Secretary of Defense for Acquisition, Technology and Logistics, and the Director of the Office of Program Analysis and Evaluation, as permanent members of the Joint Requirements Oversight Council (JROC). The Vice Chairman of the Joint Chiefs of Staff, Admiral Ed Giambastiani, has previously addressed this issue with Congressional staff, and his views, which reflect those of the Department, are summarized herein.

While the JROC relies upon the advice of these important civilian leaders, codifying their participation as permanent voting members runs counter to the Council's principal purpose of providing independent military advice regarding the validation of warfighter requirements. Since the 2005 DSB study, the Department has modified the JROC charter to include these and other civilian leaders, and the Combatant Commanders, as advisors. Since then, nearly 70% of JROC meetings have included OSD senior leaders in partial or full attendance.

The Department recognizes the importance of prioritizing desired capabilities, estimating costs, and considering technology maturity earlier in the capability-building processes, as intended by the House bill. The intent of the draft legislation is already being accomplished in a variety of ways. For example, the JROC prioritized capability gaps identified by Combatant Commanders, and that effort, in turn, resulted in the reallocation of over $5 billion of FY 2008 proposed funding prior in the President's budget proposal. Additionally, the "Most Pressing Military Issues", which draw substantially on the Combatant Command Integrated Priority Lists, are compiled as priorities to focus JROC efforts. The Department will continue to build upon this effort to provide a more comprehensive prioritization of joint capabilities for decision at the Deputy's Advisory Working Group.

The fundamental role of the JROC is to solicit the military advice of the nation's senior warfighters, who are responsible for joint warfighting. The proposed legislation would disrupt the current checks and balances that exist to ensure that the Chairman of the Joint Chiefs is receiving the best possible, independent military advice to fulfill his obligations to the Secretary of Defense, the National Security Council, the President, the Congress, and the Nation.

Finally, the proposed House language would require Combatant Commanders to provide biannually an extended planning annex regarding capabilities for each OPLAN and CONPLAN, with the first submission due 90 days after enactment of the NDAA. This timeline is not realistic, and it would force our premier warfighters to focus on resource allocation issues, instead of fighting and winning the nation's wars. A more appropriate approach would be to incorporate this assessment during each plan's biannual review.

Item 3: Presentation of future years mission budget by core mission area

Since 2006, the Department has been identifying "capability portfolios" as a means of better explaining to Congress and the American people how it is meeting new and emerging requirements. For Fiscal Year (FY) 2009 and forward, the Department plans to prepare a summary justification book, transmitted by the Secretary to the Congress, which presents the Department's funding request in three different ways: 1) capability portfolios, building on the four test cases currently underway, 2) Military Services, and 3) appropriation titles. This book will summarize the Department's entire request, placing it in context with US National Security strategy. Capability portfolios will be cross-correlated to the Quadrennial Defense Review (QDR). The Department's progress implementing the QDR and any future strategies will be measured through metrics, which will be reported in the Secretary's summary to Congress. It is the Department's intent to oversee the accomplishment of its mission through capability portfolios and to associate clear, objective performance measures with its missions and activities.

Item 4: Sections dealing broadly with the quadrennial roles and missions review, core competencies and review of capabilities

The proposed quadrennial roles and missions review would unnecessarily duplicate existing law that provides for the Quadrennial Defense Review (QDR). Title 10 of the United States Code already requires the Chairman of the Joint Chiefs (CJCS) to perform an independent roles and missions review as part of the QDR. This function was accomplished in the past via a separate triennial assessment.

The CJCS routinely considers roles and missions issues as part of his advice, and through development and drafting of the Unified Command Plan. Supported by the Joint Staff, the CJCS continues to be well postured to execute the review. The Department's approach to QDRs has significantly improved with experience and over time. The 2006 QDR in particular was a model for effective collaboration across DoD components, as well as follow-on implementation. Accordingly, the Department's strong preference is to address any deficiencies within the existing QDR mandate rather than establish new, parallel efforts.

The core competencies and capabilities of DoD entities – the Military Departments, the Joint Staff, the OSD, Defense Agencies, Field Activities, and Combatant Commands – are currently reflected in their chartering documents. DoD senior leadership continually assesses existing organizational structure against needed capabilities and the future security environment to ensure appropriate alignment. For combatant commands, review of core competencies is reflected in the bi-annual Unified Command Plan process. Other components are reorganized (e.g., OSD (P), PA&E) or established (e.g., OUSD (Intelligence), OASD (Homeland Defense), the Joint Improvised Explosive Device Defeat Organization) based on mission requirements.

In conclusion, it is important to recognize that the Department's leadership and people are far more important than any organizational construct. The best guarantee of success is for leadership to provide an environment where everyone can excel, and to have a workforce of great people – well-trained and educated, highly motivated, and committed to protecting and defending this great nation. Our nation is blessed to have these people in the Department of Defense.

DOCUMENTS SUBMITTED FOR THE RECORD

JUNE 26, 2007

Hearing Date: Jun 26, 2007
Hearing: Hearing on Structure, Process and Tools for Improving Department of Defense Management

NOTE: *The subject Hearing transcript refers to 219 regulations while the list below contains 100 sections from title 10 of the United States Code that address general/flag officer management. Within the 100 sections, there are approximately 219 specific uses of the words "general officer."*

The information is arranged as the chapter and section citations in title 10 of the United States Code followed by the text of the provisions in the same order as the citations:

GENERAL AND FLAG OFFICER PROVISIONS IN LAW UNDER TITLE 10, UNITED STATES CODE

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§ 14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

CHAPTER 5 - JOINT CHIEFS OF STAFF

§ 152. Chairman: appointment; grade and rank

(a) Appointment; Term of Office. The CJCS is appointed by the President, by and with the advice and consent of the Senate, for a term of two years, beginning on October 1 of odd-numbered years, and may be reappointed for two additional terms, but may not serve as Chairman or Vice Chairman if the combined term exceeds six years. The President may extend to eight years if in the national interest. Limitations do not apply in time of war.

(b) Requirement for Appointment. The Chairman must have served as: (1) the VVJCS; (2) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or (3) the commander of a unified or specified combatant command. President may waive requirement if in the national interest.

(c) Grade and Rank. The Chairman holds the grade of general or admiral; but, he may not exercise military command over the JCS or any of the armed forces.

§ 154. Vice Chairman

(a) Appointment. VCJCS is appointed by the President, by and with the advice and consent of the Senate, for a term of two years, and may be reappointed for two additional terms, except there is no limit during time of war. CJCS and VCJCS may not be members of the same armed force; however, President may issue limited waiver for the orderly transition.

(b) Requirement for Appointment. VCJCS must have joint specialty and completed a full joint tour of duty as a general or flag officer. President may waive.

(d) Function as Acting Chairman. VCJCS serves in the absence or disability of Chairman.

(f) Grade and Rank. VCSC holds the grade of general or admiral and outranks all other officers except the Chairman. VCSC may not exercise command over JCS or armed forces.

CHAPTER 6 - COMBATANT COMMANDS

§ 164. Commanders of combatant commands: assignment; powers and duties

President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer has a joint specialty and completed a full joint tour of duty as a general/flag officer; President may waive. The commander of a combatant command may suspend and recommend the reassignment of any officer assigned.

CHAPTER 8 - DEFENSE AGENCIES & DOD FIELD ACTIVITIES

§ 196. Department of Defense Test Resource Management Center

(a) Establishment as Department of Defense Field Activity. The SECDEF shall establish a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the "Center").

(b) (1) Director. The Director shall selected by the Secretary from among active duty

officers or DOD civilian officers or employees. If a commissioned officer is selected, he shall hold the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral. A civilian officer shall be equal in pay grade to a lieutenant general.

CHAPTER 22 – NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

§ 441. Establishment

(a) Establishment. The National Geospatial-Intelligence Agency is a combat support agency of the DOD of Defense and has significant national missions. (b)(3) The Director is filled by an active duty officer, and shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601, and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

CHAPTER 32 - OFFICER STRENGTH & DISTRIBUTION IN GRADE

§ 523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain

(b)(2) Exclusion of General and flag officer. General and flag officers are excluded in computing and determining authorized strengths.

§ 525. Distribution of commissioned officers on active duty in general officer and flag officer grades

(a) Ceilings. No more than 50 percent of active duty officers may be made in a grade above brigadier general or rear admiral (lower half).

(b) (1) No more than 15.7 percent of active duty officers in the Army, Air Force or Navy may be in grades above major general or rear admiral, respectively. (2) Of the 15.7 percent, not more than 25 percent may be serving as general or admiral. No more than 17.5 percent of the officers in the Marine Corps may in a grade above major general. (3) CJCS or VCJCS, serving as general or admiral, are excluded form this ceiling.

(4) (A) & (B) The President may designate up to seven positions within the Joint Staff (see section 155). If those officers hold the grade of O-9, they are excluded from the ceiling.

(5) (A) Officers serving as a Commander of a combatant command, Commander, United States Forces, Korea, Deputy commander, United States European Command (but only if the commander of that command is also the Supreme Allied Commander, Europe), if serving in the grade of O-10, they shall be excluded from the ceiling officers serving in grades above major general or rear admiral. Any increase in the number of officers may only be realized by an increase in the number of active duty lieutenant general or rear admiral, and any such increase may not be construed as authorizing an increase in the total number of general or flag officers. The above does not apply if an officer did not have a recommendation from the Secretary of each required military department.

(6) An officer serving as Chief of the National Guard Bureau is exempt from the ceiling for officers serving above major general.

(7) The Superintendent of the service academies, if serving as lieutenant general or vice admiral, is exempt from the ceiling for active duty grades above major general/rear admiral.

(8) The Senior Military Assistant to the SECDEF, if serving as lieutenant general or vice admiral, is exempt under (1) or (2). Only one officer may serve as Senior Military Assistant.

(c) (1) The President may appointment O-9 and O-10 in excess of the ceilings (and in the Marine Corps O-10s in addition to the Commandant and Assistant Commandant), and offset IAW (b)(2). (2) For each O-9 and O-10 appointment, the President shall specify which armed force shall likewise be reduced. (3) Those serving as O-9 pursuant to (c) (1) may not exceed 10 percent of officers in those grades under subsection (b). Those serving as O-10 by reason of (c) (1) may not exceed 15 percent of officers serving in those grades. (4) Upon termination of such appointments, the reduction shall no longer be in effect.

(d) A general or admiral, while awaiting retirement beginning on the day he is relieved from the position designated to carry one of those grades and ending on the day before his retirement, but not for more than 60 days, after relief from the position of CJCS, CSA, CNO, Chief of Staff of Air Force, or Commandant of Marine Corps shall not be counted for purposes of this section.

§ 526. Authorized strength: general and flag officers on active duty

(a) Limitations. The number of active duty general officers and flag officers is limited as follows: (1) Army, 302; (2) Navy, 216; (3) Air Force, 279; and (4) Marine Corps, 80.

(b) Limited Exclusion for Joint Duty Requirements. (1) The CJCS may designate up to 12 general/flag officer positions as joint duty assignments to be excluded from the limitation in (a). (2) (A) The CJCS may designate up to 10 general/flag officer positions on the staffs of the commanders of the unified and specified combatant commands to be held only by reserve component officers of general/flag officer grade below O-9. Each position is considered a joint duty assignment. (B) A reserve component officer serving under (A), while on active duty under a call or order to active duty that does not specify a period of 180 days or less, shall not be counted towards the limitations above or under section 525, if selected pursuant to (C). (C) Whenever a vacancy occurs, or is anticipated to occur, in a position designated under subparagraph (A)(i) the SECDEF shall require the SA, SECAF, and SECNAV to submit the name of at least one Army reserve component officer, Air Force reserve component officer, Naval Reserve officer and Marine Corps Reserve officer, respectively, for consideration for assignment to that position; and (ii) CJCS may submit to the SECDEF the name of one or more officers (in addition to the officers whose names are submitted under (i)) for consideration for assignment to that position. (D) Whenever required to submit names of officers under (C) (i), the CJCS shall submit to the SECDEF the Chairman's evaluation of the performance of each officer whose name is submitted under that subparagraph for consideration. (E) Subparagraph (B) does not apply in the case of an officer serving in a position designated under subparagraph (A) if the SECDEF, when considering officers for assignment, did not have a recommendation for that assignment.

(d) Exclusion of Certain Officers. The limitations do not apply to a reserve component general/flag officer on active duty for training or under a call or order of less than 180 days.

§ 527. Authority to suspend sections 523, 525, and 526

In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of section 523, 525, or 526 of this title, 10 USCS § 523, 525, or 526, and may extend the suspension in time of war or national suspension. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first.

§ 528. Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances

(a) Military status. An officer serving in a position under this section -- (1) shall not be subject to DOD or SECDEF supervision or control, except as directed by the SECDEF concerning reassignment from such a position; and (2) may not exercise any supervision or control of the military or civilian personnel of the DOD except as authorized by law.

(b) Director and Deputy Director of CIA. When filled by an officer of the armed forces, that officer shall be excluded from the limitations in sections 525 and 526. However, if both positions are held by an officer of the armed forces, only one shall be excluded.

(c) Associate Director of CIA for Military Support. When filled by an officer of the armed forces, that officer shall be excluded from the limitations in sections 525 and 526.

(d) Officers serving in Office of DNI. A general or flag officer assigned to the Office of the DNI, under agreement between the SECDEF and DNI, while serving in that position, shall be excluded from the limitations in sections 525 and 526, except that not more than five officers may be so excluded at any time.

(e) Effect of appointment. Except as provided in subsection (a), the appointment or assignment of an officer to a position covered by this section shall not affect (1) the status, position, rank, or grade of such officer; or (2) any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

CHAPTER 35 - TEMPORARY APPOINTMENTS IN OFFICER GRADES

§ 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals

(a) The President may designate positions of importance and responsibility to carry grades of O-9 or O-10 and may assign officers in grades above O-6. Except as in (b), the appointment to a grade under this section ends on termination of that assignment.

(b) An officer appointed in the grade of O-9 and O-10 under (a) or by law shall hold that grade (1) while serving in that position; (2) while under orders transferring him to another position under law to carry one of those grades, beginning on the day his assignment is terminated and ending on the day before the day on which he assumes the second position; (3) while hospitalized, beginning at hospitalization and ending on discharge, but not exceeding 180 days; and (4) while awaiting retirement, but not for more than 60 days.

(c)(1) An appointed officer does not vacate his permanent grade held. (2) Officers serving in grades above O-8 who hold the permanent grade of O-7 shall be considered for promotion to the permanent grade of O-8, if serving in his permanent grade. (d)(1)When recommended to the President for initial appointment to O-9 or O-10, the CJCS shall submit his evaluation to the SECDEF, who shall submit it to the President. (2) Whenever a vacancy occurs, the SECDEF shall inform the President of the qualifications needed.

§ 603. Appointments in time of war or national emergency

(a) In time of war, or of national emergency declared by the Congress or the President after November 30, 1980, the President, may appoint any qualified person (whether or not already a member of the armed forces) to any officer grade, but may not be made in grades above 0-8. (b) Such appointments are temporary and may be vacated at any time.

§ 604. Senior joint officer positions: recommendations to the Secretary of Defense

(a) Joint 4-star officer positions. (1) Whenever a vacancy occurs, or is anticipated to occur, in a covered position (see below) (A) the SECDEF shall require the SECARMY, SECNAV, and SECAF to submit the at least one nomination for recommendation to the President; and (B) the CJCS may submit the name of one or more officers for consideration and recommendation to the President. (2) Whenever the Secretaries are required to submit names, the CJCS shall submit the Chairman's evaluation of each officer submitted. The Chairman's evaluation shall primarily consider the member's performance on the Joint Staff.

(b) Covered positions means the following positions: (1) Commander of a combatant command; (2) Commander, United States Forces, Korea; and (3) Deputy commander, United States European Command, but only if the commander of that command is also the Supreme Allied Commander, Europe.

CHAPTER 36 - PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

§ 611. Convening of selection boards

As necessary, each service Secretary shall convene selection boards (a) to make recommendations for promotions to the next higher grade from O2 through O-7; and (b) for continuation on active duty under § 637 or for early retirement under § 638. (c) Such boards shall be pursuant to SECDEF regulations.

§ 612. Composition of selection boards

(a) (3) Reserve boards shall include at least one active duty reserve officer; however, in the case of a board considering officers in the grade of O-6 or O-7, no reserve officer need be included if there are no eligible active duty reserve officers in the next higher grade. Each service Secretary shall determine the actual number of reserve officers.

(5) A retired general or flag officer on active duty for the purpose of serving on a selection board shall not be counted against any limitation on active duty general and flag officers.

§619. Eligibility for consideration for promotion: time-in-grade and other requirements.

(a)(2)(B) Time-in-grade requirements. An officer who is on the active-duty holds a permanent appointment in a grade above O-2 may not be considered for selection until he has completed the following period of service: (B) One year, in the case of an officer in the grade of O-6 or O-7; however, (3) When the needs of the service require, the Secretary concerned may prescribe a longer period of service.

(c) Officers to be considered by promotion boards. (3) (A) The Secretary of Defense may authorize the Secretaries of the military departments to preclude from consideration by selection boards for promotion to the grade of brigadier general or rear admiral (lower half) officers in the O-6 who-- (i) have been considered and not selected for promotion to O-7 by at least two selection boards; and (ii) are determined, in accordance with standards and procedures prescribed pursuant to subparagraph (B), as not being exceptionally well qualified for promotion as determined by a pre-selection board.

§619a. Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions

(a) General rule. An active-duty officer may not be appointed to O-7 unless (1) officer has completed a full joint tour of duty; and (2) for appointments after September 30, 2008, has been selected for the joint specialty in accordance with section 661.

(b) and (c) Exceptions. SECDEF may issue waivers on a case by case basis: (1) for the good of the service; (2) when promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist; (3) for medical officer, dental officer, veterinary officer, medical service officer, nurse, or biomedical science officer; a chaplain; or a judge advocate; (4) for officer selected by a promotion board for appointment to the O-7 while serving in a joint duty assignment if the officer's total consecutive service in joint duty assignments within that immediate organization is not less than two years; and (5) for officer who served in joint duty assignments before January 1, 1987, for a period of not less than 12 months.

(d) Good-of-the-service waiver. In the case of a "for the good of the service" waiver, the general or flag officer's first assignment shall be a joint duty assignment.

(e) Limitation on delegation of waiver authority. Waiver authority may only be delegated to the Deputy SECDEF, an Under Secretary of Defense, or an Assistant Secretary of Defense.

(f) Regulations. SECDEF shall prescribe regulations for this section. The regulations shall specifically identify those categories of officers for which selection for O-7 is based primarily upon scientific/technical qualifications for which joint requirements do not exist.

(g) Limitation for general and flag officers previously receiving joint duty assignment waiver. Officers who received waivers before January 1, 1999, may not be appointed to the grade of lieutenant general or vice admiral until a joint duty assignment is completed.

(h) Special transition rules for nuclear propulsion officers. A Naval officer designated as a qualified nuclear propulsion officer before January 1, 1997, and who is appointed to O-7, may not be appointed to O-8 until after a joint duty assignment is completed.

§ 625. Authority to vacate promotions to grades of brigadier general and rear admiral (lower half)

(a) The President may vacate the promotion to the grade of brigadier general or rear admiral (lower half) if an officer has served less than 18 months in that grade. (b) An officer whose promotion is vacated holds the regular grade of O-6. (c) The position on the active-duty list of an officer whose promotion is vacated is the same as if he had he not been promoted.

SUBCHAPTER III - FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

§ 635. Retirement for years of service: regular brigadier generals and rear admirals (lower half)

Except as provided under section 637(b), each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of brigadier general, and each officer of the Regular Navy who holds the regular grade of rear admiral (lower half), who is not on a list of officers recommended for promotion to the regular grade of major general or rear admiral, respectively, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 30 years of active commissioned service, whichever is later.

§ 636. Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half)

(a) Major generals and rear admirals serving in grade. Except as provided in (b) or (c) and under section 637(b), each Regular officer who holds the grade of O-8, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 35 years of active commissioned service, whichever is later.

(b) For lieutenant generals and vice admirals, the number of years of active commissioned service is 38 years. (c) For generals or admirals, it is 40 years.

§ 637. Selection of regular officers for continuation on active duty

(b) (2) Retirement deferred. An O-7 or O-8 subject to retirement under 635 or 636 may, subject to the needs of the service, have his retirement deferred by the Secretary concerned. The President may similarly defer retirement for officers serving in a grade above O-8. (3) Limitations. Deferral under this section shall be for a period not to exceed five years, but such period may not extend beyond the date of the officer's sixty-second birthday.

(e) Regulations. The SECDEF shall prescribe applicable regulations.

§ 638. Selective early retirement

(a) (1) An active-duty regular officer may be considered for selective early retirement by a 611(b) selection board if (C) an officer is holding the grade of brigadier general or rear admiral (lower half) for at least three and one-half years and his name is not on the promotion list; or (D) an officer is holding the grade of major general or rear admiral who

has served at least three and one-half years in that grade.

(b) (2) A brigadier general, major general, rear admiral (lower half), or rear admiral who is recommended and approved for early retirement, shall be retired, under any provision of law under which he is eligible to retire, on the date requested and approved by the Secretary, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the board recommended the officer for early retirement.

(3) The Secretary concerned may defer the retirement for not more than 90 days under this section or 638a to prevent personal hardship to the officer or for other humanitarian reasons. The Secretary shall grant the non-delegable deferral on a case-by-case basis.

(d) The retirement of an officer hereunder shall be an involuntary retirement.

(e) (1) The SECDEF shall prescribe applicable regulations.

CHAPTER 38 - JOINT OFFICER MANAGEMENT

§ 661. Management policies for joint specialty officers

(c) Education and experience requirements. (3) (D) The SECDEF's authority to grant case-by-case waivers for officers in the same pay grade may be delegated only to the Deputy SECDEF and only under exceptional circumstances to meet critical needs, as determined by the CJSC, in the case of a general or flag officer. (E) No more than 32 general and flag officers on active duty at the same time may be granted such a waiver.

(d) Number of joint duty assignments. (3) (A) The Secretary shall ensure that, of those joint duty assignment positions that are filled by general or flag officers, a substantial portion are among those positions that are designated as one of the 800 positions designated as critical joint duty assignment positions.

§ 664. Length of joint duty assignments

Joint duty assignment for general and flag officers shall be not less than two years; however, the SECDEF may waive this requirement in the case of any officer.

§ 667. Annual report to Congress

The SECDEF shall report to the Secretary to Congress under section 113(c), the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps): (11) The average length of joint duty assignments (A) for general and flag officers, shown separately for Joint Staff and other joint duty assignments; and (15) the number of times, and authority for issuing, a waiver, and for each: (A) whether it was exercised for a general or flag officer; (B) the rationale for issuing the waiver; and (C) the number of times action was taken without exercise of the waiver authority compared to the number of times it was exercised.

§ 668. Definitions

(2) The Secretary shall publish a joint duty assignment list showing: (A) the number of positions that are joint duty assignment positions and, of those positions, those that are held

by general or flag officers; and (B) the number of positions that are critical joint duty assignment positions and, of those positions, those that are held by general or flag officers and the number of such positions.

CHAPTER 39 - ACTIVE DUTY

§ 688. Retired members: authority to order to active duty; duties

(a) Authority. Under SECDEF regulation, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned.

(b) Covered members. Except as provided in subsection (d), covered members include: (1) retired members of the regular services; (2) members retired under section 1293, 3911, 3914, 6323, 8911, or 8914; and (3) the Fleet Reserve or Fleet Marine Corps Reserve.

(d) Exclusion. (1) An officer who retired under section 638; (2) An officer who (A) having been notified that the officer was to be considered for early retirement under section 638 by a 611(b) board and before being considered by that board, requested retirement under section 3911, 6323, or 8911; and (B) was retired pursuant to that request.

(f) Waiver. Subsections (d) and (e) do not apply in time of war or of national emergency.

§ 689. Retired members: grade in which ordered to active duty and upon release from active duty

(b) Members retired in O-9 and O-10 grades. A retired member ordered to active duty under section 688 or 688a who is above the grade of major general or rear admiral shall be ordered to active duty in the highest permanent grade held while serving on active duty.

§ 690. Retired members ordered to active duty: limitation on number

(a) General and flag officers. Not more than 15 retired general or flag officers may be on active duty at any one time; not counted if ordered to active duty for 60 days or less.

(b) Limitation by service. (1) Not more than 25 officers of any force may be on active duty concurrently pursuant to active duty orders under section 688. (2) The following officers, however, shall not be counted: (A) Chaplains assigned to active duty; (B) Health care professionals assigned to active duty; (C) Officers assigned to the American Battle Monuments Commission; (D) Members of the Retiree Council of the Army, Navy, or Air Force on active duty to attend the annual meeting; (E) Officers assigned as a defense or service attaché.

(c) During periods of war or national emergency, both (a) and (b) are waived.

CHAPTER 41 - SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

§ 711. Senior members of Military Staff Committee of United Nations: appointment

The President, by and with the advice and consent of the Senate, may appoint an officer, as senior members of the Military Staff Committee of the United Nations. An officer so appointed shall serve in the grade of lieutenant general or vice admiral, as the case may be.

§ 720. Chief of Staff to President: appointment

The President, by and with the advice and consent of the Senate, may appoint a general officer as the Chief of Staff to the President and may designate such position as a position of importance and responsibility.

§ 721. General and flag officers: limitation on appointments, assignments, details, and duties outside an officer's own service

(a) Limitation. Any general or flag officer (1) counted for purposes of section 526(a) or (2) serving in a joint duty assignment designated by the CJCS, may not be appointed, assigned, or detailed for a period in excess of 180 days to a position external to that officer's force if, immediately following such appointment, assignment, or detail, the number of such officers would be in excess of 26.5 percent.

(c) External positions. The following shall be considered external positions: (1) any joint duty assignment; (2) positions in the OSC, a Defense Agency, or a DOD Field Activity; (3) positions in the JCS, the Joint Staff, or the headquarters of a combatant command; (4) positions in the NGB; (5) positions outside the DOD, including positions in headquarters, NATO, or any other international military command, any combined or multinational command, or military mission.

(d) Treatment of officers holding multiple positions. If an officer holds both a position external to that officer's armed force and another position not external to that officer's armed force, the SECDEF shall determine whether that officer shall be counted.

(e) Assignments, etc., for periods in excess of 180 days. The appointment, assignment, or detail of an officer to a position shall be considered to be for a period in excess of 180 days unless the appointment, assignment, or detail specifies it is for a period of 180 days or less.

(f) Waiver during period of war or national emergency. The President may suspend this section during any period of war or of national emergency.

CHAPTER 43 - RANK AND COMMAND

§ 741. Rank: commissioned officers of the armed forces

(a) The grades of general and admiral are equivalent and are senior to other grades.

§ 743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force

The CSA, the CNO, the CSAF, and the Commandant of the Marine Corps, rank among themselves according to dates of appointment to those offices, and rank above all other officers on the active-duty, except the Chairman and the VCJCS.

CHAPTER 45 - THE UNIFORM

§ 777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions

(a) Authority. Officers below the grade of O-8, selected for promotion to the next higher grade may be authorized under regulations and policies of the DOD and subject to the restrictions below, to wear the insignia for that next higher grade. Officers authorized to wear the insignia of the next higher grade are said to be "frocked" to that grade.

(b) Restrictions. An officer may not be frocked unless: (1) the Senate has given its advice and consent to the appointment; (2) the officer is serving in, or has received orders to serve in, a position for which that grade is authorized; and (3) for officers selected to grade above 0-6: (A) SECDEF (or a civilian officer within the OSD whose appointment was made with the advice and consent of the Senate and to whom the Secretary delegates such approval) approves the frocking; and (B) SECDEF has submitted a written notification to Congress of the intent to authorize the frocking and a period of 30 days has elapsed after notification.

(d) Limitation on number of officers frocked to specified grades. (1) The total number of O-7's that may be frocked shall not exceed 85; (2) The number of officers who are authorized to be frocked under section 523(a) for a fiscal year may not exceed 1 percent.

CHAPTER 49 – MISCELLANEOUS PROHIBITIONS & PENALTIES

§ 981. Limitation on number of enlisted aides

(a) Enlisted Aides. The total number of enlisted assigned or detailed as enlisted aides on staffs of the Army, Navy, Marine Corps, Air Force, and Coast Guard (when operating as a service of the Navy) during a FY is equal to the sum of (1) four times the number of active duty officers serving in the grade of O-10 at the end of the preceding FY, and (2) two times the number of officers serving in the grade of O-9 at the end of the preceding FY.

(b) Limitation. Not more than 300 enlisted members may be assigned to duty at any time as enlisted aides for officers of the Army, Navy, Air Force, and Marine Corps.

CHAPTER 63 - RETIREMENT FOR AGE

§ 1253. Age 64: regular commissioned officers in general and flag officer grades; exception

(a) General rule. Unless retired or separated earlier, each regular general or flag officer shall be retired on the first day of the month following the month the officer becomes 64 years.

(b) Exception for officers serving in O-9 and O-10 positions. In the case of an officer serving above O-8, retirement may be deferred (1) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68; or (2) by the SECDEF, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.

CHAPTER 69 – RETIRED GRADE

§ 1370. Commissioned officers: general rule; exceptions

(a) Rule for retirement in highest grade held satisfactorily. (2) (A) For voluntary retirement for grades above O-4, a commissioned officer must have served on active duty in that grade for not less than three years, except that the SECDEF may authorize the service Secretary to reduce to two years. (B) For general and flag officers, that authority may be exercised only if approved by the SECDEF or another civilian official in the OSD appointed by the President. (D) The President may waive (non-delegable) requirements in individual cases involving extreme hardship or exceptional or unusual circumstances. (E) For grades below 0-9, the number of members of one force in that FY receiving a reduction, shall not exceed two percent of the authorized active-duty strength for that grade.

(b) Retirement in next lower grade. An officer whose length of service in the highest grade does not meet the service in grade requirements shall be retired in the next lower grade he served satisfactorily, as determined by the Secretary, for not less than six months.

(c) Officers in O-9 and O-10 grades. (1) An O-9/O-10 may be retired only after the SECDEF certifies in writing to the President and Congress that the officer served satisfactorily in that grade. (2) The three-year service-in-grade requirement may not be reduced or waived: (A) while the officer is under investigation for misconduct; or (B) pending the disposition of an adverse personnel action for misconduct. (3) (A) SECDEF may delegate this authority only to the USD for P&R or the DUSD for P&R. (B) If delegated, and while under consideration by the President or Congress, the USD or the DUS finds that there is potentially adverse information concerning the officer and that such information has not previously been submitted and considered by the Senate, the US or DUS may not exercise the delegated authority, but shall refer the matter to the SECDEF, who shall personally determine whether to issue a certification.

(d) Reserve officers. (1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade, a person entitled to retired pay under chapter 1223 shall, upon application under section 12731, be credited with satisfactory service in the highest grade in which that person served satisfactorily. (3)(A) To retire above O-4, a person must have served satisfactorily in that grade as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. (F) A person who has completed at least six months of satisfactory service in a grade above O-6 and, while serving in an active status in such grade, is involuntarily transferred (other than for cause) from active status, may be credited with satisfactory service in the grade in which serving at the time of such transfer, notwithstanding failure to complete three years.

(e) Advance notice to congressional committees. Must notify the HAS and SAS if: (1) a general or flag officer is eligible to retire only by reason of a reduction of the three-year service-in-grade requirement; or (2) a reserve general or flag officer is eligible to retire only by a reduction of the time in grade requirement; or (3) If there is adverse information, the notification requirement under (1) is satisfied if included in the certification.

CHAPTER 87 - DEFENSE ACQUISITION WORKFORCE:

§ 1735. Education, training, and experience requirements for critical acquisition positions

(d) General and flag officers and civilians in equivalent positions. Before a general or flag officer may be assigned to a critical acquisition position, they must have at least 10 years acquisition experience, at least four years of which were in a critical acquisition position.

§ 2152. Joint professional military education: general requirements

(a) In general. The SECDEF shall implement a framework for the joint professional military education of officers, including those nominated under § 661 for the joint specialty.

§ 2153. Capstone course: newly selected general and flag officers

(a) Requirement. Each officer selected for promotion to the grade of O-7 shall, after such selection, attend a military education course designed to prepare new general and flag officers to work with the other armed forces.

(b) Waiver authority. The SECDEF, on a case-by-case basis, may waive this requirement: (A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters; (B) for the good of the service; (C) when selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist; and (D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain. Authority may only be delegated to DSD, an USD, or an ASD.

CHAPTER 305 - THE ARMY STAFF

§ 3033. Chief of Staff

(a) (1) The Chief of Staff of the Army is appointed for four years by the President, by and with the advice and consent of the Senate, from the general officers of the Army, but may be reappointed for not more than four years, in time of war or during a national emergency; (2) such officer must have (A) significant joint duty experience that (B) includes at least one full tour of duty as a general officer. (3) The President may waive if in the national interest. (b) Serves as general, without vacating his permanent grade.

§ 3034. Vice Chief of Staff

(a) The Vice Chief of Staff of the Army (VCSA) is appointed by the President, with the advice and consent of the Senate, from the general officers of the Army. (b) The VCSA serves as general, without vacating his permanent grade.

§ 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

(a) The Deputy Chiefs of Staff (DCS) and the Assistant Chiefs of Staff (ACS) shall be general officers. (b) The number of DCS and ACS shall be prescribed by the Secretary, except that there may not be (1) more than 5 DCS; or (2) more than 3 ACS.

§3036. Chiefs of branches: appointment; duties.

(a) There are in the Army the following officers: (1) Chief of Engineers; (2) Surgeon General; (3) Judge Advocate General; and (4) Chief of Chaplains. (b) Each officer except the Judge Advocate General (TJAG) shall be appointed by the President, with the advice and consent of the Senate, from officers above O-4 who are -- (1) qualified; and (2) have been recommended by a board (see (e)). Each officer, except the Surgeon General, shall be appointed an O-8. The Surgeon General may be appointed from any corps of the Army Medical Department and is an O-9. For TJAG, see 10 USC 3037.

(c) These officers normally serve for four years; but, President may terminate or extend.

(d) (1) Duties prescribed by the SECARMY and law. (2) The Chief of Engineers may, by contract, provide services to another department, agency, or instrumentality of the US or to a State or political subdivision of a State, only if-- (A) the work involves Federal assistance and there is no objection to such assistance; and (B) the services are provided on a reimbursable basis. (3) The "State" includes the several States, the DC, Puerto Rico and the Northern Mariana Islands, territories and possessions of the US, and Indian tribes.

(e) Board. The Secretary shall select a board of five GOs, including the incumbent, if any, and at least two officers, if available, in a grade above major general who have extensive service in the branch. The Secretary shall provide a list of not less than three officers that shall include-- (1) a Regular Army colonel who is appointed in, or assigned to, that branch; (2) a qualified officer above colonel; (3) if advisable, a lieutenant colonel; and (4) if advisable, a qualified active duty officer above lieutenant colonel.

The board shall recommend and the President shall appoint any officer. If the President declines to appoint, or if the officer nominated cannot be appointed, the Secretary shall convene a board to recommend additional officers. A recommended but not appointed officer shall not be considered as recommended. The officer is still eligible for selection to O-7 and O-8 under section 3306 or 3307.

§ 3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties

(a) The President, with the advice and consent of the Senate, shall appoint the Judge Advocate General (TJAG), the Assistant Judge Advocate General (TAJAG), and general officers of the Judge Advocate General's Corps (JAGC), recommended by the SECARMY. The TJAG and TAJAG serve for four years as major generals.

(b) TJAG shall be a member of a bar, with at least eight years commissioned service.

(c) TJAG (1) is legal adviser to SA and officers/agencies of DA; (2) directs JAGC members; and (3) receives, revises, and has recorded proceedings of courts and military commissions.

(d) In selecting an officer for recommendation to the President as TJAG or TAJAG, the SECARMY ensures the officer is selected is by a board pursuant to Chapter 36.

(e) No DOD officer or employee may interfere with the ability (1) of TJAG to give legal advice to the SA or CSA; or (2) JAs to provide legal advice to commanders.

§ 3038. Office of Army Reserve: appointment of Chief

(a) & (b) The Chief of Army Reserve is appointed by the President, by and with the advice and consent of the Senate, from general officers of the Army Reserve who have had at least 10 years of commissioned service in the Army Reserve.

(b) (2) The SECDEF may not recommend an officer unless the officer (A) is recommended by SA; and (B) is determined by the CJCS to have significant joint duty experience. (3) The Chief of Army Reserve on active duty shall be counted under sections 525/526. (4) Up until December 31, 2006, SECDEF may waive the joint duty requirement.

(c) Term; reappointment; grade. (1) The Chief of Army Reserve is appointed for four years and may be may be reappointed for one term; but, may be removed at any time for cause. (2) The Chief of Army Reserve holds the grade of lieutenant general.

§ 3039. Deputy and assistant chiefs of branches

(a) The Chief of Engineers, Surgeon General, Judge Advocate General, and Chief of Chaplains shall have deputies and assistants as the SA prescribes, and shall serve for not more than four years. (b) The Assistant Surgeon General is Chief of the Dental Corps and serves in the grade of O-8. (c) There are two assistants to the Chief of Engineers who serve in the grade of O-7.

CHAPTER 307 - THE ARMY

§ 3072. Judge Advocate General's Corps

In addition to the Judge Advocate General and the Assistant Judge Advocate General, the JAGC will have three officers in the grade of brigadier general.

§ 3072. Judge Advocate General's Corps

The Judge Advocate General's Corps consists of: (1) the Judge Advocate General; (2) the Assistant Judge Advocate General; (3) three officers in the grade of brigadier general; (4) commissioned officers of the Regular Army appointed therein; and (5) other members of the Army assigned by the SA.

§ 3084. Chief of Veterinary Corps: grade

The Chief of the Veterinary Corps serves in the grade of brigadier general.

CHAPTER 331 - STRENGTH

§ 3210. Regular Army: strength in grade; general officers

(a) Subject to section 526, the authorized strength of active-duty Regular Army general officers is 75/10,000 of the authorized strength of active-duty commissioned officers.

(b) Each corps of the Army Medical Department and the Chaplains in general officers on the active-duty is 5/1,000 of the authorized strength of the branch concerned in commissioned officers on the active-duty list of the Regular Army. Not more than half of the general officers may be in grade above brigadier general.

(c) When the percentages and ratios results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

§ 3282. General officers: title of office

An officer holding an appointment as a general officer in the Regular Army may be called a general officer of the Regular Army. A general officer of the Regular Army in the Medical Corps, Dental Corps, Veterinary Corps, Judge Advocate General's Corps, or the Chaplains Corps, may be called a general officer of that branch.

CHAPTER 367 - RETIREMENT FOR LENGTH OF SERVICE

§ 3921. Mandatory retirement: Superintendent of the United States Military Academy; waiver authority

(a) Mandatory retirement. Upon the termination of the detail of Superintendent of the United States Military Academy, the Secretary shall retire the officer.

(b) Waiver authority. The SECDEF may waive the requirement for good cause upon written submission to the CAS and HAS, which includes a statement of the reasons for the waiver, and written notification of the President's intent to nominate the officer for reassignment.

CHAPTER 369 - RETIRED GRADE

§ 3962. Higher grade for service in special positions

Upon retirement, any permanent professor of the USMA whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

CHAPTER 403 - UNITED STATES MILITARY ACADEMY

§ 4335. Dean of Academic Board

(a) The Dean of the Academic Board shall be appointed as an additional permanent professor from the heads of departments at the Academy; (b) shall perform duties prescribed by the Superintendent of the Academy; (c) shall hold the grade of brigadier general, if appointed to that grade by the President, and the retirement age of such officer is that of a permanent professor of the Academy, and shall be counted for purposes of the limitation in § 526(a).

CHAPTER 505 - OFFICE OF THE CHIEF OF NAVAL OPERATIONS

§ 5033. Chief of Naval Operations

(a) (1) The Chief of Naval Operations is appointed by the President, by and with the advice and consent of the Senate, for a term of four years, but may be reappointed for four more years in time of war or during a national emergency; (2) such officer must have (A) significant joint duty experience that (B) includes at least one full tour of duty as a flag officer. (3) These requirements may be waived by the President.

(b) The Chief of Naval Operations has the grade of admiral.

(c) The Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(e) (1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff.

§ 5035. Vice Chief of Naval Operations

(a) The Vice Chief of Naval Operations is appointed by the President, by and with the advice and consent of the Senate, and (b) serves in the grade of admiral. (c) The Vice Chief of Naval Operations has such authority and duties as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him.

§ 5036. Deputy Chiefs of Naval Operations

(a) The Secretary of the Navy may not detail more than five Deputy Chiefs of Naval Operations, in grades above captain. (b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions.

§ 5038. Director for Expeditionary Warfare

(a) One of the Marine Corps Directors from within the office of the Deputy Chief of Naval Operations serves as the Director for Expeditionary Warfare and (b) in the grade of major general. (c) Such Director shall supervise the performance of all staff responsibilities regarding expeditionary warfare, including amphibious lift, mine warfare, naval fire support, and other missions essential to supporting expeditionary warfare.

CHAPTER 506 - HEADQUARTERS, MARINE CORPS

§ 5043. Commandant of the Marine Corps

(a) (1) The Commandant of the Marine Corps is appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years, from the general officers of the Marine Corps, but may be reappointed for four years, in time of war or during a national emergency; (2) such officer must have (A) significant joint duty experience that (B) includes at least one full tour of duty as a flag officer. (3) President may waive joint requirements.

(b) The Commandant of the Marine Corps serves in the grade of general.

(d) The Commandant performs under the authority, direction, and control of the SN.

(f) (1) The Commandant shall also perform duties as a member of the JCS.

§ 5044. Assistant Commandant of the Marine Corps

(a) The Assistant Commandant of the Marine Corps is appointed by the President, by and with the advice and consent of the Senate, from active-duty Marine Corps officers; and, (b) serves in the grade of general.

§ 5046. Staff Judge Advocate to the Commandant of the Marine Corps

(a) A Marine Corps judge advocate with at least eight years of experience in legal duties as a commissioned officer may be detailed as Staff Judge Advocate to the Commandant of the Marine Corps. Such officer shall hold the grade of brigadier general.

(b) Under regulations prescribed by the SECDEF, the SECNAV, in selecting an officer for recommendation to the President for appointment as the Staff Judge Advocate to the Commandant of the Marine Corps, shall ensure that the officer selected is recommended by a board of officers that pursuant to chapter 36, insofar as practicable.

(c) No officer or employee of the Department of Defense may interfere with-- (1) the ability of the Staff Judge Advocate to give independent legal advice; or (2) the ability of judge advocates to give independent legal advice to commanders.

CHAPTER 513 - BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL

§ 5133. Bureau Chiefs: rank; pay and allowances; retirement

(a) Unless appointed to a higher grade, bureau chiefs have the rank of rear admiral.

(b) Except for an officer serving as vice admiral under section 5137(a), an officer retired while serving as bureau chief, or who, after serving at least two and one-half years as a bureau chief, is retired while serving in a lower rank, may, in the discretion of the President, be retired with the grade of rear admiral, and with retired pay based on that grade. An officer serving in the grade of vice admiral under section 5137(a) may, upon retirement, be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held while on the active or active-duty list and with retired pay based on that grade.

(c) Except in time of war, any officer who has served as a bureau chief for a full term is exempt from sea duty.

§5137. Bureau of Medicine and surgery: Chief; Deputy Chief.

(a) The Chief of the Bureau of Medicine and Surgery shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active-duty list of the Navy in any corps of the Navy Medical Department, and shall have the title of Surgeon General and the grade of vice admiral.

(b) An active-duty Navy officer who is qualified to be the Chief of the Bureau of Medicine and Surgery may be detailed as Deputy Chief of the Bureau of Medicine and Surgery.

§5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions.

(a) The Chief of the Dental Corps shall not be below the grade of rear admiral (lower half).

(b) The Chief of the Dental Corps is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133.

(c) The dental functions shall be defined and prescribed by Bureau directives, and if necessary by regulations of the SECNAV, so that all such functions are under the direction

of the Dental Corps.

(d) The Chief of the Dental Corps shall--(1) establish professional standards and policies for dental practice; (2) initiate and recommend action pertaining to complements, strength, appointments, advancement, training assignment, and transfer of dental personnel; and (3) serve as the advisor for the Bureau on all matters relating directly to dentistry.

§5143. Office of Naval Reserve: appointment of Chief.

(a) Establishment of Office: Chief of Navy Reserve. There is in the executive part of the Department of the Navy, on the staff of the Chief of Naval Operations, an Office of the Navy Reserve, which is headed by a Chief of Navy Reserve. The Chief of Navy Reserve--(1) is the principal adviser on Navy Reserve matters to the Chief of Naval Operations; and (2) is the commander of the Navy Reserve Force.

(b) Appointment. (1) The President, by and with the advice and consent of the Senate, shall appoint the Chief of Navy Reserve from flag officers who have had at least 10 years of commissioned service. (2) The SECDEF may not recommend an officer to the President for appointment as Chief of Navy Reserve unless the officer--(A) is recommended by the Secretary of the Navy; and (B) is determined by the CJCS, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience. (3) Such officer is counted for purposes of the grade limitations.

(c) Term; reappointment; grade. (1) The Chief of Navy Reserve is appointed for a term determined by the CNO, normally for four years, but may be removed for cause at any time, and may be reappointed for one additional term of up to four years. (2) The Chief of Navy Reserve holds the grade of vice admiral.

§5144. Office of Marine Forces Reserve: appointment of Commander.

(a) Establishment of Office; Commander, Marine Forces Reserve. The Office of the Marine Forces Reserve is headed by the Commander, Marine Forces Reserve, who is the principal adviser to the Commandant on Marine Forces Reserve matters.

(b) Appointment. (1) The President, with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from USMC general officers with at least 10 years commissioned service. (2) The SECDEF may not recommend an officer unless the officer--(A) is recommended by the SECNAV; and (B) has significant joint duty experience. (3) Such officer is counted for grade limitations under sections 525 and 526.

(c) Term; reappointment; grade. (1) The Commander, Marine Forces Reserve, is normally appointed for four years; may be removed for cause at any time; may be reappointed for one additional term; and (2) holds the grade of lieutenant general.

§5148. Judge Advocate General's Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emolument, duties.

5148(b) & (c)(2). The Judge Advocate General shall be appointed by the President, by and with the consent of the Senate, and will have a grade of rear admiral or major general.

(a) The Judge Advocate General's Corps is a Staff Corps of the Navy, and shall be organized

in accordance with regulations prescribed by the SN.

(b) The Judge Advocate General is appointed by the President, by and with the advice and consent of the Senate, for a term of 4 years, from Navy or USMC judge advocates with at least 8 years of experience, and in a rank not lower than rear admiral or major general.

(c) Officers should be selected pursuant to boards convened under chapter 36.

(d) The Judge Advocate General of the Navy shall--(1) perform duties relating to legal matters; (2) perform the functions and duties and exercise the powers prescribed for TJAG in chapter 47; (3) receive, revise, and have recorded the proceedings of boards for the examination of officers of the naval service for promotion and retirement; and (4) perform such other duties as assigned.

(e) No officer or employee of the DOD may interfere with--(1) the ability of the Judge Advocate General to give independent legal advice to SN or CNO; or (2) the ability of judge advocates to give independent legal advice to commanders.

§5149. Office of the Judge Advocate General; Deputy Judge Advocate General; Assistant Judge Advocate General

(a) The Deputy Judge Advocate General is appointed by the President, by and with the consent of the Senate and will have a grade of rear admiral or major general.

(b) & (c) The Assistant Judge Advocate General of the Navy holds a grade lower than rear admiral (lower half) or brigadier general (if he is an officer of the Marine Corps), if he is appointed to that grade by the President, by and with the advice and consent of the Senate.

(d) When there is a vacancy in the Office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed.

(e) When subsection (d) cannot be complied with, the Assistant Judge Advocates General shall perform the duties of the Judge Advocate General.

§5150. Staff corps of the Navy

(a) The staff corps of the Navy are - (1) the Medical Corps; (2) the Dental Corps; (3) the JAG Corps; (4) the Chaplain Corps; and (5) such other staff corps as established under (b).

(b) (1) The SECNAV may establish additional staff corps and may assign members. (2) Subject to subsection (c), the SECNAV may provide for the appointment of a chief.

(c) The SECNAV may convene a selection board under § 611(a) to select an officer in the Nurse Corps or, if established, the Medical Service Corps for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps. Such officer is the Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary. An officer is counted under section 526.

CHAPTER 533 - DISTRIBUTION IN GRADE

§ 5450. Regular Navy: retired flag officers on active duty

Except in time of war or national emergency, not more than ten retired flag officers of the Regular Navy may be on active duty.

§ 5451. Suspension: preceding sections

The President, during a war or national emergency, may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond September 30 of the fiscal year following that in which the war or national emergency ends.

CHAPTER 573 – INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

§ 6371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority

(a) Mandatory retirement. Upon the termination of the detail of Superintendent of the United States Naval Academy, the Secretary shall retire the officer.

(b) Waiver authority. The SECDEF may waive the requirement for good cause upon written submission to the CAS and HAS, which includes a statement of the reasons and written notification of the President's intent to nominate the officer for reassignment.

CHAPTER 805 - THE AIR STAFF

§ 8033. Chief of Staff

(a) (1) The Chief of Staff of the Air Force is appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force; however, he may be reappointed for a term of not more than four years in a time of war or during a national emergency declared by Congress. (2) The Chief of Staff may be appointed only if: (A) the officer has significant joint duty experience; that (B) includes at least one joint duty assignment while serving as general. (3) President may waive.

(b) The Chief of Staff serves in the grade of general without vacating his permanent grade.

(c) The Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

(e) (1) The Chief of Staff shall also perform the duties as prescribed by the JCS.

§ 8034. Vice Chief of Staff

(a) The Vice Chief of Staff of the Air Force, appointed by the President, by and with the advice and consent of the Senate, (b) has the grade of general without vacating his permanent grade, (c) and duties with respect to the DAF as the Chief of Staff, with the approval of the SECAF. (d) When there is a vacancy in the office of Chief of Staff (1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed; or (2) if there is a vacancy, unless the President directs otherwise, the most senior

officer of the Air Force in the Air Staff shall perform the duties of the Chief of Staff.

§ 8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers.

(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that--(1) there may not be more than five Deputy Chiefs of Staff; and (2) there may not be more than three Assistant Chiefs of Staff.

§ 8036. Surgeon General: appointment; grade

The Surgeon General of the Air Force is appointed by the President by and with the advice and consent of the Senate from officers of the Air Force who are in the Air Force medical department. The Surgeon General has the grade of lieutenant general.

§8037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.

(a) The Judge Advocate General in the USAF is appointed by the President, with advice and consent of the Senate, for four years, and shall hold a grade not lower than major general.

(b) The Judge Advocate General of the USAF shall be members of a bar and have at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General (1) is the legal adviser to the SECAF; (2) shall direct all judge advocates in the performance of their duties; and (3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

(d) (1) The Deputy Judge Advocate General is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force, for four years, and serves in the grade of major general. (2) When there is a vacancy/disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform until a successor is appointed. (3) When paragraph (2) cannot be complied with the heads of the major divisions of the Office of the Judge Advocate General shall perform.

(e) The officer selected should be recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable under chapter 36.

(f) No officer or employee of the DOD may interfere with the ability of the Judge Advocate General to give independent legal advice to SECAF or Chief of Staff of the Air Force, or the ability of judge advocates to provide advice to commanders.

§8038. Office of Air Force Reserve: appointment of Chief

(a) There is a chief who is the adviser to the Chief of Staff on Air Force Reserve matters, (b) appointed by the President, by and with the advice and consent of the Senate, from general officers with at least 10 years of commissioned service in the Air Force. (2) The SSCDEF may not recommend an officer unless the officer (A) is recommended by SECAF; and (B) is determined by CJCS to have significant joint duty experience. (3) The officer shall be counted for purposes of the grade limitations under sections 525 and 526.

(c) The Chief of Air Force Reserve is appointed for a period of four years, may be removed for cause at any time, and may be reappointed for one additional four-year period. (2) The Chief holds the grade of lieutenant general.

CHAPTER 807 - THE AIR FORCE:

§ 8069. Air Force nurses: Chief and assistant chief; appointment; grade

(a) There are a Chief and assistant chief of the Air Force Nurse Corps. (b) The Chief shall be appointed in the regular grade of major general.

§ 8081. Assistant Surgeon General for Dental Services

The Assistant Surgeon General for Dental Services is appointed by the SECAF, upon recommendation of the Surgeon General; holds the rank of major general; and, serves at the pleasure of the Secretary.

CHAPTER 831 - STRENGTH

§ 8210. Regular Air Force: strength in grade; general officers

(a) Subject to section 526, the authorized strength of active-duty general officers is 75/10,000 of the authorized strength of active duty commissioned officers. Not more than one-half may be in a regular grade above brigadier general.

(b) When the application of subsection (a) results in a fraction, one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(c) Active duty general officers who are specifically authorized to hold a civil office are not counted in determining authorized strength under this section.

CHAPTER 867 – RETIREMENT FOR LENGTH OF SERVICE

§8921. Mandatory retirement: Superintendent of the United States Air Force Academy.

(a) Mandatory retirement. Upon the termination of the detail of Superintendent of the United States Military Academy, the Secretary shall retire the officer.

(b) Waiver authority. The SECDEF may waive the requirement for good cause upon written submission to the CAS and HAS, which includes a statement of the rationale, and written notification of the President's intent to nominate the officer for reassignment.

CHAPTER 869 - RETIRED GRADE

§8962. Higher grade for service in special positions

Upon retirement, any permanent professor of the United States Air Force Academy whose grade is below brigadier general, and whose service has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

CHAPTER 903 – UNITED STATES AIR FORCE ACADEMY

§ 9335. Dean of the Faculty

(b) While serving as Dean of the Faculty, an active duty officer shall hold the grade of brigadier general (or the equivalent), if appointed by the President, by and with the advice and consent of the Senate. The retirement age of an officer so appointed is that of a permanent professor of the Academy. An officer so appointed is counted for purposes of the applicable limitation in section 526(a) on general officers on active duty.

CHAPTER 1011 - NATIONAL GUARD BUREAU

§10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade; succession

(a) Appointment. The Chief of the National Guard Bureau is appointed by the President, by and with the advice and consent of the Senate, from officers of the Army or Air National Guard who (1) are recommended by their respective Governors or, in the case of DC, the commanding general of the DCNG; (2) have had at least 10 years of federally recognized commissioned service; and (3) are in a grade above brigadier general.

(b) Term of office. An officer appointed serves for four years and may not hold that office after becoming 64 years of age. An officer may be reappointed.

(c) Adviser on National Guard matters. The Chief of the National Guard Bureau is the principal adviser to the SA and the CSA, and to the SECAF and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

(d) Grade. The Chief shall be appointed to serve in the grade of lieutenant general.

§ 10505. Director of the Joint Staff of the National Guard Bureau

(a) Appointment. (1) The Director of the Joint Staff is selected by the SECDEF from officers of the Army or Air National Guard who-- (A) are recommended by their respective Governors or, in the case of the DC, the commanding general of the DCNG; (B) have had at least 10 years of commissioned service; and (C) are in a grade above colonel. (2) The Chief and the Director of the Joint Staff may not both be members of the Army or of the Air Force. (3) (A) Term is four years, but may be removed for cause; (B) and shall end upon the appointment of a Chief of the National Guard Bureau as the Director.

(c) Grade. The Director shall be appointed to serve in the grade of major general.

§10506. Other senior National Guard Bureau officers

(a) Additional general officers. (1) There shall be four general officers, two each selected by the SECARMY and SECAF, and who have been nominated by their Governors or, in the case of the DC, the DCNG commanding general, the senior of whom serves as a Director and the other Deputy, Army/Air Force National Guard; all four hold the grade of LTG.

(3) (A) The President, by and with the advice and consent of the Senate, shall appoint the

Director, Army and Air National Guard, from general officers of the Army/Air National Guard, respectively. (B) An officer may not be recommended unless the officer--(i) is endorsed by the service Secretary; and (ii) CJCS determines they have significant joint duty experience. (C) The Director on active duty shall be counted under §§ 525 and 526.

(E) The Director, Army/Air National Guard, may be appointed for a period of four years, removed for cause at any time, and may be reappointed for one additional four-year period.

(b) Other officers. There are in the National Guard Bureau a legal counsel, a comptroller, and an inspector general, each of whom shall be appointed by the Chief of the National Guard Bureau. They shall perform such duties as the Chief may prescribe.

CHAPTER 1201 - AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE

§12004. Strength in grade: reserve general and flag officers in an active status

(a) The authorized strengths of the reserve general officers are as follows: Army, 207; Air Force, 157; Navy, 48; and Marine Corps, 10.

(b) The following Army/Air Force reserve officers shall not be counted: (1) adjutants general or assistant adjutants general of a State; (2) those serving in the National Guard Bureau; and (3) those counted under section 526.

(c) (1) The authorized strength of the Navy is exclusive of officers counted under section 526. Of the number authorized under subsection (a), 40 are distributed among the line and the staff corps as follows: line, 33; Medical Department staff corps, 5; Chaplain Corps, 1; and Judge Advocate General's Corps, 1. (2) The remaining authorizations for the Navy shall be distributed among other staff corps as are established by the SECNAV, except that-- (A) if the Secretary has established a Supply Corps, the authorized strength shall be six; and (B) if the Secretary has established a Civil Engineering Corps, the authorized strength shall be two. (3) Not more than 50 percent of the officers in Navy may serve as rear admiral. (4) (A) For the purposes of paragraph (1), the Medical Department staff corps referred to in the table are as follows: (i) The Medical Corps; (ii) The Dental Corps; (iii) The Nurse Corps; and (iv) The Medical Service Corps. (B) Each of the Medical Department staff corps is authorized one rear admiral (lower half). The SECNAV shall distribute the remainder among those staff corps as the Secretary deems appropriate.

(d) The authorized strength of the Marine Corps is exclusive of section 526.

(e)(1) An Army/Air Force reserve GO may not be reduced in grade because of a reduction in the number of general officers authorized under subsection (a). (2) An officer of the Navy Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

CHAPTER 1205 - APPOINTMENT OF RESERVE OFFICERS:

§ 12210. Attending Physician to the Congress: reserve grade

While serving as Attending Physician to the Congress, a Reserve holds the reserve grade of major general or rear admiral, as appropriate.

CHAPTER 1403 - SELECTION BOARDS

§14101. Convening of selection boards

(a) Promotion boards. The service shall convene selection boards to (1) recommend officers to the next higher grade from O-2 through O-7; (2) to recommend reserve officers of the Army or Air Force to fill brigadier general or major general vacancies under § 14315 (a "vacancy promotion board"). All other boards are a "mandatory promotion board."

CHAPTER 1405 - PROMOTIONS

§14301. Eligibility for consideration for promotion: general rules

(a) One-year rule. An officer is eligible only if--(1) the officer is on the reserve active-status list; and (2) during the one-year period ending on the date of the convening of the board the officer has continuously served in reserve/active-status.

(c) Previously selected officers not eligible include: (3) A Presidentially nominated officer, to a grade as a reserve of the Army or Air Force, if that nomination is pending before the Senate. (4) A Presidentially nominated officer for promotion to that grade under any other provision of law, if that nomination is pending before the Senate.

(e) Certain reserve officers of the Air Force. A USAFR officer who (1) is in the Air National Guard and holds the grade of O-5 to O-7, or (2) is in the USAFR and holds the grade of O-6 to O-7, is not eligible for consideration by a board convened under § 14101.

(g) Brigadier generals. (1) A USAR or USAFR brigadier general who is not eligible under subsection is nevertheless eligible if-- (A) the officer has been in an inactive status for less than one year; and (B) immediately before the date, the officer had continuously served on the reserve active status list or the active-duty list for at least one year.

(2) A USAR or USAFR brigadier general who is on the reserve active status list but who is not eligible because the officer's service does not meet the one-year-continuous-service requirement is nevertheless eligible if-- (A) the officer was transferred from an inactive to the reserve active status during the one-year preceding the date of promotion board; (B) the officer had been in an inactive status for less than one year; and (C) the officer continuously served for at least one year on the reserve active status list or the active-duty list.

§14303. Eligibility for consideration for promotion: minimum years of service in grade.

(b) Officers in pay grades O-3 and above. (2) A colonel or brigadier general must have one year in the pay grade for promotion to the next higher grade, except for an adjutant general or assistant adjutant general of a State or to a higher grade based upon a specific law.

(c) Authority to lengthen minimum period in grade. Is granted to the Secretary concerned.

(d) Waivers to ensure two below-the-zone considerations. The Secretary may waive (b).

§14308. Promotions: how made

(g) Army and Air Force general officer promotions. A reserve Army or Air Force officer on

a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Army Reserve or the Air Force Reserve, as the case may be, in that grade.

§14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

(a) Authority. The President may vacate the appointment of a reserve officer to brigadier general or rear admiral (lower half) if the period of time in grade is less than 18 months.

(b) Effect of promotion being vacated. If a promotion is vacated, the officer holds the grade of O-6, and shall have the same position as if he had not served in the higher grade.

(c) Special rule for officers serving as adjutant general. An adjutant general or assistant adjutant general, whose promotion is vacated, holds the previous reserve grade held.

§14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general.

(a) General officers. Within 30 days after an Army/Air Force reserve officer ceases to occupy a position commensurate with that grade, or a higher one, the Secretary shall transfer or discharge the officer to (1) the Retired Reserve; (2) the Standby Reserve; (3) to the reserve's in his prior grade, or (4) discharge the officer from his reserve appointment.

(b) Adjutants general. If a reserve officer in the Army National Guard or the Air National Guard as adjutant general or assistant adjutant general ceases to occupy that position, the Secretary concerned, within 30 days, shall (1) withdraw that officer's Federal recognition; and (2) require that the officer to be transferred to the Retired Reserve, appointed in previous grade, or discharged from the officer's reserve appointment.

(c) Credit for service in grade. An officer who is appointed under subsection (a)(3) or (b)(2)(B) shall be credited with an equal amount of service served in the higher grade.

CHAPTER 1407 - FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

§14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

(a) Thirty years service or five years in grade. Unless retired, transferred to the Retired Reserve, or earlier discharged, each O-7 reserve officer not recommended for O-8, shall, 30 days after completion of 30 years of service or on the fifth anniversary of appointment to O-7, whichever is later, be separated in accordance with § 14514.

(b) Thirty-five years service or five years in grade. Unless retired, transferred to the Retired Reserve, or earlier discharged, each O-8 reserve officer, shall, 30 days after completion of 35 years of service or on the fifth anniversary of appointment to O-8, whichever is later, be separated pursuant to § 14514.

(c) Retention of brigadier generals. The SECARMY and SECAF may retain reserve brigadier generals who would otherwise be removed under (a), but not later than the last day

of the month in which the officer becomes 62 years of age; however, not more than 10 officers from each service may be retained under this section at any one time.

(d) Retention of major generals. The SECARMY and SECAF may retain reserve major generals who would otherwise be removed under (b), but not later than the date on which the officer becomes 64 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

(e) This Exception does not apply for State adjutants general and assistant adjutants general.

§ 14510. Separation at age 62: reserve brigadier generals and rear admirals (lower half)

Unless retired, transferred to the Retired Reserve, or earlier discharged, each O-7 reserve officer not been recommended to O-8, except an officer covered by § 14512, shall be separated on the last day of the month in which he the officer becomes 62.

§ 14511. Separation at age 64: major generals and rear admirals

Unless retired, transferred to the Retired Reserve, or earlier discharged, each reserve officer in the grade of O-8, except an officer covered by § 14512, shall be separated as specified in § 14515 on the last day of the month in which the officer becomes 64 years of age.

§ 14512. Separation at age 66: officers holding certain offices

(a) Army and Air Force. Unless retired, transferred to the Retired Reserve, or earlier discharged, an Army or Air Force reserve officer who is the Chief of the National Guard Bureau; the Chief of the Army Reserve, Chief of the Air Force Reserve, Director of the Army National Guard, or Director of the Air National Guard; an adjutant general; or if a reserve officer of the Army, the commanding general of a State, shall be discharged or retired on the last day of the month in which the officer becomes 66 years of age.

(b) Navy and Marine Corps. The SECNAV may defer the retirement under §§ 14510 or 14511 of a Naval reserve officer in a grade above captain or a Marine reserve officer in a grade above colonel and retain the officer in an active status until the officer becomes 66 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Navy and Marine Corps Reserves as the Secretary determines.

CHAPTER 1409 - CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

§ 14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

(a) Authority to consider. A Navy or Marine Reserve officer serving as O-7 and O-8 may be considered for early retirement whenever SECNAV determines it is necessary.

(b) Boards. (1) If early retirement is determined necessary, a 14101(b) board shall be convened. (2) If the officer is an O-8, SECNAV may appoint the board without regard to 14102(b), but must ensure that (A) each regular commissioned officer member of the board is at a grade higher than O-8; and (B) there is a reserve officer member who is an O-8.

(c) Separation under section 14514. An officer selected for early retirement under this section shall be separated under 14514.

QUESTIONS AND ANSWERS SUBMITTED FOR THE RECORD

JUNE 26, 2007

QUESTIONS SUBMITTED BY MR. SKELTON

The CHAIRMAN. A brigade commander sends a request in from the field through Central Command: We need more jammers for a specific reason, which might require some research and development. The same brigade commander requests something that is already on the line, conventional Humvees.

Trace those two requests, one that might require some research and development, though urgent, and the other something that is readily available. Trace that request from that brigade commander all the way through how it works through your office and how it gets back to that brigade commander.

Trace request for readily available equipment:

Secretary ENGLAND. The brigade unit requirement for equipment or supplies is ordered by placing a requisition through the supply (supplies) and property book (Major pieces of equipment such as HMMWVs) automated systems. The unit's table of organization and equipment determines which equipment is authorized and the designated force activity (type of unit priority rating) and the urgency of need designation determine the speed by which the requisition is filled by the supply system (brigade supply system for stocked items) or wholesale system (for items nonstocked by the brigade or in short supply).

Stockage levels and criteria for supplies are determined by the number of demands placed within a given number of days or by the economic order quantity type calculation. There are supply support activities within the brigade designed to receive, store, and issue supplies for the brigade and ordered by units and battalions within the brigade.

Urgent trace request requiring research and development:

Combatant commanders submit Joint Urgent Operational Needs (JUONs) to the Joint Staff (J–8), Deputy Director for Resources and Acquisition (DDRA). The DDRA validates all JUONs and forwards them to the Office of the Secretary of Defense, Joint Rapid Acquisition Cell (JRAC), which in turn, identifies potential solutions suitable for JUON resolution.

The Fiscal Year 2003 National Defense Authorization Act (Section 806, Rapid Acquisition and Deployment Procedures) directed that a process be established to streamline communications between the Chairman of the Joint Chiefs of Staff, acquisition community, and research and development community to include:

a) A process for the commanders of the combatant commands and the Joint Chiefs of Staff to communicate their needs to the acquisition and research and development community and

b) A process for the acquisition and research and development community to propose items that meet the needs communicated by the combatant commands and Joint Chiefs of Staff

The Joint Rapid Acquisition Cell (JRAC) provides an effective means of quickly responding to the needs of the combatant commander while coordinating efforts between the acquisition and research and development communities.

QUESTIONS SUBMITTED BY MR. HUNTER

Mr. HUNTER. Number one, ascertaining what we have over there? What is available? Are there some trucks that are parked in Kuwait or in Iraq that could be transferred over?

Number two, what is the present bureaucratic circuit for getting that done? Does that have to be ID'ed by the acquisition bureaucracy back here in the States and then implemented, a transfer has to be made pursuant to a foreign arms sale?

Can a leader, for example, a divisional leader or General Odierno or General Petraeus say, "Hey, we have got this stuff parked over there. You guys in our Iraqi counterparts over here need them. Go get it?" Or is it a fairly complex circuit that has to be followed to be able to make that handoff of equipment?

Because that appears to me to be something that is crucial right now to warfighting success in those two theaters. And I would say one indicia of an effec-

tive system is one that can move quickly to do what you have to do in the warfighting theaters.

So what do you think? Is this something that can be handled easily or is it pretty complex and pretty burdensome?

Secretary ENGLAND. [See below.]

USCENTCOM property accountability and visibility procedures:

Property accountability and visibility in USCENTCOM is managed using the Standard Army Management Information Systems (STAMIS). Some examples of STAMIS systems are: Standard Army Retail Supply System (SARSS), the Standard Army Maintenance System (SAMS), Property Book Unit Supply Enhanced (PBUSE), the Logistics Support Agency (LOGSA), Logistics Information Warehouse (LIW), and Integrated Logistics Analyst Program (ILAP). These Web-based and interanet-linked systems provide worldwide Total Asset Visibility (TAV) and real-time data that enables logisticians to expedite processing and coordination of support to the warfighter. Currently, there is not a single system of record for managing and providing accountability and asset visibility across all branches of the United States Armed Services.

How is excess military property transferred to the Iraq Security Forces?

Excess property in Iraq is identified based on the operational needs of the warfighting units. Property identified by unit commanders as excess to their mission requirements is reported electronically through the chain of command via the Standard Army Management Information System (STAMIS) to the Multi-National Corps-Iraq (MNC–I) C4 logistics directorate. The MNC–IC4 satisfies unfilled equipment requirements across the MNC–I area of responsibility, then validates the remaining items as excess. The excess items are reported to the Army Central Command (ARCENT) for redistribution throughout the theater. The remaining items are validated as excess and then given disposition instructions by ARCENT. If the equipment is not needed for American forces, the property is categorized as Foreign Excess Personal Property (FEPP).

FEPP is defined as a US owned excess personal property located outside of the United States, American Samoa, Guam, Puerto Rico, Trust Territory of the Pacific Island, and the Virgin Islands. Selected FEPP is made available for transfer to the Iraqi Security Forces (ISF) based on property characteristics, service disposition instructions, redistribution/open purchase requirements, demilitarization (DEMIL) requirements, host-nation acceptance, and statutory authority. The authority to tranfer FEPP to the ISF has been delegated by the Deputy Under Secretary of Defense (Logistics & Material Readiness) to the Commander, MNF–I, and to the Deputy Chief of Staff for Resources and Sustainment. Current transfer authority allows for a maximum transfer of up to $5 million (acquisition value) of total FEPP per Forward Operating Base (FOB), up to a maximum of 79 FOBs.

QUESTIONS SUBMITTED BY MR. COOPER

Mr. COOPER. Mr. Secretary, for many of us on the committee, the issues are like swimming in molasses: it is slow and sometimes painful work. But in response to Mr. Bartlett's very helpful suggestion, I thought perhaps we could start with your statement that you have discovered 219 different regulations that apply to flag officers. If you wouldn't mind supplying that to the committee, perhaps we could start with that list and whittle it down, perhaps get rid of some of the unnecessary rules.

Secretary ENGLAND. [The information referred to was not available at the time of printing.]

QUESTIONS SUBMITTED BY MR. KLINE

Mr. KLINE. A couple of comments. You talked, as Mr. Thornberry said, about fewer and simpler regulations and more flexibility. And I think it is clear that we need that.

But I want to go back to what Mr. Hunter was talking about, about the rapid acquisition authority that the Secretary has and how few times it has been used. He said twice. It was zero for a very long time, and frankly, I thought it was just one having to do with IED defense. So two is a terrific increase over what I thought.

But I am shocked——

Secretary ENGLAND. The Department employs a broad toolkit to rapidly acquire items necessary to meet urgent warfighter needs. Each Service has rapid acquisition authorities that are used frequently to meet the majority of urgent warfighter needs. Additionally, the Department has established two organizations to meet ur-

gent needs that are of an inherently joint nature: the Joint Improvised Explosive Device Defeat Organization (JIEDDO) and the Joint Rapid Acquisition Cell (JRAC).

When the Department is notified by a Combatant Commander of an urgent need, it seeks to use the best and fastest possible method to respond. Most often, these needs are met directly by the individual Military Services. When an urgent need is identified as a joint requirement, the JRAC or JIEDDO provide support by validating the requirement and facilitating the transfer of funding to a Service Procurement Activity to meet the need.

Congress provided the Department additional Rapid Acquisition Authority (RAA) in Section 806(c) of the FY 2003 NDAA (P.L. 107-314), as amended by Section 811 of the FY 2005 NDAA (P.L. 108-375). This authority compliments the existing rapid acquisition authorities of the Department of facilitating additional waiver authorities when required.

At any point throughout the rapid acquisition process, whether through a Service or through the JRAC or JIEDDO, the Department may initiate the use of the RAA if it is necessary to meet the fastest-possible fulfillment of an urgent warfighter need. However, when RAA is not required to meet an urgent need, the Department will reserve the use of the authority for swift acquisition needs that cannot be resolved within existing processes.

Between September 2004 and May 2007, the JRAC expedited 25 projects worth $343.1 million. $322.6 million has come from Congress through the Iraq Freedom Fund and $20.5 million has come from directed Service funding. RAA has been used twice—once in April 2005 for Scorpion Jammers and once in June 2006 for Quick Reaction Dismounted Systems. For all other JRAC projects—and for the other Service and JIEDDO projects—rapid acquisition and fielding were possible without invoking specific RAA.

Current acquisition authorities allow the Department to procure equipment and services essential to meet urgent warfighter needs rapidly, including waiving certain competition and testing requirements, when necessary. In cases where a statute or regulation impedes established rapid acquisition methods, the Secretary of Defense may use RAA to expedite the rapid acquisition process. He may, however, only do so for acquisitions of urgent equipment needs that have resulted in combat fatalities.

RAA serves as a failsafe in the event that rapid acquisition initiatives run into any problems the law was intended to overcome. They complement existing rapid impediments to rapid fielding. The Department appreciates the support of Congress in providing a broad range of tools to facilitate the rapid acquisition of vital warfighter needs.

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