

**Statement before the
House Armed Services Committee**

“Goldwater-Nichols Reform: The Way Ahead”

A Testimony by:

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Chairman Thornberry, Ranking Member Smith, distinguished members of the Committee, thank you for inviting me to appear today to discuss reforms to the landmark Goldwater-Nichols Act. I was a member of the staff of the Senate Armed Services Committee at the time the committee deliberated on the original Goldwater-Nichols legislation. I knew it was very important work, but I had no idea how profoundly it would improve the Department of Defense and our national security. This truly was landmark legislation, and demonstrates the enormous impact of well-designed legislation.

Let me start with a fundamental point. Back in 1986 we needed to reform the Department of Defense in significant ways because we were failing on the battlefield. Today I believe there is a need to reform the Department and amend the Goldwater-Nichols Act, but let me state clearly that the Department of Defense is NOT a broken organization. We are not failing in the field. In every time zone on the globe, American military personnel are performing effectively on essential missions.

Yet there is a need to reform the Department again, and I commend the leadership of this Committee and all Members for their serious commitment to getting it right. The Department is far too inefficient in using resources and cumbersome in adapting to changing challenges. We need to reform the Department to make it more agile and innovative.

Your letter of invitation asked that we address five issues:

- Eliminating the Under Secretary for Acquisition, Technology and Logistics (AT&L), the elevation of the Director of Defense Research and Engineering to the former stature of AT&L, and the creation of a new Under Secretary for Management (a re-designation of the Under Secretary for Business Management and Information).
- A proposed 25% reduction in general officers/flag officers and in the ranks of the Senior Executive Service;
- Establishing “cross functional teams”
- A new authority to authorize the Secretary of Defense to delegate transfer of forces across combatant commands to the Chairman, effectively putting the chairman in the chain of command.
- Imposing caps on the staff of the National Security Council and requiring the National Security Adviser to be confirmed by the Senate under stipulated conditions.

I will briefly comment on each of these issues, and obviously would be pleased to answer any questions you might pose to me and the other members of this panel.

Eliminating USD/AT&L, and raising the stature of the Director of Defense Research and Engineering

Back in 1986, the Congress established the Under Secretary of Defense for Acquisition and Technology. It was part of a series of recommendations proposed by the Packard Commission to make the Defense Department more proficient in procuring major systems. The legislation made the mechanics of acquisition the most important goal in the overall acquisition process. An

unintended consequence was the diminishment of the Director of Defense Research and Engineering (DDRE).

In essence we elevated the prominence of “gunsmithing” and reduced the importance of marksmanship. The DDRE was the key position that brought innovation to the Department of Defense. We won the cold war, not because we fielded a larger military than the Soviet Union, but because we harnessed the innovation of science and technology to give our forces technological superiority on the battlefield. Great innovators like Harold Brown and Bill Perry epitomize the type of leadership we had that made innovation a centerpiece of our defense strategy.

Creation of the Under Secretary for Acquisition, Technology and Logistics and 30 years of additional legislative restrictions has turned the AT&L organization into a giant compliance organization. Compliance organizations will never foster innovation. The best evidence of this is to see how recent Secretaries of Defense have side-stepped the acquisition bureaucracy to introduce new capabilities. Secretary Bob Gates famously sidestepped the Army acquisition command in order to introduce blast-resistant combat vehicles. Secretary of Carter has created innovation centers outside the purview of the acquisition community, in order to bring in technology innovation into the department.

I know the Members of this Committee know the facts better than do I. But we are seeing startling technological advances by Russia and China that seriously challenge our capacity to operate in combat conditions. America is at risk of losing the defense innovation race.

We have a giant compliance organization where instead we need a lean innovation organization to transform the acquisition process in the Department. I strongly encourage the Committee to positively consider the Senate provision (Section 901). I have no doubt that the provision can be improved through give and take between the two committees in conference, but I hope the Committee embraces the need to make structural changes to restore a focus for innovation in the Department.

The Senate provision (Section 901) would also re-designate the recently established Under Secretary of Defense for Business Management and Information as the Under Secretary of Defense for Management and Support, and provide this position with the responsibility to oversee the business operations of the Department. I also think this is a positive recommendation. There are four primary “line” operations in the Department—the Departments of Army, Navy (including Marine Corps) and Air Force, and the collection of Defense Agencies. The Defense Agencies are operating organizations, like the military departments. They now spend nearly a quarter of the total base budget every year, but there is no direct senior line management responsible for their operations. The oversight of the Defense Agencies is left to the staff organs of the Office of the Secretary of Defense. I strongly believe that the defense agencies should have dedicated line management, as do the military departments. The offices of the Secretary of Defense should continue to exercise oversight on policy matters, but we need competent management of the business activities of the defense agencies. For these reasons, I support Section 901 in the Senate bill.

It is quite important to note, though, that for this Under Secretary for Management to be successful, we must change the way the Congress approaches ethics restrictions and conflicts of interest. It is virtually impossible to recruit a highly skilled, senior individual from industry to work for the Defense Department these days because we have made it so onerous to avoid the theoretical conditions of potential conflict of interest. We are seriously blocking great talent from serving because of onerous and intrusive de-confliction rules. The reforms envisioned in Section 901 will not succeed unless we also reform the restrictiveness of the confirmation process. Much of this can be done by the Senate Armed Services Committee adopting the same ethics rules that are used by other committees in the Senate. This is an essential prerequisite for success of this reform initiative.

Reduce by 25% the number of general officers and flag officers, and members of the Senior Executive Service

The Senate bill contains a provision (Section 501) that stipulates which command positions may be led by O-10 officers. The House bill contains Section 910 that would stipulate that component commands may be led by only an officer of O-9 rank. Section 1112 of the Senate Bill also imposes a 25% reduction on the ranks of the civilian Senior Executive Service.

I remember something that Secretary Bill Perry once said to me. He said “reductions produce reform, reform does not lead to reductions.” In the abstract, bureaucracies do not envision dramatic reform. As a friend of mine once said “candlemakers will never invent electricity.” It takes an external challenge to enliven imagination about how work can be done more efficiently. So I start with the bias that an enforced reduction in numbers of senior leaders is needed to stimulate bureaucratic reform.

Secretary Carter has stated that he sees value in reducing the number of senior officers and civilians in the Department. May I suggest, Mr. Chairman, that you move the implementation date for your mandated cuts to take place one year after the next Secretary has submitted his or her budget proposals. If the Department fails to undertake these reforms, your provision would remain in place and impose cuts. We are presently fighting three wars at this time—In Afghanistan, in Syria/Iraq and more generally against terrorist organizations world-wide. We also are leading a campaign against intimidation by China in the South China Sea and in Eastern Europe by Russia. We will have a new President and a new Administration in six months. We really do need to ask the current senior military leadership to give us a thoughtful plan. They have received the message that change is needed. I have heard that from each of the Service Chiefs. I believe we should give them the chance to give us the plan on the most effective way to reduce senior leadership.

Establishing “cross functional teams”

You have asked us to reflect on Section 941 in the Senate-passed bill. Section 941 outlines an elaborate structure to create integrated cross-functional teams in the Department. I believe I understand the aspirations of the Senate Armed Services Committee. I do not think this is the right way to do it. In general, I believe the Congress should express to the Secretary of Defense broad guidance and objectives. You should leave it to the Secretary of Defense to faithfully

implement your guidance. I believe it is hugely inappropriate to dictate to the Secretary how he must accomplish your guidance.

Section 941 is a fundamental violation of the doctrine of checks and balances. The section not only tells the Department what the Congress wants accomplished, but stipulates the method by which the Department must implement the broad guidance. The Congress cannot run the Department of Defense and it should not try to do so. If the Congress believes that the Department needs improved integration of mission planning and execution, stipulate that, but leave it to the Department to decide how best to implement that guidance.

Hold them accountable for outcomes. But do not dictate how the Secretary of Defense should accomplish those goals.

Authorizing the Secretary of Defense to bring the Chairman into the Chain of Command

The Senate-passed bill contains a provision (Section 922) that would authorize the Secretary of Defense to give command authority to the Chairman of the Joint Chiefs of Staff for limited actions. Specifically, the Senate has indicated it should be the right and responsibility of the Chairman to transfer forces from one combatant command to another without the Secretary's direction.

Again, I understand the intent of the Senate concerning this authority, and the desire to make some mechanical functions less onerous. But with great respect, I think this provision is a mistake, and I think it is dangerous.

Let me say a word about civilian control. All democracies wrestle with a fundamental question. They depend on military establishments for national security. But military establishments are not democratic in content or nature. Military establishments are hierarchical, authoritarian and command-oriented. Military departments are dangerous for democracies, and democracies need to establish structures and procedures to control these authoritarian establishments.

America was blessed that our first President—George Washington—was a military man, but he enshrined civilian control as a foundation for our democracy.

When the Congress adopted Goldwater-Nichols, the leadership of the House and Senate Armed Services Committees wrestled with this key question. The central design criteria for reform was to strengthen civilian control. I believe that still should be the premier design goal of this reform agenda.

Section 922 of the Senate bill would authorize the Secretary of Defense to place the Chairman in the Chain of command for selected administrative matters. This may sound like an insignificant matter. But I would also argue that transferring units from one command to another constitutes an insignificant burden on the Department. These are matters that are dispensed with in minutes. When I was Deputy Secretary of Defense, Secretary Cohen would host a meeting every morning, with the Chairman of the Joint Chiefs, the Vice Chairman and me. We met every day, even when one of the four of us was not in town. We dealt with issues like this all the time. It took

only a few minutes to discuss and resolve an issue. It was not a burden on anyone. And it preserved the sacred principle of civilian control.

I know that the Joint Staff has argued that this would be a step toward efficiency to give the Chairman the authority to deal with small matters like this. But civilian control is a toggle switch—either on or off. It is not a rheostat where you can dial some level of civilian control and give powers directly to the Chairman. If delegation authority for force movements is needed, a premise I do not accept, then the Secretary should be allowed the ability to delegate to the Deputy Secretary or the appropriate Under Secretary, not to a military officer.

The purpose of civilian control is to establish an unequivocal accountability for military action to the President of the United States. No President can blame outcomes on the military. The awesome decision to take America to war rests exclusively with the President, through the Secretary of Defense. The Chairman of the Joint Chiefs needs to be unencumbered as an honest adviser to the President. He should have no conflicted judgment because he was accountable for actions that succeeded or failed.

I know that the Senate's recommendation was honestly considered to be minor and administrative in nature. But it is the start of a path that is dangerous.

Managing the evolving activities of the National Security Council

Both the S. 2943 and H.R. 4909 contain provisions that deal with the role and activities of the National Security Council (NSC). The Senate bill (Section 1089) would impose an absolute cap of 150 people, either direct employees or detailees, who may serve on the staff of the National Security Council. The Thornberry Amendment would stipulate that "if the staff of the council exceeds 100 employees at any point during a term of the President and for the duration of such term . . . the Assistant to the President for National Security Affairs shall be appointed by the President, by and with the advice and consent of the Senate."

These two provisions are enormously important. We are dealing with an issue that is at the fault line of American constitutional government. The Constitution requires that the Congress oversee the activities of the Departments of the Executive Branch. Officers of those Departments must be confirmed by the Senate. They may operate only pursuant to funds appropriated by the Congress. But it is also clear that the President has a right of privilege and privacy in operating the Executive Office of the Presidency.

So the status of the National Security Council rests at the fault line of the Constitution. Is the NSC an extension of the work of the departments, where the Congress has oversight? Or is the NSC an extension of the President where the right of presidential privilege gives privacy and autonomy to its deliberations?

I strongly believe that the Thornberry Amendment is a superior approach to this issue and should be adopted.

If the NSC is to function as a coordinating element of the Executive Office of the President, I believe it should not be subject to Congressional oversight. If the NSC, however, is to become an operating arm of the Executive Branch—and there is enormous evidence that it is becoming just that—then I believe there is a constitutional obligation for the Congress to oversee the NSC. The Thornberry Amendment makes a judgment that a staff of fewer than 100 would be deemed to represent a coordinating NSC. A staff that exceeds 100 would be deemed to be an operating arm of the Executive Branch and subject to oversight. I should note that currently the NSC staff exceeds 400 and that OMB, which has about 450 staff, includes six senior officials who require Senate confirmation.

This provision does not threaten the prerogatives of the President unless the President decides he wants to direct military forces from the White House, not through the Secretary of Defense. I believe this provision honors the constitutional imperatives of both the Presidency and the Congress. Therefore, I strongly endorse the House provision, and encourage its adoption by the Congress.

Conclusion

Mr. Chairman, Ranking Member Smith, distinguished Members of the Committee, there are no more important issues that this Committee will deliberate than the issues we have discussed this morning. This hearing reflects the fundamental responsibility of this great Committee to lead the Nation on fundamental matters of national security. I congratulate you for holding this hearing, and thank you for giving me a modest role in your deliberations. I stand ready to answer any question you might pose.