

Congress of the United States

Washington, DC 20510

December 13, 2022

The Honorable Antony J. Blinken
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

The Honorable Lloyd Austin
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Blinken and Secretary Austin:

We write to express our serious concerns over the recent *Washington Post* report that identified over 500 retired U.S. military personnel, including many senior general officers, who were given waivers from the Departments of Defense (DoD) and Department of State (DOS) to pursue lucrative jobs advising foreign governments with known human rights abuses and histories of political oppression.¹

Specifically, we are concerned by (1) the lack of transparency throughout the waiver approval process and reporting to Congress, (2) the lack of standardized internal procedures at DoD to implement the waiver approval process, (3) the lack of enforcement when retired U.S. military personnel violate the law by failing to report that they are advising foreign governments, (4) potential conflicts of interest identified during the waiver approval process, and (5) the degree International Traffic in Arms Regulations (ITAR) concerns identified by the State Department are discovered and resolved during the waiver approval process.

As D.C. District Court Judge Mehta ruled in *Washington Post v. DoD*, the public has a compelling interest in understanding the extent of influence that foreign powers may have over America's former military leaders. The public also has the right to know if high-ranking retired military officers are taking advantage of their roles in government to create employment opportunities, some paying seven figure salaries, with foreign governments.²

Therefore, we request that DoD and State publicly release their annual report (37 U.S.C. §908(d)) to Congress on waiver approvals for retired generals. We also request a report summarizing and indexing the universe of waiver applications for the past ten years, to include:

- a) The total number of waiver applications;
- b) The percentages approved or denied;
- c) Information on the reasons for approvals and denials;
- d) Explanations of how issues with conflicts of interest, ITAR compliance, or other concerns were resolved; and
- e) The number of applicants that applied for waivers to work for adversaries of the United States and other countries of concern.

¹ Craig Whitlock and Nate Jones, "Retired U.S. Generals, Admirals Take Top Jobs With Saudi Crown Prince," *Washington Post*, October 18, 2022, <https://www.washingtonpost.com/investigations/interactive/2022/veterans-us-foreign-jobs-saudi-arabia/>.

² *WP Co. LLC v. U.S. Dep't of Def.*, No. 21-cv-01025, 2022 WL 4119769 (D.D.C. Sept. 9, 2022). See: [day-one-footnote-Mehta.pdf \(washingtonpost.com\)](#).

We are also concerned that DOS, DoD, and each of the military services lack a standardized and rigorous process for reviewing and adjudicating foreign government employment waivers. The DoD Standards of Conduct Office even acknowledges that the process for obtaining advance approval is different for each of the services and that two of the services—the Navy and Marine Corps—do not have pertinent instructions describing the approval process.³

We also request more clarity regarding the criteria DOS, DoD, and the services use when adjudicating these waiver requests. The State Department in concert with the Office of the Secretary of Defense (OSD) should develop additional guidance for services to implement the waiver review and approval process in a uniform and thoughtful manner.

Lastly, we request information regarding your decision-making process for enforcement when retired U.S. military personnel violate the law by failing to report that they are advising foreign governments. Although there is currently no criminal penalty for violating this law, DoD has the power to withhold retirement pay for those who break the rules. That said, the *Washington Post* investigation found that fewer than five people have faced any penalties for failing to report their relationship with foreign governments.

Additionally, we submit the following questions regarding the waiver approval process:

- 1) What criteria do DOS, DoD, and the military services use for approving or denying waivers? What criteria does DOS use when it assesses a waiver request to determine if it will adversely impact foreign relations?
- 2) How does DOS consider possible concerns with ITAR compliance when making waiver decisions?
- 3) What guidance does DOS provide, if any, to DoD on the criteria for approving waivers?
- 4) Why is the waiver approval process not standardized throughout DoD? Is DoD taking steps to create an OSD-level policy on the waiver approval process?
- 5) How does DoD make enforcement decisions when retired U.S. military personnel violate the rules? What methods does DoD employ to determine when individuals fail to report their ties to foreign governments?
- 6) How do DOS and DoD continue to monitor those who receive a waiver to ensure that their work remains in our national interests?
- 7) How are potential conflicts of interests for waiver applicants identified and resolved as approval or denial decisions are made?

We look forward to working with you as you address this important matter.

Sincerely,

³ Department of Defense Standards of Conduct Office, “Application of the Emoluments Clause to DoD Civilian Employees And Military Personnel,” 2022, [Department of Defense Standards of Conduct Office > ETHICS TOPICS > Post Government Employment and Procurement Integrity > Toolbox \(PGE and PI\) \(osd.mil\)](#).



Suzan K. DelBene
Member of Congress



Michael Cloud
Member of Congress



Jason Crow
Member of Congress