

**RAYMOND W. KELLY, JAMES E. JOHNSON,
AND ELISABETH BRESEE**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

RAYMOND W. KELLY, TO BE COMMISSIONER OF CUSTOMS; JAMES E. JOHNSON, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT; AND ELISABETH BRESEE, TO BE AN ASSISTANT SECRETARY OF THE TREASURY

JUNE 11, 1998



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1998

51-256—CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-057608-3

5361-2

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SECRETARY OF THE TREASURY**

THURSDAY, JUNE 11, 1998

**U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, DC.***

The hearing was convened, pursuant to notice, at 12:38 p.m., in room SD-215, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Also present: Senators Chafee, Grassley, D'Amato, Murkowski, Moynihan, Conrad, Graham, Moseley-Braun, and Bryan.

**OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S.
SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FI-
NANCE**

The CHAIRMAN. The committee will please be in order.

We are going to move ahead on three nominations, which include Raymond W. Kelly, to be Commissioner of Customs; James E. Johnson, to be Under Secretary of the Treasury for Enforcement; Elisabeth Bresee, to be an Assistant Secretary of the Treasury.

If all three of you would please come forward. We will consider the three nominees en bloc. Ray Kelly, who has been nominated to be Commissioner of Customs, James E. Johnson, nominated to be Under Secretary, as I said, and Elisabeth Bresee, to be Assistant Secretary.

I think maybe we have a Senator here who would like to make an introduction. Senator D'Amato?

**OPENING STATEMENT OF HON. ALFONSE M. D'AMATO, A U.S.
SENATOR FROM NEW YORK**

Senator D'AMATO. Well, thank you very much, Mr. Chairman. I want to thank my great colleague, the senior Senator from New York, Senator Moynihan, for allowing me this extraordinary privilege and opportunity to present a colleague of ours from New York, a distinguished colleague, but, more importantly, someone who has accredited himself in every single way and has the kind of roots that make this very special.

You see, Mr. Chairman, 2 years ago, almost to the day, Senator Moynihan and I had the opportunity of supporting the nomination of Ray Kelly to the position of Under Secretary of Treasury for Enforcement. Today, I am tremendously pleased to be able to support Mr. Kelly's nominations to head the U.S. Customs Service as the Commissioner.

Now, Ray and I go back a ways. We have not told too many people about this. As a matter of fact, this is the first time I am going to take the liberty and indulge myself in some nostalgia. Our roots go back to the little village of Island Park. Of course, that little village now has grown to about 5,100 people. But when Ray and his family lived on Kildare Road in Island Park, it had a population of about 2,200, so we knew everyone and everyone knew us.

Ray Kelly, as a youngster, would come down to Island Park, and the hub of activity was at the public beach, the old Casino Beach. If one could be chosen to be on beach patrol, that was a special occasion.

Indeed, Ray, at the tender age of about nine, was selected to be on beach patrol, which meant in the mornings you would patrol the beach and pick up the various debris that would come in from the tide, and maybe some things that were left after the partying that may have taken place the evening before. Indeed, if you were loyal and reported every day, there was a reward that sometimes went as high as 25 cents.

Now, if you could keep that job for a number of years and then learn to swim proficiently enough to pass your Red Cross exam, why, then in the future was the promise of obtaining the highest and most well-regarded position of all: lifeguard. Yes.

So it was that this gentle youngster, desirous of demonstrating to his family his commitment and the fact that he could, indeed, achieve this lofty position, because you have to understand, he was not an all-year-round resident, he just came for the wonderful summer months, and this was doubly difficult to become a lifeguard if one was not there all year round. I want you to know, and I must confess at this time, Mr. Chairman, that yours truly, Alfonse, was not ever able to achieve the status as full lifeguard, whereas, my colleague and friend, Raymond, did.

As a matter of fact, I think he even rose to the lofty position of assistant chief. Indeed, it is a great pleasure and a privilege to go back and to think about, and I will not tell you how he buried Sam Latini's suit and shoes on the beach in retaliation for some spoof that Sam had played on him.

Senator MOYNIHAN. There is no need to get too detailed for this special position.

The CHAIRMAN. It has a great deal of relevance, with the Customs enforcement. [Laughter.]

Senator MOYNIHAN. Yes.

Senator D'AMATO. Well, indeed. Indeed. Because, now, here we are. Here we are, having, once again, Ray Kelly before us with an opportunity to safeguard our children once again, and this time to safeguard our borders in the fight against the flow of drugs that come across the borders. He has done such a great job, going back as a youngster, right until today, and we are proud of him. I know he will do a fantastic job at Customs.

I would also like to take this opportunity to recognize his family, his wife, Veronica, and his two boys, Jim and Gregory. Veronica, would you stand up? And what about Jim and Greg? Oh, he is in the Gulf. He is in the Marine Corps. All right.

Ray's academic history, Mr. Chairman, is tremendously impressive because he graduated from Manhattan College with a bachelor's degree, and then went to St. John's Law School, where he received a law degree, and then to New York University Graduate School of Law, as well as a master's in public administration from Harvard. Thirty-two years in law enforcement in New York City, rising to the ranks of becoming the police commissioner of New York City.

He received many, many awards, but I think the one that typifies his service and his talents was as New York State's Law Enforcement Official of the Year in 1993, in recognition of the great and outstanding job he did in response to the World Trade Center bombing in 1993. After his service to the people of New York, he then went on to serve his Nation, and, indeed, the international community. As you know, he was appointed director of the International Police for the multinational forces in Haiti, and set up a program to train, to work, and to bring about the kind of public security force necessary to end human rights abuses. He was commended, rightfully, by President Clinton for this service.

As Under Secretary for Enforcement for the Treasury Department, Ray supervised the Customs Service, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Federal Law Enforcement Training Center. His knowledge of these agencies will serve him well as head of Customs.

Just this past month, Mr. Chairman, the Service led a multinational operation to root out money launderers, which involved the arrest of 22 Mexican bankers who are accused of money laundering in the operation called Casablanca.

Notwithstanding what some countries have complained about, I want to take this opportunity to publicly commend him for that service. Those who would claim to be our friends, neighbors, and allies had better wake up to their responsibility and not stand on ceremony. And I am talking about our neighbors to the south, but will leave that until another time. I simply want to applaud Ray for his actions and for his leadership.

I am confident that he will be able to balance this important responsibility of dealing with the epidemic of drugs that come over our borders with the other significant duties, such as protecting American business and intellectual property rights against illegal trade practices.

I am also pleased to see that Mr. James E. Johnson, who is currently the Assistant Secretary for Enforcement at Treasury, has been nominated to serve as Under Secretary for Enforcement. He previously has served as the Deputy Chief of the Criminal Division in the U.S. Attorney's Office and did an outstanding job. He has great reputation.

And another New Yorker who has been nominated, Elisabeth Bresee, who is currently the Deputy Assistant Secretary for—

The CHAIRMAN. Do we not have anybody from Delaware? [Laughter.]

Senator D'AMATO. Well, you have them at Treasury. But, anyway, these individuals have worked together in the past to develop a strong law enforcement capacity at the Department of Treasury, and I think they will be able to continue to succeed in this important work.

I certainly look forward to all of their speedy confirmations, but, again, this is a delight and a privilege to be here to present my good and dear friend, Ray Kelly, in particular.

The CHAIRMAN. Well, thank you very much, Senator D'Amato. Welcome to all three of the nominees. We are pleased to have you here.

We are delighted to have you here, Mrs. Kelly. I would like to ask our other nominees whether they have any family members here. Ms. Bresee, any members of your family here?

Ms. BRESEE. Yes, I do, sir. I have my mother, Georgia Couden, here from Oneonta, New York.

Senator MOYNIHAN. Mr. Chairman, may I take the pleasure of noting that, in 22 years on this committee, this is the first time I have had the opportunity to welcome a lady from Oneonta, which is just across the Susquehanna from our home in Delaware County. Of course, you went to high school, I believe, in Oneonta.

Ms. BRESEE. That is right.

The CHAIRMAN. Well, it is a great pleasure to welcome you here.

We would also like to ask you, Mr. Johnson, whether you have any members of family here.

Mr. JOHNSON. Just a couple, sir. My wife and daughter are here, Sigrid Gabler and Abigail Johnson. I think I have the second and third rows. [Laughter.]

The CHAIRMAN. Well, that is wonderful.

Mr. JOHNSON. My mother, Birdie Johnson, and her sisters, my uncle, and several friends.

The CHAIRMAN. Would all of the family members please rise so everybody can see them?

Senator MOYNIHAN. My goodness. Wow!

The CHAIRMAN. I would like everybody, Mrs. Kelly to rise, and will you not rise, please, Ms. Bresee. [Applause].

Now, it is our practice to ask all nominees to be sworn in, so will you please rise and raise your right hand.

[Whereupon, the three witnesses were duly sworn.]

The CHAIRMAN. Now, I do have an opening statement that I know Senator Moynihan is very anxious to hear. But, notwithstanding that, we will dispense with that and proceed with the questions.

But, first of all, I think we ought to proceed with the opening statements. Mr. Kelly, would you care to begin?

STATEMENT OF RAYMOND W. KELLY, TO BE COMMISSIONER OF CUSTOMS

Mr. KELLY. Thank you, Mr. Chairman. I want to thank Senator D'Amato, and I know he just left, for his very generous but totally surprising introduction. I was unaware he was going to do that, and I very much appreciate that.

The last time I appeared before this committee for a confirmation hearing it was as a nominee for Under Secretary for Treasury for

Enforcement. I had come to that position with some familiarity with Treasury's enforcement bureaus, having worked with them during my career in the New York City Police Department.

Now, obviously, my relationship has become much closer since coming to Treasury. My tenure as Under Secretary has given me a greater appreciation for both the ability and the potential of the Bureau of Alcohol, Tobacco, and Firearms, for the Secret Service, for the Customs Service, as well as the other arms of Treasury Enforcement.

It has also reinforced to me the importance of cooperation among Federal and local law enforcement generally, and between the Treasury and Justice Departments, in particular.

There will always be a healthy spirit of competition among the best practitioners of law enforcement, but, in the interest of public safety, we must set the rivalries aside and work towards a common end.

That has happened between the Treasury and Justice Departments in recent arson and bombing investigations, in counter-narcotics efforts, and airline safety, in a whole host of ways that has made for better law enforcement.

I encourage that kind of cooperation at the Treasury Department, and will continue, given the opportunity to do so, at the Customs Service.

The Customs Service is the Nation's oldest law enforcement arm and it remains, first and foremost, just that, a law enforcement agency. But much has changed in two centuries, not the least of which is America's emergence as the world's economic giant, with trade and commerce relationships the world over.

America's wealth and the opportunity that wealth has afforded millions of Americans is intrinsically linked to the free flow of goods and services across borders. The Customs Service has worked closely with the trade community.

I want to strengthen that relationship. I want to make it even closer. It is essential for both the free flow of trade and our enforcement mission. There has been progress, but we can do more. I want to improve the information flow between us.

The Customs Service is duty-bound to stop drug dealers, illegal arms merchants, and others who traffic in death and addiction for profit. The sheer volume of modern trade makes the inspection of every item entering the United States impossible. We cannot do it, and we would not do it even if we wanted to. We need the trade's help. Mutual cooperation between the trade industry and Customs is essential.

The Customs Service must also continue to invest in technology, such as advances in x-rays and other means of inspection, to do what human eyes and hands cannot do alone.

The Customs Service, at its core, must be vigilant. We have seen criminal organizations, particularly with narcotics, put entire societies at risk by assaulting and corrupting law enforcement, by manipulating financial systems, and by undermining democratic institutions.

It is unimaginable for the same thing to happen in the United States. One of law enforcement's responsibilities is to plan for the

unimaginable, to pursue wrongdoers so that the unimaginable remains just that.

The Customs Service needs to stay ahead of the technological curve, the same technology that organized crime is eager to exploit. The drug cartels would much prefer to move the profits as data over fiber optic highways instead of cash over interstate highways, because we seize a lot of their money that way.

Customs has done some remarkable work in stopping the cartels' latest money laundering activity. Operations Wire Drill, Eldorado, and Casablanca were great successes in taking down some of the underworld's most sophisticated money laundering schemes. That kind of good, effective law enforcement needs to continue and expand as criminal organizations seek new ways to move their ill-gotten gains.

The Customs Service has done very good law enforcement work, but it can do better. It can do better by recruiting the best candidates possible for agents and inspectors, by improving training, by investing in and deploying the best technology available, and by building the strongest alliance as possible with the trade community.

Above all, the Customs Service must be persistent, must be dogged in its determination to bring smugglers and other lawbreakers to justice. That really is the secret of the success of American law enforcement: persistence. We persist. We spend resources in persistence. We provide for a peerless criminal justice system that guarantees everything from a fair trial to humane prison conditions. We stay the course. That combination of resources and commitment puts lawbreakers in considerable peril.

Criminals in America who are not caught in the act tend to be caught sometime thereafter. The fate of any criminal who tries to defeat the Customs Service should be captured sooner or later.

I envision a Customs Service at its best, as ever vigilant and doggedly determined. I see the Customs Service making drug smuggling, arms trafficking, and money laundering the riskiest of high-risk activities, prone to frequent and spectacular failure. Given the opportunity, I will work very hard to make it so.

My professional career has been devoted to law enforcement. I am, therefore, privileged to be nominated at Customs Commissioner. I will be happy to answer any questions that the committee might have. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Kelly.

[The prepared statement of Mr. Kelly appears in the appendix.]

The CHAIRMAN. It is now my pleasure to call on Mr. Johnson for his statement.

STATEMENT OF JAMES E. JOHNSON, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT

Mr. JOHNSON. Thank you, Mr. Chairman. Mr. Chairman, Senator Moynihan, and members of the committee, I am honored to appear before you today as you consider my nomination to be Under Secretary of the Treasury for Enforcement.

At the outset, I wish to thank Secretary Rubin, both for recommending me to the President and for his support doing the last 2 years. I also thank President Clinton for my nomination.

You have already seen my family. I would like to recognize them again. They are standing here, and their physical presence is just the latest manifestation of the tremendous amount of support that I have received from them over the years. Their support, as much as anything else, is the reason why I am sitting at this table here today.

As you know, I began serving at the Treasury as the Treasury Department's Assistant Secretary for Enforcement in March of 1996, and have assisted Under Secretary Kelly in the oversight of Treasury's enforcement bureaus.

Since June of 1996, I have also served as the co-chair of the National Church Arson Task Force, which was created by President Clinton to coordinate the Federal law enforcement response to church fires.

During these last 2 years, I have had the privilege of working with an array of talented and dedicated individuals, starting with Under Secretary Kelly and Deputy Assistant Secretary Bresee.

I am delighted to know that I will be continuing to work with them as members of Treasury's teams. I am also delighted to know that I will not be traveling to the beach with Under Secretary Kelly anytime soon. [Laughter.]

Mr. JOHNSON. I must mention as well the heads of Treasury's law enforcement bureaus. John McGaw, who is seated to my left, Loomer Letty, Ralph Bashom, Acting Commissioner Sam Banks, Acting Director Bill Beatty, and Rick Newcome. They are all exemplary public servants and a source of tremendous strength for the department.

If confirmed as Under Secretary, I look forward to the privilege of heading this gifted team and drawing on all of their many talents.

Treasury Enforcement, the department, and our bureaus, handle a broad array of issues, from the Customs Service's protection of our borders, to the Secret Service's protection of our President, from the ATF's efforts to protect our youth from violent, and the Federal Law Enforcement Center's instruction of the majority of law enforcement officials.

The men and women of FINSA play a key role in our strategies to defeat those who would commit financial crime and launder money, and those who serve in the Office of Foreign Assets Control work diligently to enforce our economic sanctions against terrorist states and against narco traffickers.

The reach of these bureaus and our ability to work together for the good in the life of this Nation is tremendous. I look forward to working with each as it shapes the strategies that will carry it into the 21st century, and expect to work closely with the Congress as well as we all carry this work forward.

Thank you, Mr. Chairman. I will be happy to answer any questions.

The CHAIRMAN. Thank you, Mr. Johnson.

[The prepared statement of Mr. Johnson appears in the appendix.]

The CHAIRMAN. Now, we would be happy to hear from Ms. Bresee.

**STATEMENT OF ELISABETH BRESEE, TO BE AN ASSISTANT
SECRETARY OF THE TREASURY**

Ms. BRESEE. Thank you, Mr. Chairman. Mr. Chairman, Senator Moynihan, I am honored to appear before you as you consider my nomination to be Assistant Secretary.

I would also like to thank Secretary Rubin for recommending me, and also to President Clinton for his nomination.

Again, I would just like to note my mother's support here. I have a large family. Unfortunately, they could not all come to fill up two rows. But she is here representing all of them.

From my family and my work as a Federal prosecutor, I have learned that public service is not only a privilege, but a responsibility and one of the highest callings to which a citizen can aspire. Because of this, I look forward to the challenges of serving as Assistant Secretary, if confirmed.

I have worked directly on law enforcement matters since 1989, when I was appointed as an Assistant United States Attorney for the District of Columbia. I worked on a wide variety of cases, including public corruption and violent crime cases.

The District of Columbia office is an extremely challenging place to work, given the multitude of crime problems that face our Nation's capital.

In 1994, I joined Treasury, first, as an Assistant Director of the White House Security Review, and then as the Director. Following the Review, I was appointed by Secretary Rubin as Deputy Assistant Secretary for Law Enforcement.

Shortly after that appointment, I carried out the duties of both the Under Secretary and Assistant Secretary for Enforcement while awaiting Assistant Secretary Johnson and Under Secretary Kelly's confirmation.

I have been involved in the department's continuing effort to provide greater oversight of its law enforcement bureaus, and to ensure that they maintain the highest standards of professionalism.

My work at Treasury has allowed me to understand the very important missions of our bureaus. The Treasury agents, inspectors, and officers who carry out these missions embody the highest ideals of commitment, professionalism, and genuine public service. It will be a privilege to serve Treasury and assist with the leadership of these women and men.

In addition, I look forward to continuing my work with Under Secretary Kelly and Assistant Secretary Johnson, who I believe have done an outstanding job in leading the Office of Enforcement.

I am acutely aware of the important responsibilities of Treasury Enforcement. I believe that my prior experience will serve me well as Assistant Secretary, if confirmed. With the guidance of this committee and the support of Secretary Rubin, I believe I am ready to meet that challenge.

Thank you very much. I would also be happy to answer any questions.

[The prepared statement of Ms. Bresee appears in the appendix.]

The CHAIRMAN. Well, thank you very much. I appreciate all three of you being here today.

We do have three standard questions we ask of all nominees who come before the Finance Committee, so I will propound them, then ask each of you to respond with a yes or no.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Ms. Bresee?

Ms. BRESEE. No, Mr. Chairman.

The CHAIRMAN. Mr. Kelly?

Mr. KELLY. No, Mr. Chairman.

The CHAIRMAN. Mr. Johnson?

Mr. JOHNSON. No, sir.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated? Ms. Bresee?

Ms. BRESEE. No, Mr. Chairman.

The CHAIRMAN. Mr. Kelly?

Mr. KELLY. No, Mr. Chairman.

The CHAIRMAN. Mr. Johnson?

Mr. JOHNSON. No, Mr. Chairman.

The CHAIRMAN. And, finally, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly-constituted committee of Congress, if you are confirmed? Ms. Bresee?

Ms. BRESEE. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Kelly?

Mr. KELLY. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Johnson?

Mr. JOHNSON. Certainly, Mr. Chairman.

The CHAIRMAN. One of the observations I was going to make in my opening statement is, of course, to recognize and applaud the importance of the enforcement actions of the Customs Service. I know, Mr. Kelly, that, upon confirmation, you will look upon improving the enforcement capabilities of the Customs Service.

At the same time, I think it is important to recognize that strong enforcement effort must not come at the expense of legitimate exports and imports moving through the Nation's ports. Trade, as you have heard this morning, is a critical part of our economy and the expeditious handling of trade through our Customs is of the greatest importance.

Mr. Kelly, let me ask you this question. Given the recent dramatic increase in U.S. exports and imports, could you tell me what concrete steps you would take to improve both the commercial operations and the drug efforts of the Customs Service?

Mr. KELLY. I think one word sums it up, Mr. Chairman, and that is technology. We need significant improvements in technology, both in being able to screen what comes into our country, but also in facilitating trade. There is a concept that is moving forward called the automated commercial environment.

It started, I believe, some 4 years ago and it has been a bit off track. But what it does, in essence, is move the Customs Service into position to operate in the next century. It is an automated information system that needs, quite frankly, a significant amount of

money, a significant amount of resources. I think we are moving forward in that direction, and it is now back on track.

But, technology, in both screening what comes into our country and in helping the trade community transmit real-time information to the Customs Service, will make a major difference in the way Customs does business in the near term.

The CHAIRMAN. Thank you, Mr. Kelly.

Mr. Johnson, if you are confirmed as Under Secretary for Enforcement, as I expect you will be, you will, of course, be directly responsible for overseeing the activities of the U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Secret Service.

These are all critically important enforcement agencies. In recent years, all three, however, have come under varying degrees of criticism, and praise, with respect to how they carry out their respective law enforcement missions.

What is your view on how effective these agencies have been in carrying out their responsibilities?

Mr. JOHNSON. Over the last 2 years, and even before when I was a prosecutor in New York, I worked with all of the Treasury enforcement bureaus, with the Customs Service, with the Secret Service, and with the ATF.

I have developed personal relationships with the agents on the ground, as well as the leadership. I think, if the confirmations go through, we will have at Treasury a tremendous team of leaders, including current Under Secretary Kelly, John McGaw, the Director of the ATF, and Loomer Letty, the Director of the Secret Service. I think each of the agencies that they lead has been tremendously effective.

What I would look to do, is to build upon the successes of the past, to learn from some of the more difficult times that our bureaus have had in the past, and work with the bureau heads to build on those successes.

The CHAIRMAN. Ms. Bresee, let me ask you the same question. What is your view on how effective these agencies have been, and are there particular improvements or changes that you think are necessary to help these agencies become more effective?

Ms. BRESEE. Well, Mr. Chairman, I agree with Mr. Johnson, in that I have been very impressed with my work, again, also as a prosecutor and now in the time that I have been at Treasury. I think what has actually been fairly remarkable, is the Treasury bureaus have done a lot of self-analysis.

I think, one, in particular. I came into Treasury right around the time of the Waco hearings, and I think some of the work that John McGaw has done, working with Treasury, to take that very, very difficult time of the agency under which they were under a great deal of attack and really improve the agency is something that I see through all the Treasury bureaus, that they have done quite a bit of analysis to make sure that they are always improving.

The CHAIRMAN. I do have some other questions, but, because of the lateness of the hour, I will submit them and ask you to answer them in writing.

[The questions and answers appear in the appendix.]

The CHAIRMAN. Senator Moynihan?

Senator MOYNIHAN. Yes. Could I just say what a joy it is to find young people before us. Well, Commissioner Kelly, I suppose you are not that young. [Laughter.]

Mr. KELLY. I appreciate that very much, Senator. Thank you.

Senator MOYNIHAN. And experienced in working together. It will just make you feel better about government every hour, because you all have miserable jobs. [Laughter.]

Could I just record that I hope someone down at Treasury is thinking a little bit out of the box on, just what is the Bureau of Alcohol, Tobacco and Firearms, what is the relationship one to the other. It was put together in 1972 from previous ones, and probably has something to do with prohibition, does it?

Mr. JOHNSON. Yes. The origins stem from that, yes.

Senator MOYNIHAN. Yes. Well, we do not have prohibition anymore, but we still have the bureau.

Mr. JOHNSON. But we still have plenty of work that the bureau is doing, and in a tremendous way, I think.

Senator MOYNIHAN. Yes. It just strikes me, it is like the Secret Service, dealing with counterfeiting. I mean, what is the relationship? It is sort of a convenience that developed in 1880, or whatever, but it may not be the best organization, for the moment. I hope somebody will think about that in your spare time, which you do not have.

Could I say to Under Secretary Kelly, before we finished our last round, Senator Moseley-Braun raised a question, and there is another Senator involved, with very serious concerns about the criteria used by the Customs Service at O'Hare Airport to identify persons who might be smuggling drugs or other contraband into the United States.

In particular, there have been allegations of discrimination against African American women by the Customs Service, detaining them and strip searching them, things that technology obviously would address.

Are you aware of these matters, and do you have any comment on them? The Senator asked that we ask you.

Mr. KELLY. Yes, sir. Actually, a class action suit was just filed in that regard. We are very much concerned about that. We started our own investigation of this issue some 10 days ago. When I say we, I mean Treasury Enforcement. We have an OPR, Office of Professional Responsibility, component that we directed to start an investigation and examination of these issues.

Senator MOYNIHAN. Yes.

Mr. KELLY. We have reached out to the staff. We heard about her comments during the last panel, and we are setting up a meeting tomorrow to speak to her about it.

Senator MOYNIHAN. Good. Good. I am sure you will, and whatever the problems, I am sure you will deal with them. I mean, we have complete confidence in you. This whole drug business is such a misery.

Can I say just one anecdote, Mr. Chairman, then I will be through.

The CHAIRMAN. Please proceed.

Senator MOYNIHAN. It fell to me to negotiate the initial agreements with the governments of Turkey and France to put an end

to, what, the movie called "The French Connection," the movement of opium to Marseilles, and then heroin came over here. There was a real epidemic in New York City, and one here in Washington. These epidemics seem to have cycles. I mean, heroin is a trade name.

This September at Yale, I am going to give the opening address at the 100th anniversary of heroin, which is a trademark of the Bayer Co. It got a trademark on heroin. They tried it on their employees and made them feel "heroish." They got it a year before they got aspirin. It has been around a century, and it will be around a century hence, in case anybody does not know that. Just how much the society can effectively do, I am never sure, but I did make reach this agreement with the French and the Turks.

And found myself on a helicopter going up to Camp David, and the only other person present was George Schultz, then-director of the Office of Management and Budget. We sat opposite each other in a small chopper.

I said, George, I have got some good news. I think we are going to close down that heroin route from Turkey to Marseilles down here. And he looked up from his papers and said, good. And I said, no, no. Really, this is important. I mean, they are going to do it. I know he found it improbable. He looked up and said, good. I was a little crestfallen.

So, finally, I said, I guess you are saying that, as long as there is a demand, there will be a supply. And he looked up and he said, you know, there is hope for you yet. [Laughter.]

Just keep that in mind in terms of what you have to do.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Moynihan.

Thank you for being here today. We hope to move as expeditiously as possible on your nominations. Let me congratulate your families. It is, indeed, a pleasure to have them here.

The committee is in recess.

[Whereupon, at 1:13 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF ELISABETH A. BRESEE

Mr. Chairman, Senator Moynihan, and members of the Committee: I am honored to appear before you as you consider my nomination to be the Assistant Secretary of the Treasury for Enforcement.

I want to thank Secretary Rubin for recommending me to the President, and I thank President Clinton for his nomination.

On a personal note, I would like to recognize my mother, Georgia Couden of Oneonta, New York, who is here with me today. My mother earned her Masters Degree in social work when I was in grade school and by her example I have learned the value of serving others. She has also given me her unwavering support and has always believed in my abilities and potential.

From my family and my work as a federal prosecutor I have learned that public service is not only a privilege but a responsibility, and one of the highest callings to which a citizen can aspire. Because of this, I look forward to the challenges of serving as Assistant Secretary if confirmed.

I would like to provide the Committee with a sense of my professional background. I have worked directly on law enforcement matters since 1989, when I was appointed as an Assistant United States Attorney for the District of Columbia. While serving in that office, I prosecuted a wide variety of cases including Public Corruption and Violent Crime cases. The District of Columbia office is an extremely challenging place to work, given the multitude of crime problems that face our nation's capital. While serving as a prosecutor, I gained valuable experience and learned firsthand about many of Treasury's enforcement responsibilities from my work with agents and officers from the Secret Service and ATF.

In 1994, I joined the Department of the Treasury first as Assistant Director of the White House Security Review, and then as the Director. The Security Review represented the most comprehensive assessment of air and ground security ever conducted at the White House Complex. Following the review, I was appointed Deputy Assistant Secretary for Law Enforcement, with responsibility for assisting in oversight of the Department's law enforcement bureaus and offices. Shortly after my appointment as Deputy Assistant Secretary, I carried out the duties of the Under Secretary and Assistant Secretary for Enforcement while Assistant Secretary Johnson and Under Secretary Kelly were awaiting confirmation.

In my position, I have been involved in the Department's continuing effort to provide greater oversight to its law enforcement bureaus, and its effort to ensure that our bureaus maintain the highest standards of professionalism. Because of the sensitive nature of our law enforcement missions, I worked with the Under Secretary and Assistant Secretary to enhance our oversight of Treasury's law enforcement bureaus in numerous areas, including integrity and internal affairs matters, training, and equal employment opportunity issues. I have also assisted in guiding a comprehensive review of Treasury's Federal Law Enforcement Training Center—an entity that trains nearly 80% of new federal law enforcement officers—and in improving our continuing efforts to safeguard our Southwest Border against the influx of drugs and contraband. Indeed, just this week I was in Laredo, Texas where I had an opportunity to view the innovative efforts that Customs is employing at that very challenging port of entry.

My work at Treasury over the past four years has allowed me to understand the important missions of our enforcement bureaus and how these missions complement each other. Together, Customs and ATF collect nearly \$37 billion in revenue. Customs also protects our nation from narcotics smuggling, maintains the integrity of

the border, and enforces international trade laws. ATF targets violent criminals, firearms traffickers and arsonists. The Secret Service protects our nation's leaders and combats fraud. And OFAC and FinCEN enforce trade sanctions and help fight money laundering, respectively. These responsibilities help finance the government; protect our financial system from fraud, abuse, and instability; and ensure the safety of our nation and its people.

The Treasury agents, inspectors, and officers who carry out these missions embody the highest ideals of commitment, professionalism, and genuine public service. It will be a privilege to continue to serve Treasury and assist with the leadership of these women and men.

I am acutely aware of the broad and important responsibilities of the Office of Enforcement. I also believe my experience at Treasury, at the U.S. Attorney's Office, and as a lawyer in private practice will serve me well as Assistant Secretary, if confirmed. With the guidance of this Committee and the support of Secretary Rubin, I believe I am ready to meet the challenge. Thank you very much.

The White House,

MAY 11 1998

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To the

Senate of the United States.

I nominate

Elizabeth Breesee, of New York, to

be an Assistant Secretary of the Treasury, vice James E.

Johnson.

William S. Clinton

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

May 8, 1998

**PRESIDENT CLINTON NAMES ELISABETH A. BREESE AS ASSISTANT
SECRETARY FOR ENFORCEMENT AT THE DEPARTMENT OF TREASURY**

The President today announced his intent to nominate Elisabeth A. Breese to serve as Assistant Secretary for Enforcement at the Treasury Department.

Ms. Elisabeth A. Breese, of Cooperstown, New York, is currently the Deputy Assistant Secretary for Law Enforcement at the Treasury Department. She previously served as the Director of the White House Security Review and as an Assistant United States Attorney for the District of Columbia.

Ms. Breese received her B.S. *magna cum laude* from Ithaca College and her J.D. *cum laude* from Georgetown University Law Center.

The Assistant Secretary for Enforcement assists in the oversight of the United States Customs Service, United States Secret Service, Bureau of Alcohol, Tobacco, and Firearms, the Financial Crimes Enforcement Network, Federal Law Enforcement Training Center, and the Office of Foreign Assets Control.

30-30-30-

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Ellsabeth Alden Bresee
formerly: Ellsabeth B. Kappelhoff

2. Position to which nominated:

Assistant Secretary for Enforcement, Department of the Treasury

3. Date of nomination:

May 11, 1998

4. Address: (List current residence, office, and mailing addresses.)

Residence: 7310 Pinecastle Road
Falls Church, VA 22043

Office: Department of the Treasury
Office of Enforcement
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Mailing Address: Same as residence above

5. Date and place of birth:

Date of birth: September 9, 1961
Place of birth: Cooperstown, New York

6. Marital status: (Include maiden name of wife or husband's name.)

Divorced (Former husband Mark John Kappelhoff)

7. Names and ages of children:

No children

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Georgetown University Law Center, Washington, D.C. (1985-1988) J.D.
 Ithaca College, Ithaca, NY (1981-1984) B.S.
 University of Tampa, Tampa, FL (1979-1980)
 Oneonta High School, Oneonta, NY (1976-1979) H.S. Degree

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Department of the Treasury
 1500 Pennsylvania Ave., NW
 Washington, DC

Title: Deputy Assistant Secretary (Law Enforcement)
 Supervisor: Under Secretary Raymond W. Kelly
 Dates of Employment: October 1995 - Present

Title: Director, White House Security Review
 Dates of Employment: November 1994 - October 1995

U.S. Attorney's Office
 555 4th Street, NW
 Washington, DC

Title: Assistant U.S. Attorney
 Supervisor: Clifford Keenan
 Dates of Employment: December 1989 - November 1994

Williams & Connolly
 725 12th Street, NW
 Washington, DC

Title: Associate Attorney
 Supervisor: Gerald Feffer
 Dates of Employment: October 1988 - December 1989

Stepco & Johnson

1330 Connecticut Ave., NW
Washington, DC

Title: Summer Associate
Supervisor: Michael Kail
Dates of Employment: May 1987 - August 1987

U.S. Attorney's Office

J.W. McCormick, P.O. & Courthouse
Boston, MA

Title: Law Clerk
Supervisor: Mark Robinson
Dates of Employment: June 1986 - August 1986

Temporary Agency

Boston, MA

Title: Temporary clerical assignments (while awaiting
Background check from the U.S. Attorney's
Office, Boston, MA)

Dates of Employment: June 1986

American Arbitration Association

133 Federal Street, 10th Floor

Boston, MA

Title: Tribunal Administrator
Supervisor: Christine Newhall, Regional Vice President
Dates of Employment: October 1984 - July 1985

International Weekends

Boston, MA

Title: Administrative Assistant
Dates of Employment: September 1984 - October 1984

Jordan Marsh Department Store

Boston, MA

Title: Management trainee
Dates of Employment: August 1984 - September 1984

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

None, other than those listed above

11. **Business relationships:** (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None, other than those listed above

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

None

13. **Political affiliations and activities:**

a. List all public offices for which you have been a candidate.

None

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Virginia Democratic Party - approximately \$100 in approximately 1993-1994

14. **Honors and Awards:** (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

**Emerson Foundation Honors Scholarship - Ithaca College
Delta Mu Delta - Business Honors Society - Ithaca College
Phi Kappa Phi - Honors Society - Ithaca College**

15. **Published writings:** (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

Georgetown Law Journal, Criminal Procedure Project; Prosecutorial Discretion, 75 Geo. L.J. 859-869 (February 1987)

16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

Enclosed.

17. **Qualifications:** (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I was appointed as Deputy Assistant Secretary (Law Enforcement) by Secretary Robert E. Rubin on October 15, 1995. In that position, I have assisted the Under Secretary and the Assistant Secretary for Enforcement in their oversight responsibilities of Treasury's law enforcement bureaus. As the Principal Deputy Assistant Secretary for Enforcement, I act for the Assistant Secretary and the Under Secretary when they are absent. I also carried out the duties of both positions prior to the confirmation of the current incumbents. I started with the Treasury Department in November 1994, when I served first as an Assistant Director and then as the Director of the White House Security Review, which assessed security at the White House Complex in the aftermath of the plane crash and the assault-weapon shooting incident.

Prior to joining Treasury, I served as an Assistant United States Attorney for the District of Columbia for five years. In that position, I prosecuted numerous cases in both Superior Court and Federal District Court for the District of Columbia. I also argued appellate cases in the Federal and local Appellate Courts. I received my law degree from Georgetown University Law Center with honors. After graduating from law school, I worked as an Associate Attorney with the law firm of Williams & Connolly.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Not applicable

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

If I should become aware of the potential for a conflict of interest to arise, I will consult promptly with Treasury's ethics officials.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Yes - uncontested divorce

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

PREPARED STATEMENT OF JAMES E. JOHNSON

Mr. Chairman, Senator Moynihan, and members of the Committee: I am honored to appear before you today as you consider my nomination to be Under Secretary of the Treasury for Enforcement.

At the outset, I wish to thank Secretary Rubin both for recommending me to the President and for his support during the last two years. I thank President Clinton for my nomination.

On a personal note, I would like to recognize my family: My wife, Sigrid Gabler; one of our two daughters, Abigail (at five months, Amalya is not quite ready for such a gathering); and my mother, Birdie Johnson. It is as a result of the continued support of my family and friends—many of whom are here—that I sit before you again this morning.

First, I would like to tell you a bit about my professional background. From 1990 to 1996, I served as an Assistant United States Attorney in the Southern District of New York. During the last two and one-half of those years, I was privileged to serve as a Deputy Chief of the Criminal Division under United States Attorney Mary Jo White. During my tenure as an Assistant U.S. Attorney, I personally prosecuted or supervised the prosecution of criminal cases brought by the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the United States Customs Service, and the Internal Revenue Service. For approximately four months, beginning in November of 1994, I was detailed by the Department of Justice to serve as Assistant Director of the Treasury Department's White House Security Review.

As you know, I began serving as the Treasury Department's Assistant Secretary for Enforcement in March of 1996. Since he joined the Department in June of that year, I have assisted Under Secretary Kelly in the oversight of the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms (ATF), the Federal Law Enforcement Training Center (FLETC), the Financial Crimes Enforcement Network (FinCEN), and the Office of Foreign Assets Control (OFAC). Since June of 1996, I have also served as the co-chair of the National Church Arson Task Force, which was created by President Clinton to coordinate the federal law enforcement response to church fires.

During these last two years, I have had the privilege of working with an array of talented and dedicated individuals. Starting from the top, I would like to take this opportunity to acknowledge my colleagues, Under Secretary for Enforcement, Raymond W. Kelly, and Deputy Assistant Secretary, Elisabeth A. Bresee, who are also here before you today. I look forward to continuing to work with them as members of Treasury's team. I also wish to extend my compliments to the heads of Treasury's law enforcement bureaus; they are exemplary public servants and are a source of tremendous strength for the Department. Indeed, during my tenure as Assistant Secretary, I have consistently observed that the commitment and professionalism demonstrated by the men and women of our bureaus are nothing less than impressive. If confirmed as Under Secretary, I look forward to the privilege of heading this gifted team.

The range of issues handled by Treasury's law enforcement bureaus and the Department's Office of Enforcement is broad: From the Secret Service's protection of the American president to OFAC's enforcement of economic sanctions; from Customs' protection of our borders to FLETC's training of the majority of federal law enforcement officials; and from ATF's work on the President's Youth Crime Gun Interdiction Initiative to FinCEN's continued efforts to build a regulatory regime that will curtail the laundering of the illicit proceeds of crime. The reach of these bureaus, and our ability to work together for good in the life of this Nation, is tremendous.

This breadth of responsibility provides both opportunity as well as challenge. As Assistant Secretary, under the leadership of Secretary Rubin and Under Secretary Kelly, I have had the honor of helping to design, develop and implement policies aimed at advancing the missions of Treasury's law enforcement bureaus. As Under Secretary, I look forward to moving forward with our enforcement agencies as they carry out these missions. I look forward to working with each as it shapes a strategy that will carry it into the 21st Century and expect to work closely with the Congress as we carry this work forward.

While the challenges before us are considerable, I believe that Treasury law enforcement personnel have consistently demonstrated the capacity to meet those challenges. As Under Secretary, I look forward to continuing in that tradition and to maintaining the high standards of oversight practiced at the Department of the Treasury.

Thank you.

The White House,

MAY 11 1998

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To the

Senate, of the United States.

I nominate

James E. Johnson, of New Jersey, to

be Under Secretary of the Treasury for Enforcement, vice

Raymond W. Kelly.

William J. Clinton

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 8, 1998

**PRESIDENT CLINTON NAMES JAMES E. JOHNSON AS
UNDER SECRETARY FOR ENFORCEMENT AT THE DEPARTMENT OF
TREASURY**

The President today announced his intent to nominate James E. Johnson to serve as Under Secretary for Enforcement at the Treasury Department.

Mr. James E. Johnson, of Montclair, New Jersey, is currently the Assistant Secretary for Enforcement at the Treasury Department. He previously served as the Deputy Chief of the Criminal Division in the United States Attorney's Office for the Southern District of New York, where he also served as an Assistant United States Attorney. Mr. Johnson served as Assistant Director of the White House Security Review, the most comprehensive review of White House security ever undertaken. He is the Co-Chair of the National Church Arson Task Force, which was created by the President to coordinate the federal law enforcement investigation of church fires.

Mr. Johnson received his B.A. cum laude from Harvard College and his J.D. cum laude from Harvard Law School.

The Treasury Under Secretary for Enforcement has line authority over the United States Customs Service, United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center and the Office of Foreign Assets Control.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

James E. Johnson

2. Position to which nominated:

Under Secretary of the Treasury for Enforcement

3. Date of nomination:

May 11, 1998

4. Address: (List current residence, office, and mailing addresses.)

Residence:

4708 17th Street, N.W., Washington, D.C. 20011

Office:

United States Department of the Treasury

1500 Pennsylvania Avenue

Washington, D.C. 20220

5. Date and place of birth:

December 29, 1960, Montclair, New Jersey

6. Marital status: (Include maiden name of wife or husband's name.)

Married: Sigrid Carrie Gabler

7. Names and ages of children:

Abigail Michelle Johnson, b. 5/27/93

Amalya Cox Johnson, b. 1/1/98

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

High School: Montclair Kimberley Academy, Montclair, NJ
September 1974 through June 1979
H.S. diploma, *cum laude*

College: Harvard College, Cambridge, MA
September 1979 through June 1983
A.B., *cum laude*, awarded June 1983

Law School: Harvard University Law School, Cambridge, MA
August 1983 through June 1986
J.D., *cum laude*, awarded June 1986

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Higher Achievement Program, Washington, D.C., Summer 1983.

Summer Associate: McCarter & English, Newark, NJ, Summer 1984.

Pre-law Advisor, Leverett House, Harvard College, Cambridge, MA
August 1983 through June 1987.

Research Assistant for Professor Christopher Edley, Harvard Law School,
Cambridge, MA, January through May, 1985.

Student attorney, Harvard Legal Aid Bureau, 1511 Massachusetts Avenue,
Cambridge, MA, February 1985 through March 1986.

Summer Associate: Debevoise & Plimpton, New York, NY, Summer 1985.

Summer Associate: Bingham Dana and Gould, Boston, MA, Summer 1986.

Law Clerk: Chambers of the Honorable Robert E. Keeton, United States District
Judge, Boston, MA, Approximately August 1986 through August 1987.

Associate: Debevoise & Plimpton, 875 Third Avenue, New York, NY 10022
 Approximately October 1987 through February 1990.

Assistant United States Attorney: United States Attorney's Office, One St. Andrew's Plaza, New York, NY, 10007, March 1990 through March 1996.
Deputy Chief of the Criminal Division, August 1993 through March 1996.
Detailed to the Department of the Treasury as Assistant Director of the White House Security Review, November 1994 through March 1995.

Assistant Secretary of the Treasury: United States Department of the Treasury, 1500 Pennsylvania Avenue, Washington, D.C. 20220. March 1996 through present.

10. **Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)**

None other than listed above.

11. **Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)**

Director, 128 6th Avenue Housing Corporation, 128 6th Avenue, Brooklyn, NY, 11217. June 1990 through July 1997. Treasurer of the Corporation approx. April 1995 through April 1996.

12. **Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)**

Association of the Bar of the City of New York (1987 - 1996);
Practicing Attorneys for Law Students (1988-1996);
Riverside Church, New York, NY (1989-1996);
Association of African American Harvard Alumni (1993-present) (inactive);
Harvard Radcliffe 1983 Class Committee, First Marshal, (1983 - present)

13. **Political affiliations and activities:**

a. **List all public offices for which you have been a candidate.**

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

None.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Commendation from National Council of Churches for work with the National Church Arson Task Force.

United States Department of Justice, Outstanding Achievement Award.

United States Attorney's Office, Exceptional Performance Award.

Commendation from FBI Director William Sessions for prosecution of U.S. v. Flete.

Commendation from FBI Director Louis Freeh for prosecution of US v. Santobello.

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

Johnson, Recent Publication: School Desegregation Plans That Work, 20 Civil Rights-Civil Liberties Law Review 545 (1985)

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

- June 18, 1996, Remarks, FinCEN Awards Ceremony
- c. August 1996, Address, National Black Prosecutors Association Speech. I spoke from rough notes which have not been transcribed. Topic: Church Arsons
- October 29, 1996, ABA/ABA Money Laundering Seminar. Topic: Money laundering initiatives.
- c. November 1996, Address, National Council of Churches, spoke from rough

notes which have not been transcribed. Topic: Church Arsons.

- c. January 1997, informal talk, Yale Law School, spoke from rough notes. Topic: Church Arsons.
- March 21, 1996, Remarks at Mock Hearing "Retention of the Assault Weapons Ban."
- February 24, 1997, Remarks, Customs Diversity Event.
- June 8, 1997, Address on One Year Report to President of National Church Arson Task Force.
- July 15, 1997, Remarks before National Association of Black Customs Agents.
- February 19, 1998, Remarks at US Customs Service Black History Month Presentation.
- February 23, 1998, Remarks during FLETC Black History Month Celebration.
- February 21, 1998, Remarks, Dale City Multicultural Awards and Scholarship Banquet.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

The position of Under Secretary of the Treasury has tremendous scope, requiring expertise in federal law enforcement policy, practical familiarity with law enforcement operations, knowledge of and sensitivity to trade issues, management acumen and, finally, a balanced touch with respect to oversight of the enforcement bureaus. By virtue of my training and experience, I am well suited for the job.

For all but two and a half years of my career, I served as either judicial law clerk, a prosecutor, or a senior law enforcement official in the Treasury Department. During that time, I have come to know well the policy, administrative and practical challenges facing the enforcement bureaus over which the Office of the Under Secretary for Enforcement has oversight. As a litigation associate in a large law firm, I represented clients in cases involving petty crime, civil suits alleging law enforcement abuse and investigations of alleged securities fraud. This experience has balanced my view of law enforcement.

My knowledge of the Treasury enforcement bureaus, developed as a prosecutor, has been broadened and deepened over the years as I have helped the Department work through a variety of challenging issues, including the White House Security Review, the Good O Boys Roundups, and the Church Fires Investigations.

As Assistant Secretary for more than two years, I have either personally managed or assisted in the management of many of the most pressing issues facing Treasury Enforcement. As co-chair of the National Church Arson Task Force, I have worked with my Justice Department counterpart to oversee a successful series of investigations in which our investigators have been often applauded for their ability to investigate aggressively, yet with sensitivity to the victims of the crimes. I have been one of the principal officials responsible for coordinating the development of the

Administration's international anti-money laundering efforts pursuant to Presidential Decision Directive 42 and have served as the Department's representative on the US-Mexico High Level Contact Group against Narcotics. As the senior official with direct oversight over the Office of Foreign Assets Control and chair of the Treasury Department's working group on sanctions, I have become familiar with the challenges of sanctions policy. As chair of Customs' Commercial Operation Advisory Committee, I have acquired a greater facility with issues important to the trade community and have been credited with revitalizing the work of the committee.

Finally, in the last two years, I have developed skills and relationships that will help me exercise appropriate oversight and act as an advocate for Treasury enforcement bureaus. I believe that I will have the confidence of the men and women of Treasury Enforcement and hope to have that of the Senate.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

I am currently employed by the Department of the Treasury. I have no associations with any business firms, associations or organizations.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

If I should become aware of the potential for a conflict of interest to arise, I will consult promptly with Treasury's ethics officials.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed

(including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

PREPARED STATEMENT OF RAYMOND W. KELLY

Mr. Chairman, Senator Moynihan. The last time I appeared before the Senate Finance Committee for a confirmation hearing it was as the nominee for Under Secretary of the Treasury for Enforcement. I had come to the post with some familiarity with Treasury's enforcement bureaus, having worked with them during my career in the New York City Police Department.

That relationship, obviously, has become much closer since coming to Treasury. My tenure as Under Secretary has given me a greater appreciation for both the ability and the potential of the Bureau of Alcohol, Tobacco and Firearms, for the Secret Service and for the Customs Service, as well as the other arms of Treasury enforcement.

It has also reinforced for me the importance of cooperation among Federal and local law enforcement generally, and between the Treasury and Justice Departments in particular. There will always be a healthy spirit of competition among the best practitioners of law enforcement. But in the interest of public safety, we must set the rivalries aside and work toward a common end. That has happened between the Treasury and Justice Departments in recent arson and bombing investigations, in counter narcotics efforts, in airline safety, and a whole host of ways that has made for better law enforcement. I encouraged that kind of cooperation at the Treasury Department, and I will continue, given the opportunity to do so, at the Customs Service.

The Customs Service is the nation's oldest law enforcement arm. And it remains, first and foremost, just that—a law enforcement agency. But much has changed in two centuries—not the least of which is America's emergence as the world's economic giant, with trade and commerce relationships the world over. America's wealth, and the opportunity that wealth has afforded millions of Americans, is inextricably linked to the free flow of goods and services across borders.

The Customs Service has worked closely with the trade community. I want to strengthen the relationship. I want to make it even closer. It is essential for both the free flow of trade and our enforcement mission. There has been progress. But we can do more. I want to improve the information flow between us, and work out any glitches in the modernization process that may have impeded us in the past. The Customs Service is duty-bound to stop drug dealers, illegal arms merchants and others who traffic in death and addiction for profit. The sheer volume of modern trade makes the inspection of every item entering the United States impossible. We can't do it, and we wouldn't want to even if we could. We need the trade industry's cooperation, and the Customs Service needs to cooperate with it. The Customs Service must also continue to invest in technology—such as advances in x-rays and other means of inspection to do what human eyes and hands cannot do alone.

The Customs Service, at its core, must be vigilant. We have seen criminal organizations, particularly in narcotics, put entire societies at risk by assaulting and corrupting law enforcement, by manipulating financial systems, and by undermining democratic institutions. It is unimaginable for the same thing to happen in the United States. But one of law enforcement's responsibilities is to plan for unimaginable things; to pursue wrongdoers so the unimaginable remains unimaginable.

The Customs Service needs to stay ahead of the technological curve—the same technology that organized crime is eager to exploit. The drug cartels would prefer to move their profits as data over fiber optic highways instead of cash over interstate highways. We seize a lot of their money that way. Customs has done some remarkable work in stopping the cartel's latest money laundering activity. Operations Wire Drill, El Dorado and Casablanca were great successes in taking down some of the underworld's most sophisticated money laundering schemes. That kind of good, effective law enforcement needs to continue and expand as criminal organizations seek new ways to move their ill-gotten gains.

I want to compliment the fine men and women of the Customs Service. I look forward to working with these professionals on a daily basis. The Customs Service has done very good law enforcement work. But it can do it better. It can do better by recruiting the best candidates possible for agents and inspectors; by improving training; by investing in and deploying the best technology available, and by building the strongest alliances possible with the trade community.

Above all, the Customs Service must be persistent. It must be dogged in its determination to bring smugglers and other law breakers to justice. That really is the secret to the success of American enforcement—persistence. We persist. We spend resources in persisting. We provide for a peerless criminal justice system that guarantees everything from a fair trial to humane prison conditions. We tend to spend the money to do it right. We stay the course. That combination of resources and

commitment puts law breakers in considerable peril. Criminals in America who are not caught in the act, tend to be caught sometime thereafter.

The fate of any criminal who tries to defeat the Customs Service should be captured—sooner or later. I envision the Customs Service—at its best—as ever vigilant and doggedly persistent. I see the Customs Service making drug smuggling, arms trafficking and money laundering the riskiest of high risk activities, prone to frequent and spectacular failure.

Given the opportunity, I will work very hard to make it so. My professional career has been devoted to law enforcement. I am, therefore, privileged to be nominated as Customs Commissioner and want to publicly thank President Clinton and Secretary Rubin for their confidence in me to take on this important new role. I am happy to answer any questions the Committee may have.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 8, 1993

PRESIDENT CLINTON NAMES RAYMOND W. KELLY AS COMMISSIONER OF THE UNITED STATES CUSTOMS SERVICE

The President today announced his intent to nominate Raymond W. Kelly to serve as Commissioner of the United States Customs Service.

Mr. Raymond Kelly, of New York, New York, is currently the Under Secretary for Enforcement at the Treasury Department. He previously served as the New York City Police Commissioner after rising through the ranks where he served in every rank and held 25 commands. Mr. Kelly also served in Haiti as Director of the International Police Monitors of the Multinational Force helping to establish Haiti's interim public security force. In October 1997, Mr. Kelly was elected Vice President of the Americans for INTERPOL.

Mr. Kelly received his B.A. from Manhattan College, his master's degree in Public Administration from the Kennedy School of Government at Harvard University and law degrees from St. John's University and New York University.

The Commissioner of the U.S. Customs Service established policy and supervises all activities of its nearly 20,000 agents and inspectors. Founded in 1789, the Customs Service is the oldest, federal law enforcement agency and is responsible for ensuring that all imports and exports comply with U.S. laws and regulations.

30-30-30

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Raymond W. Kelly

2. Position to which nominated:

Commissioner, U.S. Customs Service

3. Date of nomination:

May 11, 1998

4. Address: (List current residence, office, and mailing addresses.)

**Residence: 801 Pennsylvania Avenue, NW, #PH10
Washington, DC 20004**

**Office: Department of the Treasury
Office of Enforcement
1500 Pennsylvania Avenue, NW
Washington, DC 20220**

**Mailing Address: 375 So. End Avenue
New York, NY 10280**

5. Date and place of birth:

**September 4, 1941
New York, New York**

6. Marital status: (Include maiden name of wife or husband's name.)

Married to Veronica C. Kelly (maiden name - Clarke)

7. Names and ages of children:

James F. Kelly, age 31
Gregory R. Kelly, age 29

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Harvard University, Kennedy School, September 1983 - June 1984,
MPA degree received June 1984

NYU Graduate School of Law, September 1971 - June 1974,
LLM degree received June 1974

St. John's University School of Law, September 1967 - June 1971,
JD degree received June 1971

Manhattan College, September 1959 - June 1963,
BBA degree received June 1963

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Department of the Treasury
Under Secretary for Enforcement
Washington, DC 20220
July 1996 - Present

The Investigative Group, Inc.* (a company that specializes in litigation support and due diligence investigations for the legal community)
President
New York, New York 10017
Employer: Terry Lenzner
July 1994 - April 1996

***Pursuant to a contract with the U.S. Department of State, functioned as the monitor of the Interim Haitian Police Force while a new police force was being recruited and trained.**

New York University
The Wagner School
New York, New York 10003
Employer: Robert Blerne
January 1994 - July 1994

New York City Police Department

Police Officer-Patrol Officer,
 Sergeant-Patrol Supervisor,
 Lieutenant-Patrol Supervisor/Legal Advisor,
 Captain-Precinct Commander,
 1984 - Deputy Inspector, Precinct Commander,
 Inspector-Commanding of Management Analysis and Planning Unit,
 1987 - Deputy Chief-Commander of Management Analysis and
 Planning Unit
 Assistant Chief, Commander of Special Operations Division,
 First Deputy Commissioner-Second in Command of NYC Police Dept.
 Police Commissioner Chief of NYC Police Dept. Retired January 8, 1994
 New York, New York 10037
 Employer: Mayor David N. Dinkins
 November 1961 - January 1994

United States Marine Corps

Active Duty 1963-1966 Platoon Commander and Artillery Officer,
 Camp Pendleton California and Republic of Vietnam.
 Member of the United States Marine Corps Reserve from 1966
 until retirement in June 1993 with rank of Colonel.
 December 1931 - June 1993

Seigel, Kelly, McAllister and Twomey

Part-time law practice
 Mineola, NY - Firm went out of business in 1981
 1979-1981

New York Daily News

Part-time columnist
 1994-1995

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

Other than above, I was a consultant to the City of Omaha, Nebraska concerning the negotiation of a collective bargaining agreement with its police force from 4/94 to 9/94

In May 1995 I was appointed to a position on an oversight committee of the New York City Police Department's Internal Investigations by the NYC Council. However, that committee was the subject of litigation and never began to function.

11. **Business relationships:** (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None, other than those listed for Question 9

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

**Member, Marine Corps Reserve Officer's Association
Member, Nassau County Bar Association
Member, International Association of Chiefs of Police
Board Member, National Center for Missing and Exploited Children
Board Member, Futures In Education
Board Member, Goods for Guns
Board Member, Center for Employment Opportunities
Advisory Board Member, Foundation for a Civil Society
Vice President for the Americas, Interpol**

13. **Political affiliations and activities:**

- a. List all public offices for which you have been a candidate.

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Financial contribution in the amount of \$100 to the reelection campaign of Gov. Mario Cuomo, September 1994

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Awarded Mayor's trophy for graduating first in NYC Policy Academy class out of a class of 1800. (1967)

Awarded Police Foundation scholarship to Harvard University in 1983.

Received 15 awards for meritorious service while member of the New York City Policy Department.

Law Enforcement Executive of the Year, NY State (1993)

Meritorious award from President Clinton for service in Haiti

Commander's Medal for Public Service by Chairman of Joint Chiefs of Staff (March 1995)

Honorary degree awarded by Marist College (May 1995)

Honorary degree awarded by Manhattan College in 1996

Honorary degree awarded by College of St. Rose in 1997

Honorary degree awarded by St. John's University in 1998

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

Articles

Haitian Diary - *NY Times*, April 2, 1995

The following *NY Daily News* articles:

How to Prevent the Bigots from Becoming Cops, 10/11/95

Kelly Clears Air of Safety Issue, 08/25/95

Why the NYPD Blue it in DC, 05/25/95

Burglaries Down but Not Out, 05/22/94

Kidnap Victim passes Test of Courage, 08/21/94

When a Cop gets Killed, a Bit of Blue Dies, 3/20/94

Time to Trust New Plan for Policing Cops, 7/17/94

Gangs Don't Reign in this City, 4/17/94

Twin Towers of World Trade Center Probe, 3/06/94

16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two copies** of each formal speech.)
- 2 copies of the following speeches enclosed:**
1. **Statement before the House Committee on Appropriations, Subcommittee on Treasury, Postal Service and General Government - February 25, 1997**
 2. **Testimony before the House Subcommittee on General Oversight and Investigations, Committee on Banking and Financial Services - March 11, 1997**
 3. **Testimony before the Caucus on International Narcotics Control, U.S. Senate - May 14, 1997**
 4. **ABA Speech - November 5, 1997**
17. **Qualifications:** (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My professional life has consisted of a number of challenging positions with increasing responsibility in the law enforcement field culminating in my being the Chief Executive Officer of the largest law enforcement organization in the United States. During the past two years I have had oversight responsibility for the U.S. Customs Service and am now being nominated for the position of Commissioner of the Customs Service.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.
Not applicable
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.
No
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.
No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

If I should become aware of the potential for a conflict of interest to arise, I will consult promptly with Treasury's ethics officials.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

RESPONSES TO QUESTIONS SUBMITTED BY CHAIRMAN ROTH

Question 1: How do you plan to meet the challenge of increasing interdiction programs while improving Customs' commercial operations under current fiscal restraints?

Answer: First, Customs should continue its work with the trade community to improve voluntary compliance with trade laws. High compliance by legitimate traders allows Customs to shift the focus of its limited resources to high-risk, non-compliant operators. Another way to say this is that effective enforcement and facilitation are not competing objectives. Facilitation—for compliant operators—is the natural outcome of effective enforcement that is targeted to non-compliant operators. The improved compliance we seek can be achieved through the efforts of importers, exporters, and carriers to exercise reasonable care to assure that information filed with Customs is accurate and complete, and that commercial cargo and carriers are not exploited to conceal shipments of drugs and other contraband.

Second, Customs must make the most effective use of the resources it has and use those resources, such as non-intrusive examination technology and automated systems, to expedite the flow of legitimate trade.

Question 2: How will Customs communicate resource allocation decisions to industry, particularly as they affect the assignment or reassignment of inspectors?

Answer: Very often decisions to change staffing levels at ports are made in response to requests from the local trade community presented at meetings with local Customs officials. The reorganization of Customs a few years ago was intended to give Customs officials at the port level greater discretion to respond to local conditions, and much of the communication with the trade occurs, and should occur, at the local level.

However, there may also be adjustments in staffing levels in response to information about patterns of drug smuggling and other illegal activities, and Customs may not always be free to publicize these changes. Because of my concerns that Customs does not have a staffing allocation model that permits it to identify staffing requirements at a particular port to implement its mission effectively, I have worked with Customs to develop a request for proposals to develop such a staffing model. That contract has been let and should be completed within the next several months. Once we have that information, it will permit Customs to make better decisions on staffing.

Question 3: What is Customs' time line for completing key current automation projects and initiating new programming to automate functions currently performed manually (in-bond, foreign-trade zone, vessel entry and clearance, etc.)?

Answer: The answer to that question is heavily dependent on budget resources available to Customs. I shall be pleased to provide you with time lines based on various budget assumptions.

Question 4: What processes will you implement to assure systems development reflects industry practice and is useful to both the federal government and the international trade community?

Answer: Communication with the trade community is the key element to assuring that systems development reflects industry practice and is useful. Treasury and Customs already have a number of formal and informal means for communicating with the trade community, including the Treasury Advisory Committee on Customs Commercial Operations, which was originally created by the Finance Committee about a decade ago.

More specifically, the Office of Enforcement at Treasury has been actively engaged in development of an International Trade Data System that will allow the trade community to satisfy the data needs of all government agencies with a standard set of data transmitted electronically, rather than having separate reports to multiple agencies as is now required. Moreover, to the extent possible the data used by the International Trade Data System will be commercial data, created by the trade community for its own uses.

Question 5: How will you co-ordinate these efforts with the trade to ensure private businesses can make their resource decisions regarding automated systems development?

Answer: As I mentioned, regular communication and consultation with the trade community is key to assuring that systems development within government proceeds in a direction that is compatible with work underway in the private sector. In addition, Customs must be able to deliver new automated systems on schedule, so that private businesses can make intelligent decisions about the timing of their own investments in systems upgrades. I hope to be able to work closely with the business community, and with Congress, to assure that Customs has the resources needed to complete its automated systems development according to plan.

Question 6: What compliance measurements will Customs use to determine that enforcement and interdiction efforts are working and are not resulting in cargo and vessel delays?

Answer: Customs has for about the last three years been using a system of random examinations to measure compliance and to validate selectivity criteria in its automated risk assessment system. As results of this compliance measurement system accumulate, Customs will use this data base to adjust targeting criteria to focus enforcement and interdiction efforts on high-risk, low-compliance operators. This will minimize unnecessary delays for highly-compliant operators.

Question 7: Should Customs follow the decisions of the courts interpreting U.S. customs law?

Answer: Customs should and does follow the decisions of courts, as should any other agency of the Executive Branch.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR CONRAD

Question: The Customs Modernization Act was enacted into law on December 8, 1993. It provides for simplified automated entry procedures to enhance enforcement and facilitate trade. The Mod-Act emphasizes the need for recordkeeping in order to verify post-entry compliance. At this time Customs is engaged in a major rulemaking in connection with the law.

There is a concern that this much-delayed rulemaking may impose burdensome and costly requirements which will do little to attain the Mod-Act's enforcement objectives.* It will also impede trade in high value, low volume express shipments.

We would ask that you assess these matters and report back to us on when the rulemaking will be completed, as well as what steps are being taken to make certain that recordkeeping requirements enhance the flow of trade while at the same time meet enforcement objectives.

Answer: The Customs Service has consulted with the trade on all proposed regulatory packages implementing the Mod-Act. The recordkeeping proposal was posted on the Customs Electronic Bulletin Board and published in the Federal Register for public comment. The final rule, which was published in the June 16, 1998 Federal Register takes into account many of the trade's concerns about recordkeeping procedures, and attempts to reduce those burdens.

For example, the original recordkeeping proposal would have treated all parties equally and required that all records relating to importations be kept for the full five-year period permitted by the law. The final adopted rule distinguishes records by the nature of the role played by the party and the importance of the record so that:

- packing lists need be retained for only 60 days from the end of the release or conditional release period or 60 days from the redelivery date;
- a consignee who is not the owner or purchaser and who appoints a customs broker is required to keep records pertaining to informal entries for only 2 years;
- records pertaining to certain articles admitted free of duty and tax, and carriers' records pertaining to manifested cargo that is exempt from entry, are required to be kept for only 2 years from the date of entry or other activity requiring the record.

In addition, although the original proposal required Customs' approval to convert original records to alternative methods of storage, and required those who choose to convert to an alternative storage method to keep original records for a full year, the final rules require only that Customs be notified of the conversion to alternative methods of storage and that original records (in the form received by the recordkeeper, whether paper or electronic) be kept for 120 calendar days from the end of the release or conditional release period or from the redelivery date, unless goods are under detention, seizure, court proceeding, or investigation.

Customs expects to have the remaining Mod-Act regulations published in proposed or final form by the Fall of 1998, except for automated procedures that require testing and evaluation before the procedures may be implemented on a permanent basis.

*The notices published by Customs indicate that while the agency advocates modernization, the rules would have the opposite effect. For example, it would require records to be maintained for the first year on paper. For many carriers this means many records presently kept electronically would have to be converted to paper for one year in order to be compliant.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

Question 1: Mr. Kelly, I am concerned that new advances in digital imaging technology have made it far more difficult for law enforcement to root out child pornographers, and that we need to redouble our efforts to protect America's youth from this horrible crime. As you may know, the FBI Director has indicated in a letter to me that the FBI has accumulated a large database of individuals who have sent child pornographic images to undercover agents, during the "Innocent Images" investigation. According to the FBI Director, only 455 of these people were being investigated as of April of 1998. I find this lack of commitment to investigating child pornography appalling. The Customs Service has jurisdiction to investigate certain types of child pornography, including the transmission and receipt of child pornography via computer networks. It is my understanding that the investigation of child pornography may not have received sufficient emphasis in recent years in the Customs Service. What steps will you take if confirmed, to ensure that computer child porn offenses are fully investigated and given a high priority within Customs Service priority enforcement programs?

Answer: Having spent my entire career in law enforcement, I know the importance of an aggressive investigative approach to criminals who target children. I can think of no more insidious criminals than those who engage in such abhorrent activities. As you know, the U.S. Customs Service has jurisdiction over smuggling activities. Internet-based child pornography, by its very nature, is predominantly an international smuggling activity. Most of the materials used in the production and distribution of child pornography as well as the pornography itself have traveled in foreign commerce. Since 1995, Customs has conducted undercover and special operations targeting individuals and businesses that use computers to transmit and receive international child pornography. These investigations have resulted in the arrest of more than 500 individuals in the United States. In Fiscal Year 1997, Customs' enforcement against child pornography on the Internet resulted in 173 arrests and 178 convictions. Long before the Internet, Customs was making child pornography cases against importers who tried to smuggle the material into the U.S. Since the Internet is a faster, cheaper and safer way for child pornographers to move their products, child pornographers have found it to be a preferred medium for carrying out their illicit activities. Customs created the Cyber Smuggling Center to combat this phenomenon. This Center coordinates and oversees all cyberspace-based international criminal investigations, including child pornography and child exploitation. Because of the international movement of pornographic materials, each of Customs' 135 national and international offices has at least one investigator trained to identify and develop child pornography cases. Customs has trained police officers, judges, border guards and prosecutors in child exploitation. This training has generated numerous electronic leads between U.S. Customs and its counterparts all over the world. I believe Customs can and should do more in the area of child pornography. One of the limiting factors is resources. I assure you that I will make the enforcement of child pornography laws one of my highest priorities at the Customs Service. Furthermore, I will do everything I can to secure appropriate resources in future budgets for Customs to attack those who prey on innocent children.

* * *

In addition to drug interdiction, another high priority for the U.S. Customs Service is addressing illegal transshipment of textile products subject to quotas under the U.S. Textile Quota Program. It is my understanding that the primary focus of Customs' activities on this front is new entry requirements for textile and apparel products. Specifically, importers are being required to present large volumes of production documents obtained from their foreign manufacturers, which Customs officials then review and decide whether sufficient information has been provided to prove the origin of the merchandise. This review process, in many cases, takes weeks and even months to complete, during which the importer cannot get access to their goods. I also understand that this policy of requiring the presentation of the production documents and completing the review before release of the merchandise applies without regard to whether the importer has successfully undergone a Customs compliance assessment of its anti-transshipment program. Customs has apparently conducted a significant number of these types of assessments, and a number of companies were deemed to have good anti-transshipment compliance programs. I, therefore, have several questions about this.

Question 1: It seems that Customs' strategic mission in this area is focused on enforcement solutions, with little being done to promote prevention and to reward those companies that have undertaken programs to prevent illegal transshipment. Why doesn't Customs distinguish between those importers who have strong compli-

ance programs and those that do not? Wouldn't this result in a more efficient and effective allocation of enforcement resources and encourage more importers to invest in compliance programs?

Answer: Customs does recognize and reward the efforts of individual companies that have strong compliance programs. For example, Customs substantially mitigates penalties for companies that are found to have imported transshipped textile products if those companies have strong compliance programs in place, on the ground that those companies have exercised due diligence and reasonable care to avoid dealing in transshipped products. Although this more lenient treatment provides some incentive for companies to be compliant, the greatest incentive for a company to invest in a strong compliance program is that it greatly reduces the likelihood that the company will be stuck with a shipment of illegal goods that can't be imported.

However, no company's compliance program is foolproof. Therefore, while Customs can take a company's compliance history into account in deciding what and how much to examine, it cannot simply bypass a company's imports without examination. A key vulnerability in any company's compliance program is its dependence on the accuracy and authenticity of export licenses, or visas, issued by foreign governments. Even an importer who appears to have a strong compliance program can be guilty of presenting a fraudulent visa.

Question 2: I understand that textile and apparel imports account for about 20 percent of the total imports each year, but for some one-third of the time of Customs officials at the ports. What is the reason for the disproportionate amount of time spent on textiles and apparels? What actions are being taken to quickly automate and streamline the entry process for this sector?

Answer: Textile and apparel goods are subject to absolute quotas, and like other imports that are subject to quotas they require more time and effort both from Customs and from importers. Textile and apparel imports are a special case because they are traded under bilateral agreements with the exporting countries. Under these agreements, an exporting country provides an export license, or visa, to certify that goods have been manufactured in that country, have been approved for export to the U.S., and may be charged against that country's quota allocation. Customs officers must spend some time to verify that visas are authentic. Finally, because the textile quota system operates under bilateral agreements that allocate quotas to individual countries, rather than under a universal quota, Customs officers must be on the lookout for transshipment, that is, goods produced in one country and misrepresented as being from another country.

Customs tries to administer this quota system as efficiently as possible. In order to streamline the processing of visas and reduce the potential for fraud Customs has been working with exporting countries to institute electronic visa verification systems. But textile and apparel imports will always require a disproportionate amount of time and effort.

Question 3: Since 1996 the Customs Service has published the names of foreign entities against which Section 592 penalties have been made for violations related to textile quota merchandise. Once a company's name appears on that list, U.S. importers buying goods from a named company are required to exercise a higher degree of reasonable care to ensure that the origin of the merchandise is correctly identified. However, one of the complaints I have been hearing about that list is that it tells the importer too little. It gives the name and address of the foreign entity but no information on the data or subject of the violation. As a matter of informed compliance, is there other information that could be provided to U.S. companies to assist them in deciding whether to do business with an entity on the list?

Answer: Customs' efforts to promote informed compliance through disclosure of information about violations must be balanced against other objectives and concerns. Information cannot be provided on a case that is under investigation until the investigation is completed. At that point Customs has more and better information that can be published to guide the trade. Although there has been interest expressed in having Customs publish the names of companies suspected of transshipment and other violations, Customs has declined to do so until those suspicions have been confirmed.

RESPONSES TO QUESTIONS SUBMITTED BY SENATOR CHAFEE

Question 1: The Customs Service is a vital organization that serves a key function within our government. While Customs has significant drug interdiction responsibilities, I hope that as Commissioner you also will ensure that the agency's traditional focus—trade matters—is not left behind. If our firms are to compete in the global economy, we must have a Customs Service that is dedicated to the enforcement of our trade laws. I would appreciate any comments you might have in response.

Answer: I fully recognize the importance of Customs' revenue collection and trade enforcement missions. As you note, these are historically the core missions of the Customs Service, and I look forward to working with the Finance Committee on improving Customs' performance of these traditional missions. If you look at our budget requests for the last few years, and at reforms we have and are undertaking within Customs, you will see the importance we attach to revenue collection and trade law enforcement.

As a specific example, three years ago Customs implemented a compliance measurement system that uses statistically valid random examinations to measure compliance with revenue and trade laws, and to illuminate areas where compliance is low. A reliable compliance measurement system is a powerful enforcement tool for Customs. It also provides an accurate means for Congress to judge Customs' effectiveness, and for the trade community to become informed about compliance problems.

Additionally, over the next few years we are planning on making a major investment to complete a re-design of Customs' automated commercial systems, not only to enable Customs to adopt modern business practices in its dealing with the trade, but also to improve Customs' enforcement effectiveness. Treasury is also taking the lead in building an International Trade Data System for the government, which will improve links among data bases of many agencies of government, including Customs, that have responsibilities for regulating different aspects of international trade. Naturally, these are complex and difficult tasks. I am hopeful that we shall have the advice and support of the Finance Committee as we deal with them.

Question 2: Customs has been in the process of implementing the Customs Modernization Act, which Congress enacted as part of the NAFTA implementing legislation in December 1993. Modernization of Customs procedures is a goal that all of us share. However, I have been made aware of concerns that certain recordkeeping requirements under consideration could have the effect of imposing significant burdensome companies without enhancing the flow of trade. Will you, as Commissioner, work to ensure that requirements implemented pursuant to the Customs Mod Act are reasonable and have the effect of promoting trade?

Answer: The Customs Service has consulted with the trade on all proposed regulatory packages implementing the Mod-Act. The recordkeeping proposal was posted on the Customs Electronic Bulletin Board and published in the Federal Register for public comment. The final rule, which was published in the Federal Register of June 16, 1998, takes into account many of the trade's concerns about recordkeeping procedures, and reduces those burdens.

For example, the original recordkeeping proposal would have treated all parties equally and required that all records relating to importations be kept for the full five-year period permitted by the law. The final adopted rule distinguishes records by the nature of the role played by the party and the importance of the record so that:

- packing lists need be retained for only 60 days from the end of the release or conditional release period or 60 days from the redelivery date;
- a consignee who is not the owner or purchaser and who appoints a customs broker is required to keep records pertaining to informal entries for only 2 years;
- records pertaining to certain articles admitted free of duty and tax, and carriers' records pertaining to manifested cargo that is exempt from entry, are required to be kept for only 2 years from the date of entry or other activity requiring the record.

Since I came to Treasury I have become very aware of the cost to the trade community of burdensome reporting and recordkeeping requirements, and I am committed to keeping these burdens to a minimum consistent with our obligation to effectively carry out laws enacted by Congress.

Question 3: I want to mention one further matter. Some of my Rhode Island constituents have raised concerns regarding their interactions with Customs agents around the country. In situations where they have had differences of opinion with Customs, they believe they have reason to fear retaliation if they appeal or otherwise raise questions about a particular ruling or decision. This may simply be a per-

ception, rather than a reality, but even a perception is troubling. I would like to obtain your assurances that as Commissioner, you will do your best to make sure that retribution plays no role at the agency or in its decisions.

Answer: Fear of retaliation or retribution for expressing one's opinion should not be tolerated. Like you, I believe even the perception of such retribution in an agency can be very damaging. I assure you, Senator, that I will not tolerate the specter of reprisal by Customs employees against members of the public who may have differing opinions. I will do everything I can to ensure an environment within the Customs Service that is open, fair, and even-handed.

