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# NOMINATION OF FRANK LIBUTTI TO BE UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION, DEPARTMENT OF HOMELAND SECURITY

# HEARINGS

BEFORE THE

## SELECT COMMITTEE ON INTELLIGENCE

OF THE

## UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

NOMINATION OF FRANK LIBUTTI TO BE UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION, DEPARTMENT OF HOMELAND SECURITY

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# NOMINATION OF FRANK LIBUTTI, LIEUTENANT GENERAL, USMC, RET., TO BE UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

**TUESDAY, JUNE 17, 2003**

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, DC.*

The Committee met, pursuant to notice, at 2:40 p.m., in room SH–216, Hart Senate Office Building, Hon. Pat Roberts (chairman of the committee), presiding.

Committee Members Present: Senators Roberts, DeWine, Warner, Rockefeller, Levin, and Wyden.

Chairman ROBERTS. The Committee will come to order. Senator Rockefeller should be here in the very near future.

This afternoon the Committee considers the nomination of Lieutenant General Frank Libutti to serve as our nation's first Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection. That's a mouthful but it's a very important challenge, and very important responsibility, and I personally think we have the right man for the job.

Now President Bush has chosen the General to fill an important position that was created by the Homeland Security Act of 2002. Oddly enough, the original version of that legislation did not include an intelligence function. At the express urging of this Committee, however, the legislation actually signed into law by the President includes important provisions establishing intelligence analysis and sharing as an integral function of the new Department.

The Homeland Security Act established a Directorate for Information Analysis and Infrastructure Protection, to create the direct links between intelligence analysts and those responsible for protecting critical U.S. infrastructure. Now, in plain English, critical infrastructure means agriculture, food, water, public health, banking, financial institutions, transportation and probably a few others. Timely and reliable intelligence must play an integral role as the Department of Homeland Security assesses the threat posed to these important sectors by terrorists.

If confirmed—or, rather, when confirmed—General Libutti will be responsible for sharing threat information with state and local authorities and others. For as long as I have been a member, this Committee has emphasized the need for improvement in this area.

The Joint Inquiry into the 9/11 attacks confirmed that better information-sharing must be achieved in order to continue the national effort against Osama bin Laden and others like him and also to succeed.

I expect the General's new directorate to address issues highlighted by the Joint Inquiry and to find a way to ensure the seamless flow of information from the intelligence community to his directorate, then on to state and local authorities. A large factor in achieving this seamless information flow is to find the proper working relationship with the Director of Central Intelligence on the one hand and with state and local authorities on the other. Both are absolutely essential to making this country more secure. And if you need help from us to make it happen, pick up the phone, General.

I have met with General Libutti. I am confident of his ability to perform the responsibilities that will be expected of him. His experience as a senior commander in the United States Marine Corps and as Deputy New York Police Department Commissioner of Counterterrorism represent an excellent background for this job. We are delighted that you are here.

General, before I turn to my colleague and friend, the Vice Chairman, the distinguished Senator from West Virginia, for any remarks he would like to make prior to your opening statement, I invite you to introduce any family members or other fans or Marines that would accompany you today.

General LIBUTTI. Mr. Chairman, I'm delighted and honored to be here. With that as a backdrop, I'd like to introduce my wife, Jeannie, who is a Navy captain, retired. Jeannie.

Chairman ROBERTS. Welcome, Jeannie.

Senator Rockefeller.

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman.

I would also like to join with you in welcoming General Frank Libutti. We had a good chance to talk in my office. I want to congratulate you on your nomination and what I hope will be your approval by the entire Senate.

The centerpiece of your service has been 35 years in the United States Marine Corps. That is something which probably did not escape the attention of our Chairman. But I would like to take special note, as he did, of your service beginning in January of 2002 to what has to be one of the toughest jobs in the entire world, and that is being New York's Deputy Police Commissioner for Counterterrorism. You've been on the front lines in many, many places.

We should all be very pleased the President has nominated to the highest ranks of our new Department of Homeland Security a leader who has learned the needs of local governments and first responders. I meet with them all the time, as you and I discussed in my office, and they say we're still looking for our first dime and our first sense of direction. But then I also understand that this is an enormous department which is being put together and it takes some time. I hope and I trust—in fact I'm confident—that you will be a strong advocate for their needs and their requirements because you have been there.

In addition to welcoming you, General, this hearing is an occasion to welcome the Department of Homeland Security to the over-

sight status of this Committee. The office to which you have been nominated, that of Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, was created by section 201 of the Homeland Security Act of 2002.

Section 201 lays out the main functions of the Under Secretary's directorate. One is to access, receive and analyze law enforcement and intelligence information in order to identify and assess the nature and scope of terrorist threats to the homeland. The second is to assess the vulnerabilities of the key resources and critical infrastructure of the United States and plan for their protection.

In carrying out these responsibilities, section 201 directs the Under Secretary to consult with the Director of Central Intelligence, among others, to establish collection priorities for information relating to terrorism threats against the United States. It is clear that the Under Secretary has important responsibilities relating to intelligence. It is not surprising, therefore, that the final subsection of section 201 amends the National Security Act of 1947, the basic charter of U.S. intelligence, to make part of the intelligence community "the elements of the Department of Homeland Security concerned with the analysis of foreign intelligence information."

As the Committee charged by the Senate to "provide vigilant legislative oversight to the intelligence activities of the United States," we look forward to Homeland Security's participation in the intelligence community and congressional oversight of it. During the course of this hearing and of our endeavors, I'd like to ask you to consider two issues, and I'll probably have others.

First, just last November, on establishing the department of Homeland Security, Congress by law gave to that department responsibility to integrate from all governmental sources terrorist threat information. The following month, in December, this Committee joined our House counterpart on conclusion of the September 11 Joint Inquiry in recommending that "Congress and the Administration should ensure the full development within the Department of Homeland Security of an effective all-source terrorism information fusion center that will dramatically improve the focus and quality of counterterrorism analysis."

Then, in January, the President created the TTIC and placed it under the Director of Central Intelligence. We should ask, can the law and the presidential directive be reconciled, and I will ask that, both in conformity to the law and in the interest of effective counterterrorism. And if it can be reconciled, how is it reconciled?

Secondly, under the directorate that you, General, have been nominated to head, you are charged with formulating a comprehensive national plan for securing the key resources and critical infrastructure of the United States. The Under Secretary if also charged with making recommendations on measures that are necessary to protect resources and infrastructure "in cooperation with state and local government agencies and authorities, the private sector, and other entities."

As my colleagues know, I strongly believe that our national government has so far failed to provide the state and local governments the assistance they require to undertake essential tasks that fall first to the first responders. I trust that our nominee, having

just come from a position of high responsibility as I've described, can bring to the Homeland Security Department both knowledge and conviction about the needs of our states and the local governments within them.

I look forward to hearing the nominee's views on measures that are needed to make state and local governments full and effective partners in our national effort against terrorism. And I thank you and welcome you, and you too, ma'am.

Chairman ROBERTS. General, please feel free to make your statement. Rest assured that your entire statement will be made part of the public record.

**STATEMENT OF FRANK LIBUTTI, LIEUTENANT GENERAL, USMC, RET., UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION-DESIGNATE**

General LIBUTTI. Thank you, Mr. Chairman.

Mr. Chairman, Senator Rockefeller and distinguished Members of the Committee, I am very pleased to come before you today as you consider my nomination as Under Secretary for Information Analysis and Infrastructure Protection. Before I begin, I would like to thank President Bush and Secretary Ridge for placing their confidence in me. I am honored and humbled to be nominated to serve in the Department of Homeland Security.

For the past 37 years I have devoted my professional life to serving my country and combating terrorism. It is this experience that I hope to bring to this new Department. With me today is my wife, Jeannie, who I previously introduced. Her support has been absolutely superb in coaching and teaching me the rules of the road relative to my responsibilities both on the job and at home.

For the past 16 months, I have served as the Deputy Commissioner for Counterterrorism of the great city of New York and for the New York Police Department, where I was focused on the prevention of, response to, and investigation of terrorist acts in New York City. Through my time with the New York City police department I have come to appreciate firsthand the responsibilities of our first defenders and first responders and the organizations that support them.

Previous to my work as Deputy Commissioner in the NYPD, I helped stand up the Office of Homeland Security for the Department of Defense, where I served as the special Assistant to the Executive Agent for Homeland Security in the Department of Defense.

I was honored to serve for 35 years in the United States Marine Corps. My last assignment was as Commanding General Marine Forces Pacific, Commanding General Marine Forces Central Command, Commanding General Marine Forces Korea, and Commanding General Marine Corps Bases Pacific. I was privileged to command 75 percent of the Corps' operating forces, plus Marines stationed at our bases in southern California, Hawaii, and Japan, with my commands totaling approximately 80,000 Marines and civilians. During my last nine years as a General Officer, I routinely dealt with operational and strategic issues at the national level, which included our country's major war plans and humanitarian operations.

If I should become the new Under Secretary of IAIP, I will do everything within my power to accomplish our mission of protecting the American people from terrorism by identifying and assessing threats to the homeland, mapping those threats against our vulnerabilities, issuing warnings, and providing the basis from which to organize protective measures to secure our homeland.

I will work to ensure that we meet our mission by effectively partnering on a number of levels. We will work with the CIA, the FBI and other members of the intelligence and law enforcement communities both to receive and to share information. As information is collected and mapped to critical infrastructure vulnerabilities, our top priority must be to get this information to those federal, state and local officials who represent the first line of defense against and response to terrorist attacks.

Just as we need to partner effectively with our counterparts in federal and local governments, we must form and maintain active partnerships and information-sharing procedures with the critical infrastructure sectors. Eighty-five percent of critical infrastructure in the nation is owned and operated by private industry, so we must build relationships that deliver timely and appropriate warnings and protective measures to our private partners.

Significant progress has been made and continues to be made in the IAIP Directorate. I am impressed with the quality of people in this organization and the dedication and diligence they have shown in addressing their mission. As with any new organization, there is work to be done implementing processes, procedures and structure. I approach this process of organization fully realizing that at any given moment we must be ready to respond to a crisis. I am confident that we can handle the challenges presented today and, as each day passes, we will handle them with ever-increasing skill and aplomb.

As Secretary Ridge has said time and time again, "When our hometowns are secure, our homeland will be secure." That is not merely rhetoric but a fundamental principle of the nation's homeland security effort. Everyone is a partner in this effort. In addition to the other public and private partners I have already mentioned, I will work to cultivate effective partnerships with the Congress, academia, and the American people themselves. Each partnership will be a two-way communications channel, built on trust, that enables the timely and reliable exchange of information.

I come before you today with a readiness to provide leadership that is exercised not only in-house but with our partners. We must be aggressive in reaching out and connecting and staying connected with those partners to provide an extraordinary and unprecedented exchange of information. This information must be not only actionable by local law enforcement and first responders but must also empower the average citizen to do their part in securing our homeland. We must provide advisories and warnings that encourage prevention and help to mitigate loss. I recognize the critical role in homeland security of the office for which I am being considered. This is a job that must be done right. The challenges we face in doing so are numerous and must be approached with a sense of urgency. I assure you that I personally have the enthusiasm to address these challenges and to make a difference.

I clearly understand my mission and I am conscious of and appreciate the responsibilities I will be given if confirmed.

Mr. Chairman, Senators, I respectfully ask for your favorable consideration for my nomination and I stand ready to respond to any questions that you may ask.

Thank you, sir.

Chairman ROBERTS. Senator Warner.

Senator WARNER. Thank you very much, Mr. Chairman. I particularly wanted to join the members of the Committee today to listen to this distinguished American who has obviously had a record of achievement that ably qualifies him for this important position.

I'm studying a wiring diagram, Mr. Chairman. You are an expert on wiring diagrams, and it's the Department of Homeland Defense. I'm trying to get it clear in mind your reporting chain.

General LIBUTTI. Sir, my boss is Secretary Ridge.

Senator WARNER. So then through England? I am just kind of curious.

General LIBUTTI. I think it would be altogether fitting and proper that I kept the Deputy informed, but my boss is the Secretary. I intend to exercise my mission with consideration and sensitivity to the position of the Deputy, but my boss is the Secretary.

Senator WARNER. I anticipate that you're going to have to on occasion make some very, very quick decisions, and I hope that that chain enables you to do that with the concurrence of the Secretary, when you and he deem it necessary. I expect he's imposed in you a lot of discretion to be able to act in instances of emergency. Would I be correct in that?

General LIBUTTI. Sir, you are correct.

Senator WARNER. On the question of intelligence, to what extent will you have access to, if you so desire, the raw intelligence which can be amassed, as I understand it, by really three entities. You've got the Terrorist Threat Integration Center. That works for the Director of Central Intelligence. And your primary domestic intelligence collection is the FBI Security Division that works for the Department of Justice. And then, of course, the CIA is involved in this in terms of the Terrorist Threat Integration Center.

Kind of tie that together for me. How are you going to work all of these? It's a rather interesting orchestration.

General LIBUTTI. First, I'll tell you that in terms of personal leadership and reaching out for counterparts at all the agencies you mentioned, I'm going to build on the rapport and leadership of Secretary Ridge, which suggests that the way we want to do business with full trust and confidence in our partners within the intelligence community, number one.

Number two, in terms of the Homeland Security Act, if confirmed I will have the authority to reach out across any intelligence borders to ask appropriate questions, to solicit information, to ask for additional collection, and to do so with an aggressive attitude.

Senator WARNER. You actually have tasking authority, then?

General LIBUTTI. I wouldn't say tasking so much except in perhaps what we would call the spirit of cooperation. So, said another way, in terms of our relationship we are both contributor and customer depending on the situation, and I intend to exercise that to the fullest extent possible.

I do not see, quite frankly, obstacles or borders that would in any way, shape or form, if I'm confirmed, prevent me from reaching out across any intelligence service that focuses either on the domestic side or on the international overseas side to get what I need to do my job, which is to protect the homeland.

Senator WARNER. Well, then would you sort of make some spot checks on raw intelligence from time to time?

General LIBUTTI. I intend to do that, yes, sir.

Senator WARNER. I think that's an important function.

I have a very high regard, of course, for Secretary Ridge and I have worked very closely and have a high regard for Gordon England when he was in the Navy secretariat, and somehow Ridge has really, including yourself, done a lot of recruiting which is quite extraordinary. I expect you were recruited for this job. Perhaps you are too humble to answer that. But anyway I'm sure that's the case.

And I'm glad that you responded to come back into federal service.

Mr. Chairman and Members of the Committee, I think we're to consider ourselves very fortunate that you and your very lovely partner in life, the Captain, have rejoined and are undertaking this effort, and I hope that you look upon this Committee as a source of helpful guidance from time to time and advice.

Thank you very much, Mr. Chairman.

Chairman ROBERTS. Senator DeWine.

Senator DEWINE. Mr. Chairman, thank you very much.

General, thank you very much for joining us. We wish you well. As my colleagues have pointed out, you have a great background for this position and we're glad that the decision has been made to nominate you.

I wonder if I could explore with you or if you could comment about your relationship in this position with the Terrorist Threat Integration Center which was established by Presidential Directive and which has been placed under the jurisdiction of the Director of Central Intelligence, what their role is, your role is and how you would work together.

General LIBUTTI. Sir, I think the TTIC is a magnificent display or demonstration of what I call a joint effort and partnership with the FBI, CIA, Homeland Security and other federal agencies to integrate and analyze intelligence. The IAIP Directorate has senior leadership represented as members of that very special partnership. The total is seven people, with a senior leader that exercises supervision over our folks.

I see that as a plus in that it brings both the domestic and overseas intelligence data into one central location where people partner in a collegial atmosphere and deal with threats to our country.

Senator DEWINE. General, but the Homeland Security Act requires your office to access, receive, analyze law enforcement information, intelligence information and other information. So how do you square that with what they do? I mean, for a layman just picking up the definitions, you'd say well, what's the difference here. Aren't you guys doing the same thing, duplication? What's going on here.

General LIBUTTI. I think the answer is reflected in the word or concept of "complementary effort." As the law would indicate and, if confirmed, I intend to follow not only the spirit but the letter of the law, I would have a great responsibility, in concert with local law enforcement and first responders and state and local authorities to ask them to support our efforts to collect and to support the broader intelligence mosaic so we get information from local and state authorities, it is passed back up to the IA side of IAIP, it is analyzed, to your point of do we analyze as well as simply collect data and record that which comes out of TTIC.

We do our own separate analytical work. Some would call it competitive analysis. I think that's extremely healthy. It may, when required, include red-teaming based on what we get from the TTIC. How that makes sense to us in terms of——

Senator DEWINE. Include what?

General LIBUTTI. I'm sorry, sir?

Senator DEWINE. What was the term? Your term of art was what?

General LIBUTTI. Red-teaming. I'm sorry. Forgive me. It's a very simple concept that talks about designating folks within your own camp or your own office to look at and think like and behave in support of the way bad guys, terrorists, would come at us, so they study the terrorist activities, their SOPs, their approach to dealing with target sets, priorities, et cetera. That's what they do for a living. They think and breathe like a terrorist.

You have them on your team. They come back in to you after you have a basic plan developed and they essentially dissect that plan and talk about where the seams and gaps are in terms of vulnerabilities and risk. Forgive me. It's a term of expression we've used in the military for many, many years. Does that answer your question, sir?

Senator DEWINE. That answers what the term means, but I'm still trying to get the difference between what you're going to do and what—you're talking about complementary. You're talking about competition, which is healthy, which I agree.

General LIBUTTI. The competition piece is outside the TTIC. The functions that I see as most critical are those that deal with the information analysis within IAIP, the sharing of that information so we can get it to first responders very quickly and expedite that in a streamlined management approach to getting it to local and state authorities.

That is different than the mission of TTIC, which is to integrate both domestic and overseas intelligence, including raw intelligence. Our job is not to collect. It's not to integrate. It is to be partners with other critical members of the intelligence community and then the byproduct of that comes to us. We work it. We look at it in terms of the other side of my directorate, if confirmed, which is the IP piece. So we look very carefully at national infrastructure, which doesn't simply mean cities and large areas. It talks about all of what the Chairman indicated as centers of gravity across our country—agriculture, transportation, et cetera.

So we are simultaneously looking at threats against our infrastructure, vulnerabilities and risk relative to that infrastructure, held up against the intelligence analysis that we do, which is a by-

product of and also a partnership with what comes out of TTIC. So I think it's very complementary. I am encouraged. I will tell you that I spent three hours at TTIC's headquarters last week and met the senior leadership there. And I am very sanguine we can make this work.

Senator DEWINE. Thank you. Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Wyden.

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

Let me ask the nominee just a couple of questions. The first is, you all are supposed to take the intelligence about threats to the infrastructure, analyze where our weaknesses are, and then basically give us recommendations on how to protect ourselves and how to protect our infrastructure. How are you going to go about doing that, and do you even have the people? How do you go about doing it without in effect alerting some of the people who are involved in putting our citizens at risk to what you're up to?

General LIBUTTI. Well, the infrastructure piece is a key critical piece of the responsibilities I'll have if I'm confirmed. I would tell you when I think infrastructure I not only think about the physical piece but the cyber piece, and I'm delighted to share with you what was an event that happened about a week and a half ago which I witnessed, and that was the rolling at the Office of Homeland Security of the Cyber Security Division.

So the approach that needs to be and absolutely must be taken in terms of our view of infrastructure protection must include the physical and cyber piece. Having said that, the answer to your question is again back to partnership, which means you can't think about it; you must actively reach out for the business community, the private sector. You must obviously work within the law. But you must create a bridge between our office and those leaders within the private sector.

And I think the right answer there is to send a strong signal as soon as possible that we're interested in working with them to improve their readiness, reduce their vulnerabilities and, by doing so, strengthen the readiness of the country.

Senator WYDEN. You, I think, were told by the staff that I was very much involved in section 224 of the legislation to create the National Emergency Technology Guard mobilizing people in the science and technology sector, and it grew out of the 9/11 experience. Major companies like Intel were prepared to send huge numbers of people and vast amounts of equipment to New York, and they basically couldn't even get certified, couldn't even get through and literally were forced to just sort of stand around at a time when all the infrastructure was down.

These companies are prepared now to make a huge contribution in terms of time and equipment and personnel, and that's what's behind the NET Guard concept. I would like to hear your thoughts about how you're going to, if confirmed, go about implementing this.

General LIBUTTI. Well, I'm not a duty expert, nor am I expert in technology. I'm a basic infantry officer that got lucky. I would tell you that I do have experts on my staff, starting with Bob Leskowski, who is head of the IP Directorate. I'll rely heavily on Bob and other duty experts to help me shape a way ahead. But the

key to success is to focus on this partnership, in my view, to ask the private sector to help us identify how we can improve our readiness in a holistic sense.

Senator WYDEN. The only thing I'd say—and I understand you are going to have a lot on your plate and are not going to be able to get at this in the first week—you don't have to ask the private sector. They're telling you they're ready, but you're going to have to do what the law calls for, and that's to take the steps to mobilize them and to take steps, for example, so that, for example, we even have an inventory around the country of these people and volunteers who are prepared to help.

I mean, you talk about asking the private sector. Not only are they not waiting to be asked, they are volunteering. And it's now the job of people in your organization to make sure that we, with a very modest role for government, put in place the system so we can tap them, so that if there were to be another tragedy and infrastructure was knocked out in a major city, you can call up the Intels of the country and say we need 200 people, we need the following software, we need the following equipment, and be able to use it.

Without moving to deal with this, recognizing you may not be able to get at it in your first 48 hours, we're going to miss an opportunity, because this is free help. These are people who are saying they are ready, willing and able, and that is the point of the NET Guard kind of concept.

Everything I have heard about you is that you bring great commitment to this position. I'm looking forward to supporting you as we go forward, but you will hear from me frequently on this subject because I think this is too great an asset to fritter away because government says, oh, we ought to be asking the private. They are ready to do it. They don't need to be asked, but they do need a modest role in coordinating the effort.

Thank you, Mr. Chairman.

General LIBUTTI. Thank you, sir.

Chairman ROBERTS. Senator Rockefeller.

Vice Chairman ROCKEFELLER. Thank you, Mr. Chairman.

General, I indicated in my opening statement that I wanted to ask you a couple of questions and I now want to do that. If you could just kind of put yourself forward and pretend that the Department of Homeland Security was in order and operating, what we do is, as I indicated, we give you the responsibility to access, receive and analyze law enforcement intelligence information, number one, number two, in order to integrate that information to identify the terrorist threat to the homeland.

So please describe how the Homeland Security Department is carrying out—and I don't think you can answer that question yet—or proposes to carry out this important responsibility. In that I don't think you can, because you haven't started and haven't been confirmed, let me get to my second question, and then you can take off on both answers.

Number two, whether the Homeland Security Department is receiving the full cooperation of the U.S. intelligence and law enforcement community and what steps you would take if you were not getting full cooperation, and only the second part of that is really

operative at this point since you're not up and running, and thirdly, the relationship between the responsibility that the Congress has given to you to integrate terrorist threat information and the responsibility given by presidential directive to the Director of Central Intelligence to establish a Terrorism Threat Integration Center.

Do you see what I mean? There's a little bit of a rub there.

General LIBUTTI. My job is to eliminate the rub, to answer your question, and, if confirmed, to make it work, sir. Number one, I think, based on my observation—and it's only been a couple of weeks here as a consultant at the Office of Homeland Security—the activity in support of integration is in good shape.

You know, the question I often get is, well, how do you know what you don't know. And it kind of talks to one of your questions relative to is the information being shared and what do I intend to do if I determine it's not being shared. I intend to be extremely aggressive about, as I mentioned earlier, crossing all lines in terms of the intelligence community but being as gentlemanly as possible to get what we need to execute my mission in support of the law.

I don't see angst, frustration or walls being built around that effort. I see cooperation across the agencies, the FBI and the CIA and other intelligence agencies, which give me a sense of confidence that people understand this has to be a united effort or it's not going to work.

Now again, I'm at the infant stages of this great experience, but I can pledge to you I will give it all of my support and energy to do exactly what I've said, and that is——

Vice Chairman ROCKEFELLER. General, I agree with how you assess yourself. I'm not sure I agree yet with how you assess the cooperation of the intelligence community. So that's why the question of what would you do if you weren't getting the cooperation, because it's my guess—and I think maybe the intelligence community may or may not be warm to the entrance of a new Department of Homeland Security. I'm not convinced that they will be, because there are so many already.

But if you were not getting the information-sharing, what would you be prepared to do? That's a fair question.

General LIBUTTI. Yes, sir. I would go to the appropriate agency where I thought we weren't getting support and I'd have a face-to-face meeting with the leadership there.

Vice Chairman ROCKEFELLER. And what if they declined to give you an appointment?

General LIBUTTI. I'd go to my boss and articulate the issues and challenges and provide recommendations.

Vice Chairman ROCKEFELLER. Okay.

General LIBUTTI. I would add a footnote, and again forgive me but I'm quite new to this environment, but I think I also have a responsibility to all of you.

Vice Chairman ROCKEFELLER. I think one of the things that the Chairman and I are frustrated about, because we're going through a little kind of a Degas pas de deux of some sort in another matter entirely, is that we're not able to talk about the things that we really want to talk about, which is information-sharing and connecting the dots and making sure that people are data-mining and

doing all the right things and what are we going to do about domestic intelligence and 100 other subjects. We haven't been able to get to that.

What I'm suggesting to you is I think that you will not be as warmly received as you perceive and as you now see, and I hope I'm wrong, and I hope if I am right that you will exercise this in a Marinely fashion.

General LIBUTTI. Sir, I pledge to you that I will execute my mission smartly.

Vice Chairman ROCKEFELLER. Good. Thank you.

Chairman ROBERTS. What the hell is it that you said? What kind of dance are we doing?

Vice Chairman ROCKEFELLER. Pas de deux. Isn't that right? Look, she's nodding her head. I don't know what it means. Jean, you know what it means.

Chairman ROBERTS. Is that like square dancing?

Vice Chairman ROCKEFELLER. No, it's not like square-dancing. I have no idea what it is. What is it?

Chairman ROBERTS. Well, it's French and you shouldn't have used it.

Vice Chairman ROCKEFELLER. Well, I apologize. [Laughter.]

Chairman ROBERTS. Sounds like dirty dancing a little bit. I don't know what's going on.

And "marinely?"

Vice Chairman ROCKEFELLER. Well, I was trying to humor you, you see. I was trying to humor you. Marinely.

Senator LEVIN. A new word.

Vice Chairman ROCKEFELLER. When we were in Qatar we could barely get to any other service area but the Marines.

Chairman ROBERTS. And rightly so.

Vice Chairman ROCKEFELLER. And rightly so. [Laughter.]

Chairman ROBERTS. The determined and tenacious Senator from Michigan, Senator Levin, is recognized.

Senator LEVIN. Whenever I go into the "Qatar," I want to be with a Marine, by the way. I need all the help I can get. [Laughter.]

Thank you, Mr. Chairman. It's good to be with you again.

Chairman ROBERTS. And again and again and again.

Senator LEVIN. You and I have spoken, General, about the relationship between the Counterterrorist Center and the TTIC and the DHS. I know Senator DeWine asked about that and I want to just press you further on that, because we've been assured that we would have either an Executive Order or statement of policy or something which set forth that relationship by now from Governor Ridge or from the Executive branch, because there is an overlap.

In addition to making sure you can get whatever information you need, the opposite side is also a problem, which is that if we have too many people doing the same thing we're going to not have accountability. This is what we saw before, going up to 9/11, where we did not have accountability, we did not have responsibility, and a number of things fell through the cracks that shouldn't have fallen through the cracks.

Tell us your understanding in terms of analysis of foreign intelligence where that principal responsibility lies as between the

Counterterrorist Center in the CIA, TTIC, which is under the direction of the DCI, and the——

General LIBUTTI. The DCI—I'm sorry, sir. The DCI is charged with oversight responsibilities. The gentleman who leads that is from the CIA, but that gentleman who is the director of TTIC could, quite frankly, in terms of the Memorandum of Agreement, be from Homeland Security or the FBI.

Senator LEVIN. Is there an agreement?

General LIBUTTI. There is an MOU that is signed by the FBI, the CIA and the Homeland Security office that articulates that relationship and the collegiality with which that partnership has been joined.

Senator LEVIN. Does that explain the relationship between TTIC, CTC, and DHS. Does that Memorandum of Understanding?

General LIBUTTI. It does say that, but I would like to add as a sidebar before coming over I saw a letter signed by Secretary Ridge to Senator Lieberman that addresses this very issue, that talks to the points that you and I have talked about in the past, and clearly articulates in terms of definition and responsibility and accountability who does what to whom.

Senator LEVIN. And does that document——

General LIBUTTI. It should have been released by midday or early afternoon, sir.

Senator LEVIN. Today?

General LIBUTTI. Yes, sir, that's correct.

Senator LEVIN. And what does it say as to where the principal responsibility lies for analyzing foreign intelligence? Who has it?

General LIBUTTI. The responsibility in terms of overseas collection and initial analysis rests with the Agency.

Senator LEVIN. With CTC?

General LIBUTTI. With CTC.

Senator LEVIN. The initial analysis. Who does the final analysis?

General LIBUTTI. Well, if I may, sir, again I want to stay focused on what I know and not talk about what I don't know. I am not an expert in terms of CTC. I understand what TTIC's responsibilities are and I know what my responsibilities are in terms of IAIP. So I don't want to get over my head and respond incorrectly to any details on CTC. I can simply tell you that because it's led by the Agency and the Agency's focus is overseas in terms of collection, analysis and actions, where appropriate, I would like to punctuate that with a period and say I'd like to shift to talk about TTIC and IAIP, if I may.

Senator LEVIN. It's fine to talk about TTIC, but then I've got to ask you what is the relationship between TTIC and CTC. Who has the responsibilities between them for analyzing foreign intelligence?

General LIBUTTI. I think in a very both collegial and ecumenical fashion the Agency has their responsibilities in terms of the analytical spin on information and intelligence connecting the dots and the rest, with a view towards actionable supporting events.

Now I want to, if I may, bring you back into the TTIC piece. That is a joint venture designed to bring the best of and most relevant data in terms of the intelligence community into that fora to look at what it means, analyze it and integrate it.

Senator LEVIN. But that's what CTC does.

General LIBUTTI. But the focus is not both domestic and international.

Senator LEVIN. It's foreign terrorism.

General LIBUTTI. Correct, sir.

Senator LEVIN. It's analyzing foreign terrorism. And my question has got to be answered, if not today it seems to me for the sake of the health of our country, that we've got to know who's got the responsibility to analyze foreign terrorism, to put together all the information, to integrate it, as you have put it. They've got great brains there at CTC, the same folks, I'll bet you, sitting around the CTC table that sit around the TTIC table. As a matter of fact, I'd like to know of anybody at TTIC who is not at CTC. What agency is represented at TTIC that is not at CTC? There may be. I don't know of any, but there may be.

But you've got the same agencies, with one exception—one exception, I think—and that is there would be something of a greater focus in terms of state and local law enforcement at TTIC. But how does that come to TTIC? Who is sitting there for state and local law enforcement at TTIC?

General LIBUTTI. The answer to the question in terms of influence is found in our operations center at the Department of Homeland Security, where we have local law enforcement or local authorities represented within our operations center.

Again, the chain of communications or chain of command in terms of the TTIC responsibility of the analytical work and the integration is shared with partners at that table.

Senator LEVIN. At TTIC.

General LIBUTTI. If I may, that information comes to our senior leadership. The senior leadership shares it with the Office of Homeland Security, specifically the IA of IAIP. That information is shared across the Department, including at our ops center. That information is then passed to local and state authorities in terms of on an as-needed basis and also as relevant to the tactical or operational scenario.

To answer your question, there is a clean and proper line of communications between local and state authorities, the Office of Homeland Security, and, by extension, into TTIC.

Senator LEVIN. And is it also true that there is a line between state and local law enforcement and CTC?

General LIBUTTI. I don't know that, sir, but I would be happy to take that under advisement and get back to you with an answer.

Senator LEVIN. Well, there sure as heck ought to be, because if it relates to foreign intelligence, if you've got somebody who's a foreign person about whom we have evidence relative to terrorism, and you've got the FBI that's got evidence, you've got the CIA that's got evidence, and you've got local law enforcement that's got evidence, we need a place where those dots are going to be connected against that person. This is what we did not have relative to 9/11. That place relative to foreign terrorists is the CTC, I believe. Now I'm not here to testify, but I believe that that is where the principal responsibility lies relative to foreign terrorists.

We've got to know that for sure. We just have to pin this down because otherwise we're going to have two places that have very

many people in common that are going to both be doing the same thing, and it means, too often I'm afraid, that one will be saying that the other one is going to do it rather than us and we'll be pointing fingers again after the next event. And that's what we're trying to prevent.

General LIBUTTI. Again, sir, I promise I'll do my homework, but I would agree with you now, based on limited knowledge, that CTC is where that is done. That has not been my focus. Again, it's been on TTIC and my own organization, if confirmed, and that's been the area of concentration for me.

Senator LEVIN. Thank you. Thank you, Mr. Chairman.

Chairman ROBERTS. I have a few, I guess, pragmatic questions that follow up Senator Levin's questions in regard to the TO chart and who has the responsibility. Do your analysts have access to raw intelligence today pursuant to the arrangements with the other agencies?

General LIBUTTI. Whatever intelligence information that we deem appropriate, we should have full access to, yes, sir.

Chairman ROBERTS. Are your analysts able to independently pull what they need from all of the agency intelligence producers to do their analysis or must they request and then wait for others to push the information to them?

General LIBUTTI. To the best of my knowledge it's the former. That information is available to us.

Chairman ROBERTS. Are you satisfied so far that your analysts can put together a complete and accurate picture of domestic threats?

General LIBUTTI. The short answer is yes. Let me expand or amplify on that. Until we have connected the dots or, said another way, established connective tissue with local law enforcement and first responders, that will be limited. Now as an example, if we get information that comes in from whatever source, is looked at at TTIC, is passed to our guys and it deals with any of the great cities or small counties in our country, we will engage with those local law enforcement folks or appropriate authorities and will work in concert with them.

But my point is, I see that as a vital action that I need to tackle nearly immediately if we're going to make this thing work, if I'm confirmed.

Chairman ROBERTS. Well, that leads to my next question. In the intelligence community there's a well-structured system in place intended to protect classified information from leaks or mishandling. As we're all very painfully aware, the federal system is imperfect. But no such system exists at all at the state or local levels, let alone the private sector. How will your office actually disseminate sensitive threat data yet protect the classification of that information?

General LIBUTTI. This is a question I wrestled with over and over when I was in New York, sir. There's no simple answer if the expectation is that we'll share highly-classified material, relevant, specific as opposed to general in nature, with local law enforcement across the country.

Having said that, it is in practice now and I intend to push it until we get it right, and that is to take classified information, deal

appropriately with sources and methods, make it law enforcement sensitive and get it to where it needs to go immediately. I'm talking minutes and hours, not days.

Chairman ROBERTS. Could the classification system we have in place at the federal level actually inhibit your ability to disseminate threat information to first responders?

General LIBUTTI. Again, sir, the short answer is no. The footnote is that the current system in terms of all of us, in terms of our responsibility for safeguarding information, that could be a problem, and we all need to look at that, I think, very carefully. You can't pass classified information to a source or across a network that can't handle that classification.

Most police departments and first responders don't have that capability. But, having said that, my intention is to make it work.

Chairman ROBERTS. Are you going to have fewer analysts in the IAIP because of TTIC's role as a hub for threat analysis and integration? Are you going to have enough analysts?

General LIBUTTI. The plan is in place. In terms of TTIC, we will go from seven now to 14 in July. In terms of analysts within IAIP and specifically IA, we're at about 50 right now. Many of them are detailees. But they are on board. We intend to move that up to 113 in '04 and continue to build our analytical skill sets.

Chairman ROBERTS. I'm going to ask Senator Levin's question except it isn't at the top. How will you avoid duplication of effort?

General LIBUTTI. In terms of the analytical piece?

Chairman ROBERTS. Yes.

General LIBUTTI. I think it starts with strong leadership in defining lanes, holding people accountable and responsibility, and doing the sixth troop-leading step, which is supervise their activities. We need hands on to make this work.

Chairman ROBERTS. Will state and local officials be required to obtain security clearances and how will local police be able to receive and properly disseminate the threat information to the public?

General LIBUTTI. I think this is again a subject that needs to be looked at very, very carefully.

Chairman ROBERTS. As you and I talked before, and we went through several exercises, one of which I took part in, perception became reality. Everybody knows with the grandfather of the exercises in regard to Dark Winter that it was the TV coverage that panicked everybody to death, literally. So that is tough, tough question.

But let me get back to the first part of it. To answer the classified quandary, will state and local officials be required to obtain security clearances?

General LIBUTTI. I don't think they will be required to. If you asked me would it be helpful, I would say yes, sir.

Chairman ROBERTS. I got you. Basically I don't have any further questions. Senator Levin, Senator Rockefeller.

Vice Chairman ROCKEFELLER. I've got two. One I'm taking right off of Senator Roberts' question. In order to become sheriff you have to get elected. You obviously don't go through any other tests. As far as I know, when they hire they may have some kind of secu-

rity or truthfulness measure, but I'm not aware of any. Are you aware of any in New York City?

General LIBUTTI. Sir, if you will forgive me, could you please restate your question?

Vice Chairman ROCKEFELLER. Any kind of security or truthfulness or no problems in their past type of tests?

General LIBUTTI. For hiring of——

Vice Chairman ROCKEFELLER. Of local law enforcement and first responder types.

General LIBUTTI. Oh, absolutely, yes, sir.

Vice Chairman ROCKEFELLER. How far do they go?

General LIBUTTI. Well, other than the typical background check, there is a very aggressive questionnaire, follow-up interviews, cross-check against all records, not only within New York State but my understanding is across the country. It's not something I was deeply involved in, but I can tell you, given the leadership of Commissioner Ray Kelly, we're always looking for the best and brightest. When we find problems, they are properly handled.

But, if I may, much like the United States Marine Corps, we're looking for a few good men and women, and I was extremely proud to have served for almost a year and a half with the NYPD. They are high caliber people.

Vice Chairman ROCKEFELLER. I understand that, General. What I'm thinking of is a very, very rural state like my own, where there are only 15 communities larger than 5,000 people, and what it is that those first responders—EMS, law enforcement, et cetera—go through. I frankly don't know the answer and I will need to find that out.

The second part of my question was this. To what degree, for example, on securing our ports, on securing our power grids, securing our rail lines, et cetera, what of that falls under your responsibility—not you particularly but the Homeland Security Department—and, to the extent that there is no money available for that, if that were to be the case, how do you go about it?

General LIBUTTI. Well, sir, you are correct in that it's not principally in my area of responsibility, if confirmed, with the exception that in terms of my responsibility vis-a-vis the infrastructure piece, all of which I've already stated, and the intelligence-sharing piece, it applies not simply to being a full partner in TTIC and across and out of TTIC with other intelligence agencies but within the Department.

So my job is to take the lead with my IA piece in keeping my boss informed and also keeping the other directorates informed. So in terms of the transportation piece, the TSA responsibilities focus there. My job is to share intelligence information with them so they can properly assess the situation at hand relative to the vulnerability of a port or an air facility or whatever.

Vice Chairman ROCKEFELLER. Insofar as you are aware, on a national basis is any of that going on? I mean certainly it was in your own previous job. I'm thinking, for example, of a chemical plant. Chemical plants are ordinarily run by plant managers who ordinarily are under two-year cycles, and they are usually engineers who don't know a whole lot about security matters, much less intelligence matters.

What do you do in a situation like that? What kind of intelligence do you get from them?

General LIBUTTI. Well, again, part of the intelligence piece ought to come from whatever the situation is with local law enforcement in and around that facility, or state police, in terms of eyes and ears on target and providing feedback. That's one aspect.

My recollection is that there is a law pending that talks to the responsibility of homeland security to work again in concert with specifically chemical facilities and go beyond urging and requesting, but in terms of actionable events, to work with them, challenge them, evaluate and assess their activities relative to their status quo, their vulnerabilities and their risk. I can't recall the name of the proposed law. It's the Chemical Security Act, I believe. I think that's critical. I intend to support that 100 percent and, where necessary, within our own office of Homeland Security reach out with expertise and advice to support that effect.

Vice Chairman ROCKEFELLER. So that would be a voluntary thing on their part. In other words, what they felt they needed, then you would respond to that. Supposing you had a different view as to what they needed?

General LIBUTTI. I would stay within the limits of the law and be extremely aggressive about ensuring that they protect that facility and the people outside that facility, the community at large. That is indeed the name of the game here.

Vice Chairman ROCKEFELLER. Okay. Thank you.

Chairman ROBERTS. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

Just a couple more questions along the same line as we were talking before. The statement which you say was issued today, am I correct in believing that that would be a statement which would clarify the relationship between TTIC and CTC and DHS relative to intelligence analysis?

General LIBUTTI. It is a response, a letter in response to Senator Lieberman, to the best of my recollection, sir, and again I believe it was signed off on today.

Senator LEVIN. Can you check this issue? Because on May 1 I requested at Governmental Affairs that Governor Ridge address that issue because there was some confusion still at that time, and Chairman Collins at that point seconded the suggestion.

General LIBUTTI. I'd be delighted to check it, sir.

Senator LEVIN. And Secretary Ridge said that he would get us that clarification. This may be it today.

General LIBUTTI. Quite frankly and candidly, I guess I took some liberty on that. It didn't respond directly to you, but the substance of it——

Senator LEVIN. Well, that doesn't make any difference whether it's directly to me or not. The question is whether it's directed to the issue and, if it is, I don't care who it's directed to. That's not the issue. At any rate, I just wanted to see what your understanding was as to what this document is that was released today.

General LIBUTTI. Staff is telling me that the letter that I referenced is not indeed the response to your request.

Senator LEVIN. Okay, could you check or could somebody check out the status of that? It was a request. It's a very important issue.

I think we'll all remember the 9/11 inquiry perhaps with different feelings and reminiscences, but nonetheless it would be important that you at least get a feel for where there was really an intelligence failure. Putting aside issues of cause and whether it contributed to or led to or might have been able to deter the events of 9/11, that's not what I'm referring to. I'm just talking about the facts, that you had intelligence information known to part of our government which was not shared with another part of our government. The people responsible to analyze foreign intelligence didn't have all the intelligence which was available to a number of our agencies.

That is what we're trying to prevent, that crack which can come either because no one has responsibility or because two agencies have responsibility. You can get a crack either way. And if it's real good duplication and backup, you won't get the crack, but if it's sort of, oh, I thought they were doing it, no, we thought you were doing it, if that's the end result then you get the same kind of diffused and confused responsibility. So we'd appreciate that.

Now, I guess another way to phrase the question is this. If your office got conflicting terrorist threat analyses, the office to which you are going to be confirmed got conflicting terrorist threat analyses from CTC and TTIC, would what happen? What would you do?

General LIBUTTI. Well, again back to a point I made earlier, we have a responsibility to do independent analysis, so the first thing that I would do is bring in the smartest people on our team. We'd look at the facts supporting the analysis and deal with that in terms of most probably connecting directly with the senior leadership in the organizations that supported the analysis.

I grew up in an environment where commanders were in charge and responsible. There aren't a lot of people called "commanders" in the intelligence business, but there are guys and folks, gals, who are directors or whatever. I intend to take immediate action, as appropriate, without either overreacting or being ungentlemanly, and get to the bottom of whatever the issues are.

Senator LEVIN. Well, your experiences I hope will really be helpful. You've had 35 years of honorable service and great service to the nation in the Marines and then I guess about a year and a half recently in New York. It's been notable service and I think it can make a real contribution to straightening out this issue.

One final question from me has do with the Freedom of Information Act and whether or not DHS will be complying with that Act. There is an exception to that Act, an exemption for so-called critical infrastructure information. We're trying to encourage companies to voluntarily share with the DHS information on a facility's vulnerability to terrorist attacks, including for key infrastructures, infrastructures such as roads, utilities, computer grids and chemical plants, much of which is privately owned. But the law is written in a very broad way so that it would be very possible for companies to share information which might be otherwise even available or which would be shared in order to keep it from regulatory bodies that otherwise might get to it and require some action on the part of that company relative to complying with structural safety laws or what have you.

So we've got, and I would ask you—not today but as one of the first things that you take on—to look at the Freedom of Information Act exemption, to check, if you would, with the lawyers and whoever else might have a view on it. We had a good bipartisan amendment here which we did not end up offering on the creation of the DHS for a number of reasons but nonetheless is still highly relevant. So there's about I don't know how many Senators have introduced or co-sponsored legislation to address the breadth of the FOIA language that is in the law, and we would appreciate your looking at it, taking it up with Governor Ridge, and getting back to the Committee as to whether you would support any narrowing of that exemption along the lines of a bill which has been introduced by a whole bunch of Senators along the line of the bipartisan amendment which was prepared at the time DHS was authorized but not offered at that time. That would be very helpful.

I congratulate you. You will make a real contribution and you are very much needed.

General LIBUTTI. Thank you, sir.

Chairman ROBERTS. General, I don't have another question. I have an observation. I'm concerned, like the Senator from Michigan and others, about the ability of your directorate to get the raw intelligence without having to push, pull, demand, ask, beg for it. You shouldn't have to. A lack of information-sharing that has already been pointed out by Senator Levin certainly helped cause 9/11. It cannot happen again. So one of the responses that you indicated when one of the Senators asked the question on who you would go to if in fact you found yourself denied raw intelligence information or had a problem, and obviously said your boss, you would go directly to Tom Ridge.

And then, not as an afterthought, you added on the responsibilities of this Committee. We indicated or I indicated in my opening statement that the telephone is a pretty good way to do that, or a personal conversation. So I would urge you to please keep this Committee informed as to the cooperation you get from CIA, CTC, TTIC and the intel community, and you can be assured that this Committee will take the issue very seriously.

Now, General, we're going to try to waive the 48-hour rule on your nomination tomorrow. We have a meeting on a different matter and a threat briefing, but we're going to try to move your nomination first thing and approve it so you can get to work. Thank you for appearing before us, and we welcome your family as well.

The hearing is adjourned.

[Whereupon, at 3:50 p.m., the Committee adjourned.]

# COMMITTEE BUSINESS MEETING TO VOTE ON THE NOMINATION OF FRANK LIBUTTI, LIEUTENANT GENERAL, USMC, RET., TO BE UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

**WEDNESDAY, JUNE 18, 2003**

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, DC.*

Committee Members Present: Senators Roberts, Hatch, Bond, Lott, Snowe, Hagel, Chambliss, Warner, Rockefeller, Levin, Feinstein, Wyden, Durbin, Bayh, and Mikulski.

Committee Staff Members Present: Bill Duhnke, Staff Director; Chris Mellon, Minority Staff Director; Rich Douglas, General Counsel; Kathleen McGhee, Chief Clerk; Jim Barnett, Randy Bookout, Tom Corcoran, Mike Davidson, Pete Dorn, Melvin Dubee, Rebecca Farley, Lorenzo Goco, Adam Harris, Jim Hensler, Chris Jackson, Andy Johnson, Ken Johnson, Mary Pat Lawrence, Brandon Milhorn, Don Mitchell, Elizabeth O'Reilly, Vera Redding, Jacqui Russell, Nancy St. Louis, Michael Schafer, Tracye Winfrey, and Steven Biegun.

Chairman ROBERTS. The Committee will come to order.

We will begin today's meeting with a motion to close the proceeding to the public. Therefore, pursuant to Rule 28 of the Standing Rules of the Senate, I move that the remainder of this meeting shall be closed to the public because the matters to be discussed will disclose matters necessary to be kept secret in the interest of national defense or the conduct of foreign relations of the United States.

Is there a second?

Senator WYDEN. Second.

Chairman ROBERTS. I am advised that a roll call vote is required. The Clerk will call the roll.

Mrs. MCGHEE. Mr. Hatch.

Senator HATCH. Aye.

Mrs. MCGHEE. Mr. DeWine.

Chairman ROBERTS. Aye by proxy.

Mrs. MCGHEE. Mr. Bond.

Senator BOND. Aye.

Mrs. MCGHEE. Mr. Lott.

Senator LOTT. Aye.

Mrs. MCGHEE. Ms. Snowe.
Senator SNOWE. Aye.
Mrs. MCGHEE. Mr. Hagel.
Senator HAGEL. Aye.
Mrs. MCGHEE. Mr. Chambliss.
Senator CHAMBLISS. Aye.
Mrs. MCGHEE. Mr. Warner.
Senator WARNER. Aye.
Mrs. MCGHEE. Mr. Levin.
Senator LEVIN. Aye.
Mrs. MCGHEE. Mrs. Feinstein.
Senator FEINSTEIN. Aye.
Mrs. MCGHEE. Mr. Wyden.
Senator WYDEN. Aye.
Mrs. MCGHEE. Mr. Durbin.
Vice Chairman ROCKEFELLER. Aye by proxy.
Mrs. MCGHEE. Mr. Bayh.
Senator BAYH. Aye.
Mrs. MCGHEE. Mr. Edwards.
Vice Chairman ROCKEFELLER. Aye by proxy.
Mrs. MCGHEE. Ms. Mikulski.
Senator MIKULSKI. Aye.
Mrs. MCGHEE. Mr. Rockefeller.
Vice Chairman ROCKEFELLER. Aye.
Mrs. MCGHEE. Mr. Roberts.
Senator ROBERTS. Aye.
Mrs. MCGHEE. Seventeen ayes, zero nays.
[Whereupon, the Committee adjourned.]

PAT ROBERTS, KANSAS, CHAIRMAN
JOHN D. ROCKEFELLER, IV, WEST VIRGINIA, VICE CHAIRMAN

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MIKE DEWINE, OHIO
CHRISTOPHER S. BOND, MISSOURI
TRENT LOTT, MISSISSIPPI
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RON WYDEN, OREGON
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CHRISTOPHER K. MELLON, MINORITY STAFF DIRECTOR
KATHLEEN P. MCGHEE, CHIEF CLERK

United States Senate
SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510-6475

SSCI#2003-2480

May 28, 2002

General Frank Libutti, USMC (Ret.)
4413 49th Street, Northwest
Washington, D.C. 20016

Dear General Libutti:

We congratulate you on your nomination by the President for the position of Under Secretary for Information Analysis and Infrastructure Protection at the Department of Homeland Security.

Pursuant to the rules of the Committee, all presidential nominees must complete the questionnaire that was recently forwarded to you. We ask that you respond promptly because our rules provide that a confirmation hearing may not be held sooner than seven days after the receipt of the completed questionnaire. In addition, we ask that you provide written responses to the Committee's pre-hearing questions, enclosed herein.

We look forward to working with you during the confirmation process. Please call the Committee's General Counsel, Richard Douglas at (202) 224-1700 if you have any questions.

Sincerely,

Pat Roberts
Chairman

John D. Rockefeller IV
Vice Chairman

Enclosure

# SELECT COMMITTEE ON INTELLIGENCE

**UNITED STATES SENATE**

## QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

**SELECT COMMITTEE ON INTELLIGENCE**
**UNITED STATES SENATE**

# QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

## PART A - BIOGRAPHICAL INFORMATION

1. **NAME:** Frank Libutti

2. **DATE AND PLACE OF BIRTH:** 04/23/45 Trenton, NJ

3. **MARITAL STATUS:** Married

4. **SPOUSE'S NAME:** Jean Libutti

5. **SPOUSE'S MAIDEN NAME IF APPLICABLE:** Wallace

6. **NAMES AND AGES OF CHILDREN:**

| NAME | AGE |
|---|---|
| Catherine A. Williams | 35 |
| Christopher L. Libutti | 30 |
| Michela Libutti | 6 |

7. **EDUCATION SINCE HIGH SCHOOL:**

| INSTITUTION | DATES ATTENDED | DEGREE RECEIVED | DATE OF DEGREE |
|---|---|---|---|
| The Citadel | 08/62 TO 05/66 | BS | 05/66 |

8. **EMPLOYMENT RECORD (LIST ALL POSITIONS HELD SINCE COLLEGE, INCLUDING MILITARY SERVICE. INDICATE NAME OF EMPLOYER, POSITION, TITLE OR DESCRIPTION, LOCATION AND DATES OF EMPLOYMENT.)**

| EMPLOYER | POSITION/TITLE | LOCATION | DATE |
|---|---|---|---|
| US Marine Corps | CG Marine Forces Pacific, Central Command<br>Marine Forces Korea, and Marine Corps Bases Pacific | Camp Smith, HI | 07/99-07/01 |

For Marine Corps assignment from 08/66 to 10/01, please see biography attached

**9. GOVERNMENT EXPERIENCE (INDICATE EXPERIENCE IN OR ASSOCIATION WITH FEDERAL, STATE OR LOCAL GOVERNMENTS, INCLUDING ADVISORY, CONSULTATIVE, HONORARY OR OTHER PART-TIME SERVICE OR POSITION. DO NOT REPEAT INFORMATION ALREADY PROVIDED IN QUESTION 8):**

New York City Police Department, Deputy Commissioner of Counter Terrorism Bureau, 01/02 to Present

Department Of Defense, Special Assistant to Sec. Army for Home Land Security, 10/01 To 01/02

**10. INDICATE ANY SPECIALIZED INTELLIGENCE OR NATIONAL SECURITY EXPERTISE YOU HAVE ACQUIRED HAVING SERVED IN THE POSITIONS DESCRIBED IN QUESTIONS 8 AND/OR 9.**

Dealt with Intel/Counter-Terrorism issues at the Deputy Secretary level as part of the DOD team and was the Chief Advisor to the NYC Police Commissioner regarding Counter Terrorism in NYC; job involved all actions to prevent, investigate, and respond to acts of Terrorism in NYC.

11. **HONORS AND AWARDS (PROVIDE INFORMATION ON SCHOLARSHIPS, FELLOWSHIPS, HONORARY DEGREES, MILITARY DECORATIONS, CIVILIAN SERVICE CITATIONS, OR ANY OTHER SPECIAL RECOGNITION FOR OUTSTANDING PERFORMANCE OR ACHIEVEMENT):**

Defense Distinguished Service Medal, the Distinguished Service Medal, Silver Star Medal. Defense Superior Service Medal (with two palms), Legion of Merit (with gold star). Three Purple Hearts. Navy and Marine Corps Commendation Medal, Republic of Korea Chonsu Medal, and the Combat action Ribbon. He was also presented with the Order of the Rising Sun Gold and Silver Star by the Emperor of Japan for service dedicated to the security of Japan and the mutual cooperation between that country and the United States.

Honorary Doctorate Degree from his Alma Mater, The Citadel 05/01
Ronald Reagan "Gipper Award" 05/02
American Society for Industrial Security "Man of the Year" 05/03

**12. ORGANIZATIONAL AFFILIATIONS (LIST MEMBERSHIPS IN AND OFFICES HELD WITHIN THE LAST TEN YEARS IN ANY PROFESSIONAL, CIVIC, FRATERNAL, BUSINESS, SCHOLARLY, CULTURAL, CHARITABLE OR OTHER SIMILAR ORGANIZATIONS):**

| ORGANIZATION | OFFICE HELD | DATES |
|---|---|---|
| N/A | | |

**13. PUBLISHED WRITINGS AND SPEECHES (LIST THE TITLES, PUBLISHERS, AND PUBLICATION DATES OF ANY BOOKS, ARTICLES, REPORTS OR OTHER PUBLISHED MATERIALS YOU HAVE AUTHORED. ALSO LIST ANY PUBLIC SPEECHES YOU HAVE MADE WITHIN THE LAST TEN YEARS FOR WHICH THERE IS A TEXT OR TRANSCRIPT. TO THE EXTENT POSSIBLE, PLEASE PROVIDE A COPY OF EACH SUCH PUBLICATION, TEXT OR TRANSCRIPT):**

N/A

## PART B - QUALIFICATIONS

**14. QUALIFICATIONS (DESCRIBE WHY YOU BELIEVE YOU ARE QUALIFIED TO SERVE IN THE POSITION FOR WHICH YOU HAVE BEEN NOMINATED):**

My experience, knowledge, leadership and political/operational savvy gained in the following career highlights:

- Fifteen (15) months as the Deputy Commissioner for Counter-Terrorism in N.Y.C. – focused on prevention, responds to, and investigation of terrorist acts in N.Y.C., and as personal advisor to the N.Y.C. Police Commissioner regarding actions to counter terrorism.
- Three (3) months as the Special Assistant to the D.O.D., Executive Agent for Homeland Security (Sec. Army); areas of concentration included: support to civil authorities, coordinator with the interagency group(s) at the Deputies level, and preparing a study for Secretary of Defense regarding options for the structure and stand-up of either an Assistant or Under Secretary for Homeland Security in D.O.D.
- Thirty-five (35) years of service in the U.S. Marine Corps, retiring as a three (3) star general. My last assigned was as Commanding General Marine Forces Pacific, Commanding General Marine Forces Central Command, Commanding General Marine Forces Korea and Commanding General Marine Corps Bases Pacific. I was privileged to command 75% of the Corps' operational forces, plus Marines stationed at our bases in Southern California, Hawaii and Japan. My commands totaling approximately eighty (80) thousand Marines and civilians. For my last nine (9) years as a General Officer, I routinely dealt with operational and strategic issues at the national level, including our country's major war plans/humanitarian operations. The aforementioned responsibilities required superior managerial leadership skills; coupled with operational savvy and a recognition of the impact of military actions on the political and geo-political environment.

## PART C - POLITICAL AND FOREIGN AFFILIATIONS

15. **POLITICAL ACTIVITIES (LIST ANY MEMBERSHIPS OR OFFICES HELD IN OR FINANCIAL CONTRIBUTIONS OR SERVICES RENDERED TO, ANY POLITICAL PARTY, ELECTION COMMITTEE, POLITICAL ACTION COMMITTEE, OR INDIVIDUAL CANDIDATE DURING THE LAST TEN YEARS):**

N/A

16. **CANDIDACY FOR PUBLIC OFFICE (FURNISH DETAILS OF ANY CANDIDACY FOR ELECTIVE PUBLIC OFFICE):**

N/A

17. **FOREIGN AFFILIATIONS**

**(NOTE: QUESTIONS 17A AND B ARE NOT LIMITED TO RELATIONSHIPS REQUIRING REGISTRATION UNDER THE FOREIGN AGENTS REGISTRATION ACT. QUESTIONS 17A, B, AND C DO NOT CALL FOR A POSITIVE RESPONSE IF THE REPRESENTATION OR TRANSACTION WAS AUTHORIZED BY THE UNITED STATES GOVERNMENT IN CONNECTION WITH YOUR OR YOUR SPOUSE'S EMPLOYMENT IN GOVERNMENT SERVICE.)**

**A. HAVE YOU OR YOUR SPOUSE EVER REPRESENTED IN ANY CAPACITY (E.G. EMPLOYEE, ATTORNEY, OR POLITICAL/BUSINESS CONSULTANT), WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.**

No

**B. HAVE ANY OF YOUR OR YOUR SPOUSE'S ASSOCIATES REPRESENTED, IN ANY CAPACITY, WITH OR WITHOUT COMPENSATION, A FOREIGN GOVERNMENT OR AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE FULLY DESCRIBE SUCH RELATIONSHIP.**

No

**C. DURING THE PAST TEN YEARS, HAVE YOU OR YOUR SPOUSE RECEIVED ANY COMPENSATION FROM, OR BEEN INVOLVED IN ANY FINANCIAL OR BUSINESS TRANSACTIONS WITH, A FOREIGN GOVERNMENT OR ANY ENTITY CONTROLLED BY A FOREIGN GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.**

No

**D. HAVE YOU OR YOUR SPOUSE EVER REGISTERED UNDER THE FOREIGN AGENTS**

**REGISTRATION ACT? IF SO, PLEASE PROVIDE DETAILS.**

No

**18. DESCRIBE ANY LOBBYING ACTIVITY DURING THE PAST TEN YEARS, OTHER THAN IN AN OFFICIAL U.S. GOVERNMENT CAPACITY, IN WHICH YOU OR YOUR SPOUSE HAVE ENGAGED FOR THE PURPOSE OF DIRECTLY OR INDIRECTLY INFLUENCING THE PASSAGE, DEFEAT OR MODIFICATION OF FEDERAL LEGISLATION, OR FOR THE PURPOSE OF AFFECTING THE ADMINISTRATION AND EXECUTION OF FEDERAL LAW OR PUBLIC POLICY.**

N/A

## PART D - FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

**19. DESCRIBE ANY EMPLOYMENT, BUSINESS RELATIONSHIP, FINANCIAL TRANSACTION, INVESTMENT, ASSOCIATION OR ACTIVITY (INCLUDING, BUT NOT LIMITED TO, DEALINGS WITH THE FEDERAL GOVERNMENT ON YOUR OWN BEHALF OR ON BEHALF OF A CLIENT), WHICH COULD CREATE, OR APPEAR TO CREATE, A CONFLICT OF INTEREST IN THE POSITION TO WHICH YOU HAVE BEEN NOMINATED.**

N/A

**20. DO YOU INTEND TO SEVER ALL BUSINESS CONNECTIONS WITH YOUR PRESENT EMPLOYERS, FIRMS, BUSINESS ASSOCIATES AND/OR PARTNERSHIPS OR OTHER ORGANIZATIONS IN THE EVENT THAT YOU ARE CONFIRMED BY THE SENATE? IF NOT, PLEASE EXPLAIN.**

Yes

**21. DESCRIBE THE FINANCIAL ARRANGEMENTS YOU HAVE MADE OR PLAN TO MAKE, IF YOU ARE CONFIRMED, IN CONNECTION WITH SEVERANCE FROM YOUR CURRENT POSITION. PLEASE INCLUDE SEVERANCE PAY, PENSION RIGHTS, STOCK OPTIONS, DEFERRED INCOME ARRANGEMENTS AND ANY AND ALL COMPENSATION THAT WILL OR MIGHT BE RECEIVED IN THE FUTURE AS A RESULT OF YOUR CURRENT BUSINESS OR PROFESSIONAL RELATIONSHIPS.**

Letter of Resignation and receive compensation for unused leave.

22. **DO YOU HAVE ANY PLANS, COMMITMENTS OR AGREEMENTS TO PURSUE OUTSIDE EMPLOYMENT, WITH OR WITHOUT COMPENSATION, DURING YOUR SERVICE WITH THE GOVERNMENT? IF SO, PLEASE PROVIDE DETAILS.**

No

23. **AS FAR AS CAN BE FORESEEN, STATE YOUR PLANS AFTER COMPLETING GOVERNMENT SERVICE. PLEASE SPECIFICALLY DESCRIBE ANY AGREEMENTS OR UNDERSTANDINGS, WRITTEN OR UNWRITTEN, CONCERNING EMPLOYMENT AFTER LEAVING GOVERNMENT SERVICE. IN PARTICULAR, DESCRIBE ANY AGREEMENTS, UNDERSTANDINGS OR OPTIONS TO RETURN TO YOUR CURRENT POSITION.**

None

24. **IF YOU ARE PRESENTLY IN GOVERNMENT SERVICE, DURING THE PAST FIVE YEARS OF SUCH SERVICE, HAVE YOU RECEIVED FROM A PERSON OUTSIDE OF GOVERNMENT AN OFFER OR EXPRESSION OF INTEREST TO EMPLOY YOUR SERVICES AFTER YOU LEAVE GOVERNMENT SERVICE? IF YES, PLEASE PROVIDE DETAILS.**

N/A

25. **IS YOUR SPOUSE EMPLOYED? IF YES AND THE NATURE OF THIS EMPLOYMENT IS RELATED IN ANY WAY TO THE POSITION FOR WHICH YOU ARE SEEKING CONFIRMATION, PLEASE INDICATE YOUR SPOUSE'S EMPLOYER, THE POSITION AND THE LENGTH OF TIME THE POSITION HAS BEEN HELD. IF YOUR SPOUSE'S EMPLOYMENT IS NOT RELATED TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED, PLEASE SO STATE.**

N/A

26. **LIST BELOW ALL CORPORATIONS, PARTNERSHIPS, FOUNDATIONS, TRUSTS, OR OTHER ENTITIES TOWARD WHICH YOU OR YOUR SPOUSE HAVE FIDUCIARY OBLIGATIONS OR IN WHICH YOU OR YOUR SPOUSE HAVE HELD DIRECTORSHIPS OR OTHER POSITIONS OF TRUST DURING THE PAST FIVE YEARS.**

| NAME OF ENTITY | POSITION | DATES HELD | SELF OR SPOUSE |
|---|---|---|---|
| None | | | |

27. **LIST ALL GIFTS EXCEEDING $1,000 IN VALUE RECEIVED DURING THE PAST FIVE YEARS BY YOU, YOUR SPOUSE, OR YOUR DEPENDENTS. (NOTE: GIFTS RECEIVED FROM RELATIVES AND GIFTS GIVEN TO YOUR SPOUSE OR DEPENDENT NEED NOT BE INCLUDED UNLESS THE GIFT WAS GIVEN WITH YOUR KNOWLEDGE AND ACQUIESCENCE AND YOU HAD REASON TO BELIEVE THE GIFT WAS GIVEN BECAUSE OF YOUR OFFICIAL POSITION.)**

N/A

28. **LIST ALL SECURITIES, REAL PROPERTY, PARTNERSHIP INTERESTS, OR OTHER INVESTMENTS OR RECEIVABLES WITH A CURRENT MARKET VALUE (OR, IF MARKET VALUE IS NOT ASCERTAINABLE, ESTIMATED CURRENT FAIR VALUE) IN EXCESS OF $1,000. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE A OF THE DISCLOSURE FORMS OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CURRENT VALUATIONS ARE USED.)**

| DESCRIPTION OF PROPERTY | VALUE | METHOD OF VALUATION |
|---|---|---|
| 4413 49th Street, NW, Washington, DC. 20016 | $450,000.000 | Market Value |

Additional Reported in Schedule A (financial disclosure)

29. **LIST ALL LOANS OR OTHER INDEBTEDNESS (INCLUDING ANY CONTINGENT LIABILITIES) IN EXCESS OF $10,000. EXCLUDE A MORTGAGE ON YOUR PERSONAL RESIDENCE UNLESS IT IS RENTED OUT, AND LOANS SECURED BY AUTOMOBILES, HOUSEHOLD FURNITURE OR APPLIANCES. (NOTE: THE INFORMATION PROVIDED IN RESPONSE TO SCHEDULE C OF THE DISCLOSURE FORM OF THE OFFICE OF GOVERNMENT ETHICS MAY BE INCORPORATED BY REFERENCE, PROVIDED THAT CONTINGENT LIABILITIES ARE ALSO INCLUDED.)**

| NATURE OF OBLIGATION | NAME OF OBLIGEE | AMOUNT |
|---|---|---|

Reported in Schedule C (financial disclosure)

30. **ARE YOU OR YOUR SPOUSE NOW IN DEFAULT ON ANY LOAN, DEBT OR OTHER FINANCIAL OBLIGATION? HAVE YOU OR YOUR SPOUSE BEEN IN DEFAULT ON ANY LOAN, DEBT OR OTHER FINANCIAL OBLIGATION IN THE PAST TEN YEARS? HAVE YOU OR YOUR SPOUSE EVER BEEN REFUSED CREDIT OR HAD A LOAN APPLICATION DENIED? IF THE ANSWER TO ANY OF THESE QUESTIONS IS YES, PLEASE PROVIDE DETAILS.**

No

31. **LIST THE SPECIFIC SOURCES AND AMOUNTS OF ALL INCOME RECEIVED DURING THE LAST FIVE YEARS, INCLUDING ALL SALARIES, FEES, DIVIDENDS, INTEREST, GIFTS,**

**RENTS, ROYALTIES, PATENTS, HONORARIA, AND OTHER ITEMS EXCEEDING $200. (COPIES OF U.S. INCOME TAX RETURNS FOR THESE YEARS MAY BE SUBSTITUTED HERE, BUT THEIR SUBMISSION IS NOT REQUIRED.)**

| | 1998 | 1999 | 2000 | 2001 | 2002 |
|---|---|---|---|---|---|
| SALARIES | 110,872 | 102,194 | 115,618 | 133,800 | 146,000 |
| FEES | N/A | N/A | N/A | N/A | N/A |
| ROYALTIES | N/A | N/A | N/A | N/A | N/A |
| DIVIDENDS | 148 | 181 | 158 | 258 | * |
| INTEREST | 414 | 462 | 760 | 756 | * |
| GIFTS | N/A | N/A | N/A | N/A | N/A |
| RENTS | 19,200 | 19,200 | 19,200 | 8,000 | 9800 |
| OTHER cap gain pension | 3,744 | 2,350 | N/A | 14,493 | * |
| TOTAL | 134,378 | 124,387 | 135,736 | 157,307 | *155,800 |

32. **IF ASKED, WILL YOU PROVIDE THE COMMITTEE WITH COPIES OF YOUR AND YOUR SPOUSE'S FEDERAL INCOME TAX RETURNS FOR THE PAST THREE YEARS.**
    Yes

33. **LIST ALL JURISDICTIONS IN WHICH YOU AND YOUR SPOUSE FILE ANNUAL INCOME TAX RETURNS.**
    Washington DC, New York, Hawaii, California

34. **HAVE YOUR FEDERAL OR STATE TAX RETURNS BEEN THE SUBJECT OF AN AUDIT, INVESTIGATION OR INQUIRY AT ANY TIME? IF SO, PLEASE PROVIDE DETAILS, INCLUDING THE RESULT OF ANY SUCH PROCEEDING.**
    N/A

35. **IF YOU ARE AN ATTORNEY, ACCOUNTANT, OR OTHER PROFESSIONAL, PLEASE LIST ALL CLIENTS AND CUSTOMERS WHOM YOU BILLED MORE THAN $200 WORTH OF SERVICES DURING THE PAST FIVE YEARS. ALSO, LIST ALL JURISDICTIONS IN WHICH YOU ARE LICENSED TO PRACTICE.**
    N/A

36. **DO YOU INTEND TO PLACE YOUR FINANCIAL HOLDINGS AND THOSE OF YOUR SPOUSE AND DEPENDENT MEMBERS OF YOUR IMMEDIATE HOUSEHOLD IN A BLIND TRUST? IF YES, PLEASE FURNISH DETAILS. IF NO, DESCRIBE OTHER ARRANGEMENTS FOR AVOIDING ANY POTENTIAL CONFLICTS OF INTEREST.**

NO

37. **IF APPLICABLE, ATTACH THE LAST THREE YEARS OF ANNUAL FINANCIAL DISCLOSURE FORMS YOU HAVE BEEN REQUIRED TO FILE WITH YOUR AGENCY, DEPARTMENT, OR BRANCH OF GOVERNMENT.**

N/A

## PART E - ETHICAL MATTERS

38. **HAVE YOU EVER BEEN THE SUBJECT OF A DISCIPLINARY PROCEEDING OR CITED FOR A BREACH OF ETHICS OR UNPROFESSIONAL CONDUCT BY, OR BEEN THE SUBJECT OF A COMPLAINT TO, ANY COURT, ADMINISTRATIVE AGENCY, PROFESSIONAL ASSOCIATION, DISCIPLINARY COMMITTEE OR OTHER PROFESSIONAL GROUP? IF SO, PROVIDE DETAILS.**

No

39. **HAVE YOU EVER BEEN INVESTIGATED, HELD, ARRESTED, OR CHARGED BY ANY FEDERAL, STATE OR OTHER LAW ENFORCEMENT AUTHORITY FOR VIOLATION OF ANY FEDERAL STATE, COUNTY, OR MUNICIPAL LAW, REGULATION, OR ORDINANCE, OTHER THAN A MINOR TRAFFIC OFFENSE, OR NAMED AS A DEFENDANT OR OTHERWISE IN ANY INDICTMENT OR INFORMATION RELATING TO SUCH VIOLATION? IF SO, PROVIDE DETAILS.**

No

40. **HAVE YOU EVER BEEN CONVICTED OF OR ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO ANY CRIMINAL VIOLATION OTHER THAN A MINOR TRAFFIC OFFENSE? IF SO, PROVIDE DETAILS.**

No

41. **ARE YOU PRESENTLY OR HAVE YOU EVER BEEN A PARTY IN INTEREST IN ANY ADMINISTRATIVE AGENCY PROCEEDING OR CIVIL LITIGATION? IF SO, PLEASE PROVIDE DETAILS.**

No

**42. HAVE YOU BEEN INTERVIEWED OR ASKED TO SUPPLY ANY INFORMATION AS A WITNESS OR OTHERWISE IN CONNECTION WITH ANY CONGRESSIONAL INVESTIGATION, FEDERAL OR STATE AGENCY PROCEEDING, GRAND JURY INVESTIGATION, OR CRIMINAL OR CIVIL LITIGATION IN THE PAST TEN YEARS? IF SO, PROVIDE DETAILS.**

N/A

**43. HAS ANY BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, DIRECTOR OR PARTNER BEEN A PARTY TO ANY ADMINISTRATIVE AGENCY PROCEEDING OR CRIMINAL OR CIVIL LITIGATION RELEVANT TO THE POSITION TO WHICH YOU HAVE BEEN NOMINATED? IF SO, PROVIDE DETAILS. (WITH RESPECT TO A BUSINESS OF WHICH YOU ARE OR WERE AN OFFICER, YOU NEED ONLY CONSIDER PROCEEDINGS AND LITIGATION THAT OCCURRED WHILE YOU WERE AN OFFICER OF THAT BUSINESS.)**

No

## PART F - SECURITY INFORMATION

**44. HAVE YOU EVER BEEN DENIED ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION FOR ANY REASON? IF YES, PLEASE EXPLAIN IN DETAIL.**

No

**45. HAVE YOU BEEN REQUIRED TO TAKE A POLYGRAPH EXAMINATION FOR ANY SECURITY CLEARANCE OR ACCESS TO CLASSIFIED INFORMATION? IF YES, PLEASE EXPLAIN.**

Yes, for clearance relating to occupation

**46. HAVE YOU EVER REFUSED TO SUBMIT TO A POLYGRAPH EXAMINATION? IF YES, PLEASE EXPLAIN.**

No

46. HAVE YOU EVER REFUSED TO SUBMIT TO A POLYGRAPH EXAMINATION? IF YES, PLEASE EXPLAIN.

**AFFIRMATION**

I, FRANK Libutti, DO SWEAR THAT THE ANSWERS I HAVE PROVIDED TO THIS QUESTIONNAIRE ARE ACCURATE AND COMPLETE.

9 May '03 Frank Libutti
(Date) (Name)

Joann S Weiss
(Notary) 5/9/03

JOANN S. WEISS
Notary Public, State of New York
No. 01WE4754988
Qualified in Kings County
Commission Expires 7/31/03

TO THE CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE:

In connection with my nomination to be Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and as a condition of receiving the advice and consent of the Senate to my confirmation, I hereby commit to appear and testify before any duly constituted committee of the Senate upon request.

Signature

Date: 9 May '03

# Questions for General Frank Libutti, Nominee, Under Secretary for Information Analysis and Infrastructure Protection

1. What should the top priorities be for the Information Analysis and Infrastructure Protection Directorate?

The IAIP Directorate's top priorities are to harness the capability to identify and assess threats to the homeland, map those threats against our vulnerabilities, issue warnings, and provide the basis from which to organize protective measures to secure America. Top priority must be given to the basic task of establishing the IAIP Directorate so it can quickly play a full-fledged role in addressing the mission laid out for it in the legislation. The principles of cooperation and partnerships underlie this work as we merge under one roof the capabilities of multiple organizations that previously worked independently. They also guide our work with other federal Departments and agencies, state and local governments, and the private sector. Active partnership with the private sector is especially important because private industry owns and operates approximately 85 percent of American infrastructure.

2. What do you see as the most significant challenges facing the Information Analysis and Infrastructure Protection Directorate?

As I indicated above, one of the top challenges I see for the Directorate is that it is literally a "start up" organization. What is needed right now is the building of an effective organizational structure to serve our federal, state, local and private stakeholders, and to productively deal with our other federal and intelligence community counterparts. Co-locating a variety of legacy entities and developing an integrated Directorate mission and culture will be my immediate focus if confirmed. My goal is to create an atmosphere where employees value their vital work and mission, and feel valued in performing their duties.

3. Would you propose any changes to the national critical infrastructure protection (CIP) strategies at this time?

The Department is working hard to define and deliver the successful implementation of the national strategies to protect critical infrastructure and cyberspace, and definite progress has been made. The recently announced Cyber Security Division within IAIP is an example of the continuing effort to examine, assess and determine appropriate critical infrastructure protection strategies. Prior to making any changes in strategies, I would assess them, the Homeland Security Act and other relevant authorities related to critical infrastructure protection, to identify any gaps or conflicts, and then recommend possible remedies.

4. Concerning the respective CIP roles of federal, state and local, and private sector entities:
   - How should federal, state and local governments, and private sector entities share in the responsibility for protecting critical infrastructure?

The protection of critical infrastructure is by necessity a collaborative effort. If confirmed, I would ensure the IAIP's focus on measuring and determining the consequence of particular threats to critical infrastructure and key assets, and making determinations as to the scope

(national, regional or local) of those consequences. Based upon the analysis, we would pursue an equitable arrangement among all partners to assume responsibility for the protection of the infrastructure or key asset. Public confidence depends upon the effectiveness of our response, and the effectiveness of the protective measures and crisis preparation and planning that precede an event. We must provide our first responder partners at the state and local level, and partners in the private sector with the support, coordination and focused leadership that will empower them to carry out their individual protection responsibilities, and step in and assist when they need it.

- What actions/incentives would you recommend that the Information Analysis and Infrastructure Protection Directorate take to ensure that homeland security initiatives for protecting the nation's infrastructure are integrated into underlying programs?

Any initiatives to protect the nation's infrastructure must reflect a partnership among the Department, state and local officials and the private sector owners of the infrastructure sector or facilities. It is my understanding that there are a number of legacy programs that brought us together with our state, local and private partners, and any new directions would have to be the result of evaluation and agreed upon steps by all parties. These efforts must be viewed as a process rather than a single event, and if confirmed, I will ensure that process is informed by effective dialogue.

- How will you ensure that these efforts are sustainable?

I believe the way to sustain critical infrastructure protection is to establish this Department as a credible, helpful partner in the effort. I believe that if we are assessing vulnerabilities of key assets or critical infrastructure, we should also be accompanying those assessments with practical preventive or recovery measures, as well as with incentives to our partners to implement the measures.

- What factors should be considered to ensure these initiatives are appropriately balanced with missions not related to homeland security?

I do not view pursuing initiatives to protect critical infrastructure as ever conflicting with other missions. The reality today is that we cannot afford not to consider and implement such initiatives.

5. In February 2003, the President published the *National Strategy to Secure Cyberspace* and the *National Strategy for the Physical Protection of Critical Infrastructures and Key Assets* to address CIP issues. The Information Analysis and Infrastructure Protection Directorate will have a critical role in implementing these strategies.
   - What actions would you recommend that the Information Analysis and Infrastructure Protection Directorate take in implementing these strategies?

It is my understanding that the Directorate is already undertaking actions to identify and protect national critical infrastructure. If confirmed, I will continue these efforts and develop processes and systems to warn and to protect specifically threatened assets. I also think it is important to

establish clear lines of responsibility, accountability, and coordinated processes that will govern the interaction of all stakeholders. It is my intention if confirmed, to also extend our infrastructure and key assets protection partnership to include our Mexican and Canadian neighbors, as well as to our other allies around the world.

- How should the physical and cyber efforts be coordinated?

Addressing physical and cyber security threats requires different competencies, technical skills and relationships, but it is imperative that we integrate our approach on both fronts. Failure to do so might allow terrorists or other parties to exploit vulnerabilities on both and impede efforts to respond. My challenge if confirmed will be to ensure that we integrate our approach to communicating with infrastructure owners and operators so that we have a coordinated approach.

- What specific time frames or milestones should be established for the overall implementation of the strategies and for accomplishing specific actions or initiatives?

The timeframe for our initial efforts should be relatively short. I understand that a project is underway currently to devise, within 180 days of our work in Operation Liberty Shield, protective measures for key assets that we identified to governors at the beginning of the country's efforts in Iraq. If confirmed, I would ensure this effort and others like it stayed on the fast track.

- How will the directorate ensure that any conflicting initiatives or gaps are addressed?

Effective communication will be the key to ensure that no partners in the effort, be they federal, state, local or private, are duplicating efforts or overlooking an area in need of protective measures. If confirmed, I plan to ensure that all partners are communicating regularly and effectively in a variety of ways.

6. Performance measures are important for monitoring the successes of the two national CIP strategies and their related programs. However, in general, the strategies describe overarching objectives and priorities, not measurable outcomes. The general lack of specific performance goals and measures makes it more important that individual federal agencies have explicit performance goals and related measures, such as those developed through the Government Performance and Results Act of 1993. Beyond federal agencies, national goals and measures of success may warrant a dialogue about performance goals and measures for nonfederal partners such as state and local governments and the private sector.
    - What performance measures should be used to measure progress of the nation's CIP efforts?

I agree that national goals and measures of success warrant dialogue, particularly when the mission to protect critical infrastructure involves a variety of federal, state, local, and private partners. Performance measures are important, but they should be meaningful to the public and acceptable to all partners whose performance is being assessed. Given that the IAIP's function is so new, if confirmed, I would ensure a robust and productive dialogue among us, and our federal,

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

SSCI# 2003 - 2304

May 12, 2003

The Honorable Pat Roberts
Chairman
Committee on Intelligence
United States Senate
Washington, DC 20510-6475

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Frank Libutti, who has been nominated by President Bush for the position of Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated May 1, 2003 from Mr. Libutti to the Department's ethics official, outlining the steps he will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply with three months of his confirmation date with the actions he agreed to take in his ethics agreement.

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

Sincerely,

Amy L. Comstock
Director

Enclosures

May 1, 2003

Robert Coyle
Acting Designated Agency Ethics Official
Department of Homeland Security
Washington, DC

Dear Mr. Coyle:

The purpose of this letter is to describe the steps that I intend to take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse, minor children, or any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign my position as Deputy Commissioner of Counter Terrorism, New York City Police Department. Furthermore, pursuant to 5 C.F.R. § 2635.502, for one year after I terminate my position with the Police Department, I will not participate in any particular matter involving specific parties in which the Police Department is a party or represents a party, unless I receive prior authorization to so participate.

Sincerely,

Frank Libutti

278 (Rev. 02/2000)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

# Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209-0001

| Date of Appointment, Candidacy, Election or Nomination (Month, Day, Year) | Reporting Status (Check Appropriate Boxes) | Incumbent | Calendar Year Covered by Report | New Entrant, Nominee, or Candidate | Termination Filer | Termination Date (If Applicable) (Month, Day, Year) |
|---|---|---|---|---|---|---|
| APRIL 28, 2003 NL | | ☐ | | ☒ X | ☐ | |

| | Last Name | First Name and Middle Initial |
|---|---|---|
| Reporting Individual's Name | Libutti | Frank |
| Position for Which Filing | Title of Position: Under Secretary for Information Analysis & Infrastructure Protection | Department or Agency (If Applicable): Department of Homeland Security |
| Location of Present Office (or forwarding address) | Address (Number, Street, City, State, and ZIP Code): One Police Plaza, Room 1109, New York, NY 10038 | Telephone No. (Include Area Code): 646-610-6169 |
| Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above) | Title of Position(s) and Date(s) Held: None | |

| Presidential Nominees Subject to Senate Confirmation | Name of Congressional Committee Considering Nomination | Do You Intend to Create a Qualified Diversified Trust? |
|---|---|---|
| | SELECT COMMITTEE ON INTELLIGENCE NL | ☐ Yes ☒ X No |

**Certification**

I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.

Signature of Reporting Individual: Frank Libutti — Date (Month, Day, Year): 5.1.03

**Other Review (If desired by agency)**

Signature of Other Reviewer — Date (Month, Day, Year):

**Agency Ethics Official's Opinion**

On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).

Signature of Designated Agency Ethics Official Reviewing Official: DACO — Date (Month, Day, Year): MAY 7, 2003

**Office of Government Ethics Use Only**

Signature: Marilyn L. Glynn — Date (Month, Day, Year): 5/8/03

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

(Check box if filing extension granted & indicate number of days ____) ☐

(Check box if comments are continued on the reverse side) ☐

## Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a $200 fee.

## Reporting Periods

**Incumbents:** The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

**Termination Filers:** The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

**Nominees, New Entrants and Candidates for President and Vice President:**

**Schedule A**--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of the date of filing.

**Schedule B**--Not applicable.

**Schedule C, Part I** (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

**Schedule C, Part II** (Agreements or Arrangements)-- Show any agreements or arrangements as of the date of filing.

**Schedule D**--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

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Reporting Individual's Name: Rutti, Frank

# SCHEDULE A

Page Number: 2

| Assets and Income (BLOCK A) | Valuation of Assets at close of reporting period (BLOCK B) | | | | | | | | | | Exempt from Prior Disclosure | | Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. (BLOCK C) | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | Type | | | Amount | | | | | | | | | | | | |
| | None (or less than $1,001) | $1,001 - $15,000 | $15,001 - $50,000 | $50,001 - $100,000 | $100,001 - $250,000 | $250,001 - $500,000 | $500,001 - $1,000,000 | Over $1,000,000 * | $1,000,001 - $5,000,000 | $5,000,001 - $25,000,000 | $25,000,001 - $50,000,000 | Over $50,000,000 | Excepted Investment Fund | Excepted Trust | Qualified Trust | Dividends | Rent and Royalties | Interest | Capital Gains | None (or less than $201) | $201 - $1,000 | $1,001 - $2,500 | $2,501 - $5,000 | $5,001 - $15,000 | $15,001 - $50,000 | $50,001 - $100,000 | $100,001 - $1,000,000 | Over $1,000,000* | $1,000,001 - $5,000,000 | Over $5,000,000 | Other Income (Specify Type & Actual Amount) | Date (Mo., Day, Yr.) Only if Honoraria |
| Examples: Central Airlines Common | | | | | | | | | | | | | | | | X | | | | | X | | | | | | | | | | |
| Doe Jones & Smith, Hometown, State | | | X | | | | | | | | | | | | | | | | | | | | | | | | | | | Law Partnership Income $130,000 |
| Kempstone Equity Fund | | | | X | | | | | | | | | | | | | | | | | | | X | | | | | | | |
| IRA: Heartland 500 Index Fund | | | | | | | X | | | | | | X | | | | | | | | | | | X | | | | | | |
| 1 IRA: Pioneer Value Fund | | | X | | | | | | | | | | X | | | | | | | | | X | | | | | | | | |
| 2 Fidelity Destiny II Fund | | | X | | | | | | | | | | X | | | | | | | | | | X | | | | | | | |
| 3 IRA: Fidelity Destiny II Fund | | | | X | | | | | | | | | X | | | | | | | | | | | X | | | | | | |
| 4 New York City Police Department New York, NY | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | Salary | $167,839 |
| 5 Residential rental property Washington, DC | | | | | | X | | | | | | | | | | | X | | | | | | | X | | | | | | |
| 6 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Prior Editions Cannot be Used.

OGE Form 278 (Rev. 03/2000)
5 C.F.R. Part 2634
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**Do not Complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate**

| Reporting Individual's Name | SCHEDULE B | Page Number |
|---|---|---|
| Frank, Barney | | 3 |

## Part I: Transactions

None ☐

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

| | Identification of Assets | Transaction Type (x) | | | Date (Mo., Day, Yr.) | Amount of Transaction (x) | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Purchase | Sale | Exchange | | $1,001 - $15,000 | $15,001 - $50,000 | $50,001 - $100,000 | $100,001 - $250,000 | $250,001 - $500,000 | $500,001 - $1,000,000 | Over $1,000,000* | $1,000,001 - $5,000,000 | $5,000,001 - $25,000,000 | $25,000,001 - $50,000,000 | Over $50,000,000 | Certificate of divestiture |
| Example: | Central Airlines Common | x | | | 2/1/99 | | | x | | | | | | | | | |
| 1 | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | |

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

## Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260; and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. **Exclude** anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

| | Source (Name and Address) | Brief Description | Value |
|---|---|---|---|
| Examples: | Nat'l Assn. of Rock Collectors, NY, NY | Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty) | $500 |
| | Frank Jones, San Francisco, CA | Leather briefcase (personal friend) | $300 |
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |

Prior Editions Cannot Be Used.

278 (Rev. 03/2000)
C.F.R Part 2634
S. Office of Government Ethics

Reporting Individual's Name: Barth, Frank

# SCHEDULE C

Page Number: 4

## Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☐

| | Creditors (Name and Address) | Type of Liability | Date Incurred | Interest Rate | Term if applicable | Category of Amount or Value (x) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | $10,001 - $15,000 | $15,001 - $50,000 | $50,001 - $100,000 | $100,001 - $250,000 | $250,001 - $500,000 | $500,001 - $1,000,000 | Over $1,000,000* | $1,000,001 - $5,000,000 | $5,000,001 - $25,000,000 | $25,000,001 - $50,000,000 | Over $50,000,000 |
| Examples: | First District Bank, Washington, DC | Mortgage on rental property, Delaware | 1991 | 8% | 25 yrs. | | | x | | | | | | | | |
| | John Jones, 123 J St., Washington, DC | Promissory note | 1999 | 10 % | on demand | | | | | x | | | | | | |
| 1 | Countrywide Home Loans<br>Van Nuys, CA | Mortgage on rental property, Washington, DC | 2001 | 8.125% | 20 yrs. | | | | X | | | | | | | |
| 2 | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | |

* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

## Part II: Agreements or Arrangements

Report your agreements or arrangements for: continuing participation in an employee benefit plan (e.g. 401k, deferred compensation; (2) continuation payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits

None ☒

| | Status and Terms of any Agreement or Arrangement | Parties | Date |
|---|---|---|---|
| Example: | Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 1/00. | Doe Jones & Smith, Hometown, State | 7/85 |
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |

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SF 278 (Rev. 03 2000)
5 CFR Part 2634
U.S. Office of Government Ethics

| Reporting Individual's Name | SCHEDULE D | Page Number |
|---|---|---|
| Libutti, Frank | | 5 |

## Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☐

| | Organization (*Name and Address*) | Type of Organization | Position Held | From (Mo., Yr.) | To (Mo., Yr.) |
|---|---|---|---|---|---|
| Examples: | Nat'l Assn. of Rock Collectors, NY, NY | Non-profit education | President | 6/92 | Present |
| | Doe Jones & Smith, Hometown, State | Law firm | Partner | 7/85 | 1/00 |
| 1 | New York City Police Department | City Police Department | Deputy Commissioner, Counter-Terrorism | 1/02 | present |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |
| 6 | | | | | |

## Part II: Compensation In Excess Of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this p
if you are an incumbent
Termination Filer, or
Vice Presidential
or Presidential Candidat

None ☐

| | Source (*Name and Address*) | Brief Description of Duties |
|---|---|---|
| Examples: | Doe Jones & Smith, Hometown, State | Legal services |
| | Metro University (client of Doe Jones & Smith), Moneytown, State | Legal services in connection with university construction |
| 1 | New York City Police Department | Duties as Deputy Commissioner, Counter-Terrorism |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |

Prior Editions Cannot Be Used.

# U.S. Department of Homeland Security

August 4, 2003

2003 - 3752

The Honorable Pat Roberts
Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510-6475

Dear Mr. Chairman:

As required by 5 C.F.R. § 2634.804, I am providing the following information to you as evidence of the compliance of Mr. Frank Libutti, Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security, with his ethics agreement dated May 1, 2003.

Please find enclosed a statement in which Secretary Lubitti has formally recused himself from participating in matters involving specific parties in which the New York City Police Department is or represents a party.

I provided a copy of this report to the Director, U.S. Office of Government Ethics. If you have any questions, please call me at (202) 692-4248.

Sincerely,

Robert E. Coyle
Designated Agency Ethics Official

Enclosure – 1

cc:
Dir., OGE (Ms. S. Bitler)
Secretary Libutti (w/o encl.)

U.S. Department of Homeland Security

SSU# 2005 - 3752

August 1, 2003

MEMORANDUM FOR: The Deputy Secretary

FROM: Frank Libutti
Under Secretary
Information Analysis and
Infrastructure Protection

SUBJECT: Conflict of Interest Disqualification

Until May 30, 2004, I disqualify myself from official participation in any particular matter involving specific parties in which the New York City Police Department (NYPD) is or represents a party, unless I have received prior written authorization from you in accordance with 5 C.F.R. Section 2635.502(d) to participate. I have instructed John P. Chase, my Chief of Staff, to handle any matter that would come before me that involves the NYPD.

To ensure that I do not inadvertently participate officially in any matter in which the NYPD is or represents a party, Sue Armstrong of my staff will screen all matters before I see them. I will also advise all my immediate subordinates of this disqualification as well. Ms. Armstrong can be reached at (202) 282-8143.

cc: Robert Coyle, Legal Advisor for Ethics
John Chase
Sue Armstrong

Washington, D. C. 20528