

Questions for John Kelly, Nominee for Secretary of Homeland Security



**The National
Security Program**

In December, Donald Trump nominated General John Kelly to be Secretary of Homeland Security. This memo provides a brief biography of the General and a list of questions senators could ask him during his confirmation hearing and in private meetings.

Biography

Retired General John Kelly enlisted in the Marine Corps in 1970 and graduated from the University of Massachusetts in 1976. He's led combat forces in Iraq and served as the senior military assistant to former Defense Secretaries Leon Panetta and Robert Gates. He rose through the ranks to lead U.S. Southern Command, where he oversaw the military detention facility at Guantanamo Bay and dealt with border issues, including immigration and drug trafficking.

Questions

Russia

Russia is running an influence campaign against the West to delegitimize governing institutions and weaken democratic

states from within. In doing so, the Kremlin is supporting both witting and unwitting proxies within states and online who disseminate embarrassing information, misinformation, or extreme viewpoints aimed at weakening the credibility of elected leaders. President-elect Trump has repeatedly denied that Russian operatives were involved in hacking the servers of U.S. politicians and interfering in the 2016 elections. However, the overwhelming consensus among the Intelligence Community is that Russian government agencies are the source of such efforts, with this consensus being detailed in a Joint Analysis Report by DHS and the FBI.

- Have you been briefed on these allegations?
- Do you believe that Russia interfered in the 2016 election with the intent of helping to elect Donald Trump or helping to defeat Hillary Clinton?
- Is Russian hacking a serious matter of concern for Homeland Security or not a serious matter?
- What level of skepticism should the Congress, the American people, and the President have about findings and conclusions drawn by our intelligence services?
- Is the CIA politicizing intelligence or doing their job to the best of their ability?
- What is a proportionate response to Russian interference in U.S. elections? What additional steps should be taken against Russia for this?
- How can the U.S. better secure our critical infrastructure and federal networks against similar threats?

Counterterrorism

The Department of Homeland Security was created after 9/11 with the express intention of preventing terrorist acts here at home. Donald Trump has made outrageous statements on terrorism, tweeting that he alone can solve terrorism¹ and implying that Muslims in the U.S. don't do enough to report

terrorism. He's refrained from outlining a plan to defeat ISIS because he wants to remain "unpredictable." ² General, you have a wide-ranging background, having led combat efforts in Iraq and overseen our southern border. But Trump's statements on terrorism have given the public cause for concern.

- There are 3 million Muslims in America. How many do you think are a threat to America's homeland security?
- Following Trump's statements that American Muslims don't report on extremists, the FBI director said "some of our most productive relationships are with people who see things and tell us things who happen to be Muslim." ³ Gallup reported that since 9/11, American Muslims have helped law enforcement stop almost two of every five al Qaeda plots against the U.S. ⁴ Does the administration still share the view that American Muslims don't report terrorism? Does this kind of thinking help or hurt law enforcement's relationship with the American Muslim community and our efforts to combat terrorism?
- You've said that terrorists could use smuggling rings in Mexico and Central America to "move operatives with intent to cause grave harm to our citizens or even bring weapons of mass destruction into the United States." ⁵ Do you still agree with that statement? If so, what evidence do you have that shows that terrorist organizations are attempting to infiltrate the U.S. through Mexico?

- Right now, a known or suspected terrorist can purchase a gun from a dealer, at a gun show, or online. Al Qaeda has called on potential recruits in the U.S. to exploit this weakness, telling them, “You can go down to a gun show at the local convention center...what are you waiting for?”⁶ If we think someone is too dangerous to fly, we shouldn’t allow them to buy a deadly weapon. During a presidential debate, Donald Trump voiced support for preventing those on the terror watch list from accessing a gun.⁷ Does the President-elect still support a “no-fly, no-buy” policy?
- Secretary Johnson recently created the Office of Community Partnerships to lead efforts to counter violent extremism domestically. If confirmed, will you continue to use this office as a center for engaging affected communities?

Muslim Ban

In December 2015, then-candidate Donald Trump proposed a Muslim immigration ban. As the campaign wore on, his policy went back and forth, going from a complete religious ban to a ban on immigration from regions with terrorist activity. During the transition, a Trump adviser—Kansas Secretary of State Kris Kobach—expressed support for a Muslim registry — or “extreme vetting”—in the U.S.

- Do you agree with President-elect Trump that we should institute a Muslim ban?
- If President Trump called upon you to prevent immigration based on religious grounds, would you comply with his request?
- Do you believe religious tests run counter to the First Amendment?

- Law enforcement professionals have said that a registration system would not stop terrorist activity and would undermine trust between law enforcement and local communities. Do you agree that enforcing blanket religious registries undermines our efforts to combat terrorism?
- Have you been briefed by the intelligence community on how such a registration program would be conducted and on its ineffectiveness? Has the President-elect been briefed by the intelligence community on best practices to combat terrorism in the homeland?

Military to Civilian Transition

General, you've had a distinguished and decorated military career. This nation owes you a very big debt of gratitude for your service. Now, you're transitioning to a civilian position, in charge of a civilian agency, with civilian employees.

- You've commanded troops combatting terrorists abroad, but now you're tasked with combatting terrorists at home, whether they be homegrown or foreign terrorists attempting to enter the U.S. How will your approach to counterterrorism change in the domestic context, where the Constitution applies?
- The Posse Comitatus Act places strict limits on the use of U.S. military personnel against Americans. Will you commit to enforcing that principle and ensuring that U.S. military personnel are not used domestically? How will you ensure that this civilian/military distinction is followed in securing the nation's cyber infrastructure, especially given the tension between Cyber Command at DOD and DHS's own cybersecurity mission?

END NOTES

1. @realDonaldTrump, "Another radical Islamic attack, this time in Pakistan, targeting Christian women & children. At least 67 dead, 400 injured. [sic] I alone can solve," *Twitter*, March 27, 2016. Accessed January 6, 2017. Available at: https://twitter.com/realDonaldTrump/status/714189569793646597?ref_src=twsrc%5Etfw.
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3. Kristina Cooke and Joseph Ax, "FBI to Trump: You're Wrong about Muslims Reporting Extremist Threats," *Business Insider*, June 16, 2016. Accessed January 6, 2017. Available at: <http://www.businessinsider.com/r-us-officials-say-american-muslims-do-report-extremist-threats-2016-6>.
4. "Islamophobia: Understanding Anti-Muslim Sentiment in the West," Gallup. Accessed January 6, 2017. Available at: <http://www.gallup.com/poll/157082/islamophobia-understanding-anti-muslim-sentiment-west.aspx>.
5. Mark Landler and Maggie Haberman, "Donald Trump Picks John Kelly, Retired General, to Lead Homeland Security," *The New York Times*, December 7, 2016. Accessed January 6, 2017. Available at: <http://www.nytimes.com/2016/12/07/us/politics/john-kelly-dhs-trump.html>.
6. Jennifer Mascia, "Watch an Al-Qaeda Spokesman Talk About How Easy It is to Buy Guns in the U.S.," *The Trace*, November 18, 2015. Accessed March 7, 2016. Available at: <http://www.thetrace.org/2015/11/islamic-extremists-gun-sale-loopholes/>.

- 7.** Eli Yokley, “Gun Control Advocates Differ on Trump’s ‘No Fly, No Buy’ Sincerity,” *Morning Consult*, September 27, 2016. Accessed January 6, 2017. Available at: <https://morningconsult.com/2016/09/27/gun-control-advocates-differ-trumps-no-fly-no-buy-sincerity/>.