

United States Senate
WASHINGTON, DC 20510

November 30, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Lloyd J. Austin III
Secretary
Department of Defense

Dear Secretary Austin,

We write to you today to express our concern regarding a recent investigation detailing foreign governments' employment of former high-ranking U.S. military personnel – namely countries with records of human rights abuses.¹ According to the *Washington Post* “[m]ore than 500 retired U.S. military personnel — including scores of generals and admirals — have taken lucrative jobs since 2015 working for foreign governments, mostly in countries known for human rights abuses and political repression.”² These claims, if true, present obvious national security concerns as well as questions regarding whether or not the Department of Defense (DoD) is complying with both the intent and letter of the law.

The Emoluments Clause of the Constitution requires retired military officers to receive congressional approval before accepting compensation from any foreign government.³ This is one of our country's founding anti-corruption provisions to “limit foreign influence on federal officers.”⁴ 37 U.S.C. § 908 allows retired service members to be employed by foreign governments only if “the Secretary concerned and the Secretary of State approve the employment.”⁵ The approval requirement applies to “payment for speeches, travel, meals, lodging . . . registration fees . . . [or] non-cash award[s]” by foreign governments.⁶ While the statute requires veterans to report their work for foreign governments, there is no criminal penalty for failing to do so. It is unclear exactly how many former servicemembers have ignored this requirement. The *Washington Post* found that since 2015, more than 500 former servicemembers

¹ See Craig Whitlock and Nate Jones, *Retired U.S. Generals, Admirals Take Top Jobs with Saudi Crown Prince*, WASH. POST (Oct. 18, 2022), <https://www.washingtonpost.com/investigations/interactive/2022/veterans-us-foreign-jobs-saudi-arabia/>.

² *Id.*

³ U.S. Constitution, art. I, § 9, cl. 8.

⁴ KEVIN J. KICKEY & MICHAEL A. FOSTER, CONG. RESEARCH SERV, IF11086, THE EMOLUMENTS CLAUSE OF THE CONSTITUTION, (2021), <https://crsreports.congress.gov/product/pdf/IF/IF11086>.

⁵ 37 U.S.C. § 908

⁶ *Id.*

have submitted requests to work for foreign governments, and those requests were granted 95 percent of the time.⁷

Unfortunately, the recent reporting isn't the first time we've seen examples of former top military officials seeking employment from foreign nations upon retirement.⁸ In 2017, *CNN* revealed that former National Security Advisor James L. Jones, former Central Command Commander General James Mattis, and former Marine Corps Commandant James Amos worked for contracting companies associated with foreign entities in the Middle East and Asia.⁹ Outlets have noted the suspect nature of such employment, highlighting the government's efforts to keep the retired service members' employment hidden.¹⁰

These findings are concerning and demand explanation. The DoD must ensure that former servicemembers don't run afoul of their constitutional oath and that they follow applicable filing and reporting requirements. While statutory enforcement is limited, the DoD may withhold retirement pay and benefits from those former servicemembers who flout the filing and approval requirements for employment by foreign powers.¹¹ Denials of benefits may have a substantial financial impact; however, internal records indicate that the DoD has failed to consistently use even this modest enforcement power. According to *The Washington Post*, the DoD has "docked the pensions of 'fewer than five' people."¹² The apparent lack of internal policing in this matter is gravely troubling given the national security interests at stake.

While the reported information is disturbing, there is still much yet unknown about the DoD's enforcement actions in this area. Considering the importance of the issue, we ask that you answer the following questions by December 16, 2022:

1. What has DoD and its subcomponents done to address security threats posed by retired veterans with knowledge of our military infrastructure working for foreign governments?
2. Has DoD asked any retired officers to cease working for foreign governments after providing approval in the last 10 years?

⁷ *Id.*

⁸ See e.g. Jeremy Herb, *First on CNN: Mattis advised UAE military before joining Trump administration*, CNN (Aug. 2, 2017), <https://www.cnn.com/2017/08/02/politics/mattis-advised-uae-military>; Paul McLeary & Joseph Gedeon, *General disorder: Another four-star tries to cash in*, POLITICO (June 8, 2022), <https://www.politico.com/newsletters/national-security-daily/2022/06/08/general-disorder-another-four-star-tries-to-cash-in-00037081>; This CNN article notes former Secretary Mattis's approval was prior to his service as Secretary of Defense, and that the work was properly disclosed.

⁹ See *id.*

¹⁰ See e.g. Emma James, *Judge forces US military to reveal that 500 vets are secretly taking jobs of up to \$260,000 with foreign governments: 15 generals and admirals are being employed by Saudi Arabia - but DoD won't say how much they are being paid*, DAILY MAIL (Oct. 18, 2022), <https://www.dailymail.co.uk/news/article-11328423/Foreign-governments-reportedly-hire-500-retired-DOD-personnel-2015.html>.

¹¹ See Whitlock and Jones, *Retired U.S. General, Admirals Take Top Jobs*, WASH. POST; U.S. GOV'T ACCOUNTABILITY OFF., B-220860, MATTER OF MAJOR STEPHEN M. HARTNETT, USMC, RETIRED, (Mar. 10, 1986), <https://www.gao.gov/assets/480/470824.pdf>.

¹² *Id.*

- a. Please provide information about those requests including the name of the officer, the foreign country they were performing work on behalf of, the name of any contractors involved, and the job duties performed.
3. How many approvals and denials has DoD issued for retired officers seeking employment with foreign governments in the last 10 years?
 - a. Please provide information about those requests including the name of the officer, the foreign country they were performing work on behalf of, the name of any contractors involved, and the job duties performed.
4. How many times has the DoD withheld retirement pay and benefits because of a servicemembers' failure to receive approval for foreign work in the last 10 years?
 - a. Please provide information about each matter including the name of the officer, the foreign country they were performing work on behalf of, the name of any contractors involved, the job duties performed and the amount of money saved for the taxpayer.
5. Does DoD consider whether a corporation or individual's activities would raise concerns about potential violations of International Traffic in Arms (ITAR) requirements?
6. If the State Department flags a corporation or individual pursuant to ITAR, how does DoD take that notice into consideration?
7. Please provide the name, rank, job duties, foreign country, any known compensation, and dates of service, for all former service members who now work on behalf of foreign nations. Which of these officials received explicit permission to do so, consistent with 37 U.S.C. § 908?

Thank you for your attention to this important matter. Should you have any questions, contact Senator Grassley's Committee staff at (202) 224-5225 or Senator Warren's staff at (202) 224-4543.

Sincerely,



Charles E. Grassley
United States Senator



Elizabeth Warren
United States Senator