

Statement of Ivan K. Fong
Nominee for General Counsel,
U.S. Department of Homeland Security

Before the
Senate Committee on Homeland Security and Governmental Affairs

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Thank you, Mr. Chairman, Ranking Member Collins, and Members of the Committee. Let me also thank Senators Voinovich and Brown for their kind introductions and for their support today.

It is a great honor and privilege for me to be here this morning as the nominee to be General Counsel of the Department of Homeland Security. I thank the President and Secretary Napolitano for their confidence in me, and I thank the Committee for taking up my nomination.

I also want to thank and recognize members of my family, without whose love and support I would not be here today. I owe an immense and immeasurable debt of gratitude to my wife Sharon, who is my soul mate and best friend, and who has sacrificed greatly and supported me in all that I have done, to allow me to be before you today. Although our oldest daughter Kelley, who is away in college in California, and my sister Linda are unable to be here today, I am grateful that our younger two daughters, Caitlin, who is a junior in high school, and Caroline, who is a freshman in high school, are able to be here to share in this event. I am so very proud of all of them, and they, like my wife, will be sacrificing in their own ways to allow me to pursue this significant opportunity for public service.

I also want to introduce other members of my family who are here, including my parents, Jeffrey and Elizabeth Fong, both of whom are career civil servants with the National Institute of Standards and Technology, and from whom I learned the values of education and hard work, a love of learning, and the importance of giving back to one's community. My brother-in-law Cliff Ty is also here, as well as a number of others whose friendship and support mean so much to me.

I believe that public service – and in particular service to one's country – is among the highest of callings. I believe that protecting the security of the American people is of singular importance – and one of the greatest challenges we face as a Nation today. And it is precisely that mission and challenge that I believe brings me here today. The opportunity to work with the dedicated men and women of the Department of Homeland Security who perform their duties, day in and day out, with diligence and professionalism. The opportunity to collaborate and coordinate with the many other federal agencies in the broad work of the Department in achieving our shared mission of preventing, protecting against, responding to, and recovering from terrorist incidents and natural disasters. And the opportunity to partner with state, local, international, and private-sector representatives to protect our critical infrastructures and to help prepare for and respond to disasters of all kinds.

As you know, the General Counsel is the chief legal officer of the Department of Homeland Security. It is a weighty responsibility, and one that I take very seriously. I believe I bring a unique blend of professional experiences to the position, and if confirmed I will work tirelessly to build upon the work that has been done to strengthen the Department and to help it to be successful in achieving its goals.

My professional background, I believe, prepares me well for the role of General Counsel. As you are aware, I bring over two decades of combined experience as a lawyer and litigator in private practice, as a Deputy Associate Attorney General with the Department of Justice, and as a general counsel and chief legal officer of large, complex organizations. These experiences have given me broad substantive expertise in litigation and regulatory law, policy expertise in privacy and cyber-security; and leadership skills directly related to the responsibilities of the chief legal officer of the Department and the mission of homeland security.

Those experiences have brought me here today, where I believe the role of General Counsel is a natural extension of the positions I have previously held. Specifically, I believe that the position of General Counsel of DHS has three principal components:

- The General Counsel is primarily responsible for providing legal advice and services to the Secretary, her senior leadership team, and the Department as a whole. Much of the day-to-day legal advice and services are, of course, provided by the career legal staff, who not only have the substantive expertise, but who also give that advice and provide those services in the context of helping to implement the challenging goals and operational realities of the Department's programs. My role, if I am confirmed, is to ensure that the legal advice given is as sound as possible, that I apply my best professional judgment, and that legal services are provided in a timely and responsive matter and are aligned with the overall mission of the Department.

- The General Counsel, working through the lawyers in the Department, also helps ensure that the Department complies with applicable laws and regulations, including laws protecting civil rights, civil liberties, and privacy. I share Secretary Napolitano's commitment to protecting our security while also protecting the civil rights, civil liberties, and privacy rights of all Americans. I do not take those important commitments lightly. Indeed, not only do I believe they are not incompatible, but I also believe that our commitment to rise to the challenge of protecting our security and our values is what makes this country different. In the same vein, given the importance of Congressional oversight over the Executive branch in our constitutional system, I also believe the General Counsel has a responsibility to cooperate fully in providing appropriate access to the information Congress needs to fulfill its legislative and oversight responsibilities.
- The General Counsel is also responsible for leading and managing the Department's lawyers and legal staff, helping them to be as effective and efficient as possible, and promoting a culture in which they are trusted problem-solvers, proactive advisers, and strategic partners to those whom they support. Although the size of the Department's legal function is noteworthy – over 1700 lawyers – I believe my experiences as a chief legal officer in the private sector will help me, if I am confirmed, communicate a clear strategic vision for the DHS legal department; promote integration of the headquarters and component legal departments into a more unified DHS legal department; and recruit, develop, and retain outstanding legal talent at all levels of the organization.

In addition, I believe the General Counsel can also play a broader role in helping create a more unified Department by coordinating cross-functional and cross-component efforts, streamlining program implementation, reducing bureaucratic hurdles, and forging Department-wide solutions to shared challenges. I believe my prior experiences in the private and public sectors also help prepare me well for these broader roles.

I would like to close by making two points. First, growing up in an immigrant family, I believe I have a special appreciation for and perspective on the American dream. The opportunity to serve as General Counsel of DHS is, for me, the fulfillment of the best that this country has to offer. It is a powerful proposition – that with hard work, perseverance, education, the support of family and friends, and no doubt some luck – I have an opportunity to give back, in a small but significant way, to the country that has given me and my family so much.

Second, I want to close by reiterating how deeply honored I am to have been nominated for this position and to appear before this Committee today. I am humbled by the challenges that lie ahead if I am privileged to be confirmed, though I am confident that under the Secretary's leadership and with your assistance and support, we will work together to meet those challenges. This Committee has shown extraordinary leadership in creating and standing the Department up during its formative years, and I know that there is extensive expertise here. If confirmed, I look forward to working collaboratively and constructively with this Committee, and I will do my best to ensure that the Department works closely with you.

Thank you again, Mr. Chairman and Ranking Member Collins, for this opportunity to appear before you, and I would be pleased to answer any questions you may have.