

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

John Charles Cruden

2. **Position**: State the position for which you have been nominated.

Assistant Attorney General, Environment and Natural Resources Division, United States
Department of Justice

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Environmental Law Institute
2000 L Street, NW
Suite 620
Washington, DC 20036

Residence: Annandale, Virginia

4. **Birthplace**: State date and place of birth.

1946; Topeka, Kansas

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

Army Command and General Staff College, Fort Leavenworth, Kansas, 1981 to 1982

Army Judge Advocate General's Legal Center and School, Advanced Class,
Charlottesville, Virginia, 6/1974 to 6/1975

Woodrow Wilson Graduate School, University of Virginia, Virginia, 9/1974 to 9/1975
Master of Arts in Foreign Affairs, 1975

School of Law, University of Santa Clara, California, 1971 to 1974
Juris Doctorate, 1974 (summa cum laude)

United States Military Academy, West Point, New York, 1964 to 1968
Bachelor of Science, 1968

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether

or not you received payment for your services. Include the name and address of the employer and job title or description.

My employment history is in three distinct areas: from 1968 to 1991 as an officer in the military, 1991-2011 at the Department of Justice, and 2011 to the present at the Environmental Law Institute.

President, Environmental Law Institute, 7/2011-present
2000 L Street NW, Suite 620, Washington, DC 20036

Deputy Assistant Attorney General; Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, 1995-2011
950 Pennsylvania Avenue NW, Washington, DC 20530

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice, 1991-95
950 Pennsylvania Avenue NW, Washington, DC 20530

Chief Legislative Counsel, Department of the Army, U.S. Department of Defense, 7/1988-6/1991
Pentagon, Arlington, VA 22202

Special Counsel to the Assistant Attorney General, Civil Division, U.S. Department of Justice (on detail from Army War College), 6/1987-6/1988
950 Pennsylvania Avenue NW, Washington, DC 20530

Staff Judge Advocate, Frankfurt, Germany, 6/1985-6/1987
HQ, 3d Armored Division, Frankfurt, Germany

Chief, Administrative and Civil Law Division, The Judge Advocate General's Legal Center and School, 6/1982-6/1985
600 Massie Road, Charlottesville, VA 22903

General Counsel, Defense Nuclear Agency, 6/1980- 6/1981
6801 Telegraph Road, Alexandria, VA 22310-3398

Trial Attorney, Litigation Division, Department of the Army, U.S. Department of Defense, 7/1978- 6/1980
Pentagon, Arlington, VA 22202

Chief, Litigation Branch, U.S. Army Europe, 9/1976-6/1978
HQ, U.S. Army Europe and 7th Army, Heidelberg, Germany

Trial Attorney (prosecutor and defense counsel), U.S. Army Europe, Germany, 9/1975-9/1976
3d Armored Division, Butzbach Legal Office, Butzbach, Germany

Clerk (Extern), Justice Stanley Mosk, California Supreme Court, 1973-1974

Member, U.S. Special Forces, Vietnam, 1970-1971

Senior Advisor, 33d and 38th Ranger Battalion, Vietnam, 1970

Platoon Leader and Battalion Operations Officer, 1969-1970
HQ, 2d Battalion, 509th Airborne, Mainz, Germany

7. **Military Service and Draft Status:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Active Duty Military June 1968 – May 1991. Army, Colonel. OF 115129. Honorable Discharge. See also response to Question 6. I registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Muskie-Chaffee Award, U.S. Department of Justice, 2011

The District of Columbia Court of Appeals Annual Federal Pro Bono Award was named in 2011 as “The John C. Cruden Federal Agency Pro Bono Leadership Award.”

Presidential Rank Award, President Barack H. Obama, 2010

Santa Clara Law School, Distinguished Alumni Award, 2010

American Bar Association, Mary K. Lawton Award, Outstanding Government Attorney, 2009

Fairfax County Volunteer of the Year Award (for work with mentally impaired young people), est. 2005

Presidential Rank Award, President George W. Bush, 2003

Presidential Rank Award, President William J. Clinton, est. 1998

EPA Medal Award (for Court of Appeals argument), 1994

Federal Bar Association, Younger Award, 1981

Outstanding Graduate, Army Judge Advocate General’s Legal Center and School, Advanced Class, Charlottesville, Virginia, 1975

Military Awards (Received 1969-1991):

- Vietnamese Cross of Gallantry with Silver Star
- Bronze Star
- Legion of Merit with two Oak Leaf Clusters
- Defense Meritorious Service Medal
- Air Medal with Oak Leaf Cluster
- Army Commendation Medal
- National Defense Service Medal
- Airborne, Ranger, and Special Forces Designations

Eagle Scout, 1964

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

District of Columbia Bar

Member, Board of Governors, 2001-04
President-Elect and President, 2004-06
Immediate Past President, 2006-07
Chair, Dues Reform Committee, 2007-09

American Bar Association, Section on Environment, Energy, and Resources

Council Member, 2003-07
Vice Chair, 2007-08
Chair Elect, 2008-09
Chair, 2009-10
Immediate Past Chair, Nominating Committee Chair, 2010-11

American Bar Association, House of Delegates

Member, 2008-present

National Conference of Bar Presidents

Member, 2004-2013
Governing Council, Chair Diversity Committee, 2006-2010

Standing Committee on Pro Bono Legal Services of the Judicial Conference of the District of Columbia Circuit (Appointed by Chief Judge, U.S. Court of Appeals for the District of Columbia)

Member, 2006-2011

District of Columbia Bar Foundation

Board of Governors, 2008-present

American Bar Foundation

Member, 2009-present

American College of Environmental Lawyers

Member, 2010-present

Administrative Conference of the United States

Public Member, 2013-present

Marten Distinguished Practitioner and Lecturer

University of Washington School of Law, 2013

California Bar Association

Member, 1975-present

Bar Association of the District of Columbia

Member, 1986-present

Washington Council of Lawyers

Member, 1986-present

International Network for Environmental Compliance and Enforcement (INECE)
Member, 2002-present

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

California Bar, 1974
District of Columbia Bar, 1979

No lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Supreme Court, admitted approx. 1978
District of Columbia Federal District Court, admitted 6/1981
U.S. Court for Berlin, admitted 1980

Superior Court, District of Columbia, admitted 3/1979

Court of Appeals, District of Columbia, admitted 3/1979

No lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Military Officers Association of America, member, 1991 to present

Retired Judge Advocates Association, member, 1991 to present

Alumni Association, the Judge Advocate General's Legal Center and School, President (1982-85), and member (1982 to present)

Mountainside Villa Owners Association, member, 1982 to present (Board, 1982-85)

Environmental Law Institute, member, 2009 to present (President, 2011 to present)

75th Ranger Regiment Association, member, 2008 to present

D.C. Chapter of the West Point Association of Graduates, member, 2005 to present

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of

membership policies. If so, describe any action you have taken to change these policies and practices.

None to my knowledge.

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, and letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

I have done my best to identify published materials, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find or remember. I have located the following:

LAW REVIEW ARTICLES

<u>Subject</u>	<u>Source</u>	<u>Date</u>
EPA GHG Regulation: Reflections on the D.C. Circuit's Decision (co-author)	IETA Greenhouse Gas Market	2012
Comment on <i>Environmental Enforcement in Dire Straits; There is No Protection for Nothing And No Data For Free</i>	Vol. 41 Environmental Law Reporter 10686	2011
Promoting Pro Bono Service by Government Attorneys	Vol. 53 The Federal Lawyer 30	November 2006
Federal Civil Environmental Enforcement: Process, Actors, and Trends (co-author)	Vol. 18, No. 4, Natural Resources and Environment Journal (ABA)	2004
Constitutional Torts and Official Immunity After <i>Chappell v. Wallace</i> (co-author)	Vol. LX, No. 3, Florida Bar Journal 51	1986
Book Review	Vol. 24, Virginia Journal of International Law 513	1984
The First Amendment and Military Installations (co-author)	Vol. 1984, Detroit College of Law Review 845	1984
The War-Making Process	Vol. 69, Military Law Review 35	1975
Government Recovery: Federal Medical Care Recovery Act, Automobile Insurance and Workmen's Compensation	Vol. 13, Santa Clara Lawyer 720	1973

**COLUMNS WRITTEN AS PRESIDENT,
ENVIRONMENTAL LAW INSTITUTE**

<u>Subject</u>	<u>Source</u>	<u>Date</u>
They Punch Above Their Weight	Vol. 31, No. 1, The Environmental Forum	Jan/Feb 2014
A Conversation with George P. Shultz	Vol. 30, No. 6, The Environmental Forum	Nov/Dec 2013
The Brave New World of Private Governance	Vol. 30, No. 5, The Environmental Forum	Sep/Oct 2013
On the Importance of Judges	Vol. 30, No. 3, The Environmental Forum	May/June 2013
Improving the Nation's Ocean Management	Vol. 30, No. 2, The Environmental Forum	Mar/Apr 2013
Climate Change and New York City	Vol. 30, No 1, The Environmental Forum	Jan/Feb 2013
Our Exchange Visits with the Mexican Supreme Court	Vol. 29, No. 6, The Environmental Forum	Nov/Dec 2012
ELI at Rio+20: Forging Progress in the International Arena	Vol. 29, No. 5, The Environmental Forum	Sep/Oct 2012
Reflections on My First Year at ELI	Vol. 29, No. 4, The Environmental Forum	July/Aug 2012
We Should be Proud of Our Judiciary	Vol. 29, No. 3, The Environmental Forum	May/June 2012
Why Is the Environment the Invisible Issue at the Polls?	Vol. 29, No. 2, The Environmental Forum	Mar/Apr 2012
A Talk to a First Grade Class, a Lecture at a Law School	Vol. 29, No. 1, The Environmental Forum	Jan/Feb 2012
Four Leaders Who Are Still Leaving a Legacy of Accomplishment	Vol. 28, No. 6, The Environmental Forum	Nov/Dec 2011
Taking Over the Helm of an Incredible Organization	Vol. 28, No. 5, The Environmental Forum	Sep/Oct 2011

**COLUMNS WRITTEN AS PRESIDENT,
DISTRICT OF COLUMBIA BAR**

Respecting Judicial Independence	Washington Lawyer	September 2005
Celebrating Legal Service Providers in the District of Columbia	Washington Lawyer	October 2005
The Case for More Women Leaders in the Profession	Washington Lawyer	November 2005
D.C. Bar Leads the Way in Government Pro Bono Service	Washington Lawyer	December 2005
Environmental Justice and Civil Rights	Washington Lawyer	January 2006
Diversity and the D.C. Bar	Washington Lawyer	February 2006
Lawyers Rendering Service: Becoming a Student of the Law	Washington Lawyer	March 2006
Encouraging, Mentoring, Enhancing Professionalism, Delivering Service	Washington Lawyer	April 2006
Lawyers Performing Community Service	Washington Lawyer	May 2006
The State of the Bar	Washington Lawyer	June 2006

BOOKS

<u>Subject</u>	<u>Source</u>	<u>Date</u>
Chapter 8, Federal Civil Environmental Enforcement in the United States: Process, Players, and Priorities (co-author)	Compliance and Enforcement in Environmental Law (Edward Elgar Publishing)	2011
Chapter 1, Environmental Protection	Environmental Legislation in North America (Commission for Environmental Cooperation)	2011
Chapter 32, Environmental Law and National Security	National Security Law, Second Edition (Carolina Academic Press)	2005

Copies provided of all listed materials unless otherwise noted.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a

report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have done my best to identify any reports, memoranda or policy statements I prepared or contributed in the preparation of, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

As a member of the *Standing Committee on Pro Bono Legal Services*, U.S. Court of Appeals for the District of Columbia, 2006-2011, I wrote portions of their reports in 2008 and 2010 on the status of pro bono work in the District of Columbia. Copies provided.

As President of the D.C. Bar, I contributed to their annual report of the year. Copy provided.

As Past-President of the D.C. Bar, I chaired a Dues Reform Committee from 2006-07 which prepared a report analyzing the financial status of the Bar Association. I have been unable to locate a copy of the report.

For the American Bar Association, I contributed to a report to the organization's House of Delegates in February 2007 concerning property rights and firearms. Copy provided.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have done my best to identify any testimony, official statements or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

Testimony, May 9, 2001, Subcommittee on Commercial and Administrative Law, House Committee on the Judiciary. Copy provided.

Testimony, August 1, 2006, Subcommittee on Fisheries, Wildlife and Water, Senate Committee on Environment and Public Works. Copy provided.

Testimony, April 16, 2008, House Committee on Transportation and Infrastructure. Copy provided.

Testimony, March 16, 2010, Subcommittee on Workforce Protections, House Committee on Education and Labor. Copy provided.

Testimony, February 3, 2012, Subcommittee on Courts, Commercial and Administrative Law, House Committee on the Judiciary. Copy provided.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you

do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. Attached is a listing of speeches. I have identified in the attachment those speeches for which I have a text, notes, power point slides, or press accounts. For all other listed speeches no notes or transcripts are available.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all interviews given, including through a review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

“EPA Air Cases On Deck as Obama Appointee Joins D.C. Circuit Bench,” Greenwire (E and E News). September 6, 2013. Copy supplied.

“‘No Economic Basis’ for GOP Push to Curb U.S. Reimbursement of Enviro Legal Fees,” Greenwire (E and E News). June 27, 2013. Copy supplied.

“Daily Environment Report: The Week Ahead for June 10,” Bloomberg and BNA. June 10, 2013. Discussed ELI’s Summit on Private Environmental Governance. Announcement supplied. I have been unable to locate a transcript.

“Interview with John Cruden, President – Environmental Law Institute,” Clean Edison Blog, Clean Energy News. April 9, 2013. Copy supplied.

Interview by Reporter concerning recent Federal Court of Appeals decision, Greenwire (E and E News). February 21, 2013. Copy supplied.

“Old Lead Factories May Stick Taxpayers With Cleanup Costs,” USA Today. December 19, 2012. Copy supplied.

“Gulf Spill: Judges Tread Carefully Over Possible Conflicts in BP Criminal Case,” Greenwire (E and E News). December 7, 2012. Copy supplied.

“Supreme Court Set to Hear Arguments on Decisions in Los Angeles Stormwater Case,” Greenwire (E and E News). December 3, 2012. Copy supplied.

“What Others Are Saying About BP Settlement of Oil Spill Criminal Charges,” NOLA.Com Blog. November 2012. Copy supplied.

“EPA Mulls Options Post-CSAPR Verdict,” Electric Power Daily. August 27, 2012. Copy supplied.

“Illegal Ocean Dumping Persists Despite DoJ Crackdown,” iWatch News by the Center for Public Integrity. March 30, 2012. Copy supplied.

“DoJ’s Cruden Named President of Environmental Law Institute,” The Blog of Legal Times. June 14, 2011. Copy Supplied.

“Senior Attorney Departs,” The New York Times. June 15, 2011. Copy supplied.

“Cleaning Up,” National Journal. July 7, 2011. Copy supplied.

Fairfax County, Special Olympic Swim Coach, Parkatakes Magazine. June 2011. Copy supplied.

“Asarco Pays \$1.79 Billion to Fix Sites,” The New York Times. December 10, 2009. Copy supplied.

“Interview: John C. Cruden, Deputy Assistant Attorney General,” Environmental Justice Blog. May 20, 2008. Copy supplied.

“Stability and Candor: The Professional Bar Executive,” ABA Magazine, The Bar Leader. November 2007. Copy supplied.

“Meet the President,” DC Bar Magazine, The Washington Lawyer. June 2005. Copy supplied.

“Polluting Companies Agree to Restore Waterway,” Environment News Service. August 23, 2004. Copy Supplied.

During the period June 1987-1988, while serving as Special Counsel to the Assistant Attorney General, Civil Division, Department of Justice, I gave several interviews about drug testing law and litigation, although I have been unable to find any records from that period.

13. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Designated by President George W. Bush to be the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, February 2001, and served until January 2002.

Designated by President Barack Obama to be the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, January 2009, and served until November 2010.

Commissioned Officer of the U.S. Army, 1968-1991, from ranks Lieutenant to Colonel.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

14. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

Clerk (Extern), Justice Stanley Mosk, California Supreme Court, 1973-74

- ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

Deputy Assistant Attorney General; Acting Assistant Attorney General, U.S. Department of Justice, Environmental and Natural Resources Division, 1995-2011
950 Pennsylvania Avenue NW, Washington, DC 20530

Chief, Environmental Enforcement Section, U.S. Department of Justice, Environment and Natural Resources Division, 1991-95
950 Pennsylvania Avenue NW, Washington, DC 20530

Chief Legislative Counsel, Department of the Army, U.S. Department of Defense, 7/1988-6/1991
Pentagon, Arlington, VA 22202

Special Counsel to the Assistant Attorney General, Civil Division, U.S. Department of Justice (on detail from Army War College) 6/1987-6/1988
950 Pennsylvania Avenue NW, Washington, DC 20530

Staff Judge Advocate, Frankfurt, Germany, 6/1985-6/1987
HQ, 3d Armored Division, Frankfurt, Germany

Chief, Administrative and Civil Law Division, The Judge Advocate General's Legal Center and School, 6/1982-6/1985
600 Massie Road, Charlottesville, VA 22903

General Counsel, Defense Nuclear Agency, 1980-81
6801 Telegraph Road, Alexandria, VA 22310-3398

Trial Attorney, Litigation Division, Department of the Army, U.S. Department of Defense, 7/1978-80
Pentagon, Arlington, VA 22202

Chief, Litigation Branch, U.S. Army Europe, U.S. Department of Defense, 9/1976-6/1978
HQ, US Army Europe and 7th Army, Heidelberg, Germany

Trial Attorney (prosecutor and defense counsel), U.S. Army Europe, Germany, 9/1975-9/1976
3d Armored Division, Butzbach Legal Office, Butzbach, Germany

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe

- i) the general character of your law practice and indicate by date when its character has changed over the years

While in the military, my initial years as a Judge Advocate were dominated by criminal trial practice in military courts-martial and general legal assistance to soldiers and their families in Europe. Later, in Litigation Division of the Department of the Army, my practice was entirely civil law in federal courts. Similarly, my work as General Counsel of the Defense Nuclear Agency and as Chief of the Administrative and Civil Law Division, The Judge Advocate General's Legal Center and School, was also primarily civil law. As Staff Judge Advocate, 3d Armored Division, Germany, I supervised a large legal (predominantly criminal) jurisdiction in central Europe with five separate offices.

Starting in 1991, my practice has been entirely in the area of environment, energy, and natural resources law. From 1991-1995, I served as the Chief, Environmental Enforcement Section, Environment and Natural Resources Division, and in 1995, was selected to be the career Deputy Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice. That practice has continued in my current position as President, Environmental Law Institute.

- ii) your typical clients and the areas at each period of your legal career, if any, in which you have specialized

In the military, my initial clients were soldiers that I represented in courts-martial and administrative discharge proceedings. As a military prosecutor, my client was the United States. Similarly, while at the U.S. Department of Justice, I represented the United States by and through many different federal agencies.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While acting as a military judge advocate in my initial career, I practiced before military courts-martial and administrative elimination hearings. Later, in the Litigation Division at the Pentagon, my practice was predominantly before federal courts, and a few state courts, representing the Army and working with U.S. Attorneys and the U.S. Department of Justice. I also litigated one case before the Merit Systems Protection Board.

At the Department of Justice, my practice was almost all federal courts, with only a small part state courts or administrative agencies.

i. Indicate the percentage of your practice in:

1. federal courts 75%
2. state courts of record 5%
3. other courts (military) 15%
4. administrative agencies 5%

ii Indicate the percentage of your practice in:

1. civil proceedings 80%
2. criminal proceedings 20%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Although I participated in a large number of military cases, many of those were ultimately resolved by negotiated plea agreements. I estimate that about 12-15 reached a final verdict (and sentencing hearing). In addition, I was attorney of record in cases that I tried to completion in approximately five administrative hearings in the military and one case before the Merit Systems Protection board.

As Chief of the Environmental Enforcement Section, I supervised hundreds of cases and personally litigated in district court and argued appeals before the US Courts of Appeals for the 1st, 6th, and 9th Federal Circuits. As Deputy Assistant Attorney General and Acting Assistant Attorney General, I supervised several thousand cases, approved settlements and complaints, and led settlement negotiations in dozens of important cases.

i. What percentage of these trials were:

1. jury 25%
2. Non-jury 75%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not personally argued orally before the Supreme Court. I am a member of the Supreme Court Bar. During my time at the U.S. Department of Justice, I worked closely with the Office of the Solicitor General on cases arising before the Supreme Court for matters within the jurisdiction of the Environment, Energy, and Natural Resources Division. As Acting Assistant Attorney General, and in accordance with Department procedure, all briefs to the Supreme Court originating from work done by the Environment and Natural Resources Division included my name on the brief (including briefs filed at the certiorari stage and briefs filed at the merits stage).

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. United States v Fleet Factors Corporation, 819 F. Supp. 1079 (S.D. Ga. 1993).

I supervised this litigation and jointly tried the case in District Court. This was an enforcement case brought under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) against owners of a textile printing facility and the secured creditor of the facility, seeking reimbursement of government costs associated with the removal of hazardous substances from the facility. The Court ruled in favor of the United States.

U.S. District Court for the Southern District of Georgia
Judge Dudley Bowen

Co-Counsel: Jon Mueller and Brad Campbell, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

Counsel for Defendants: Mary Jane Norville and Patricia Thrower Barmeyer, King and Spalding, 1180 Peachtree Street, Atlanta, GA 30309. Phone: (404) 572-4500

2. United States v Charles George Trucking, Inc., 34 F.3d 1081 (1st Cir. 1994).

I represented the United States in an appeal before the US Court of Appeals for the 1st Circuit and argued the case. The United States had agreed to two consent decrees that together resolved a majority of the cost recovery disputes associated with the cleanup of a hazardous waste site in Massachusetts. Appellants, who were the principal owners and operators of the site, appealed the district court's approval of the consent decrees. The Court upheld the position of the District Court, providing the standard of review for approving and reviewing federal consent decrees. This decision has been widely cited for its discussion of the correct legal standard for reviewing federal consent decrees, particularly those done under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act.

U.S. Court of Appeals for the 1st Circuit
Judges Selva, Cyr, and Zobel.

Co-Counsel: Robert Oakley, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

Opposing counsel: Richard E. Bachman, with whom John A. King and Hale, Sanderson, Byrnes & Morton, were on brief, for appellants. John King is at 130 Liberty Street, Brockton, MA 02301. Phone: (508) 427-6000

3. Environmental Protection Agency v Washington DC Water and Sewer Authority, U.S. District Court for the District of Columbia CV No. 1:CV00813TFH (December 2004)

I supervised this litigation and then was co-counsel for the settlement discussions. This was an enforcement case alleging illegal discharges of massive overflows of sewage contaminated storm water into the Anacostia River, Potomac River, and Rock Creek. During big storms and sudden snow melts, excessive runoff water was mixing with sewage in the District's combined sewer system, which exceeded the capacity of the sewer system. In an average rainfall year, District sewers were overflowing into the Anacostia River over 80 times. The parties reached a settlement. Under the settlement, virtually all of the District's sewage-laden storm runoff will be captured in three tunnels deep underground for processing later at a sewage treatment plant.

U.S. District Court for the District of Columbia
Judge Thomas F. Hogan

Government Counsel: Nancy Flickinger and Bicky Corman, Environment and Natural Resources Division, US Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

Opposing Counsel: Avis Marie Russell, General Counsel, District of Columbia Water and Sewer Authority, 5000 Overlook Avenue, SW, Washington, DC 20032. Phone: (202) 787-2000; F. Paul Calamita, John A. Sheehan, Aqualaw PLC, 801 E. Main St., Suite 1002, Richmond, VA 23219. Phone: (804) 716-9021

4. Environmental Protection Agency v. Production Plated Plastics, 955 F.2d 45 (6th Cir. 1992) RC 1415, 22 Env'tl. L. Rep. 20,899.

I represented the Environmental Protection Agency in this appeal and argued the case before the US Court of Appeals for the 6th Circuit. This was an environmental enforcement case brought against the company and its owner for multiple violations of the Resource Conservation and Recovery Act and the Michigan Waste Management Act for the illegal discharge of hazardous substances. The District Court found the company and its president liable (*United States v. Production Plated Plastics, Inc.*, 742 F.Supp. 956, 960-91 (W.D.Mich.1990), and they appealed. I presented the argument on behalf of EPA and the State of Michigan. The Court of Appeals upheld the District Court decision.

U.S. Court of Appeals for the 6th Circuit

Judges Martin, Milburn, and Contie

State Counsel for Michigan: Steve Chester, currently Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Phone: (202) 272-0167

Counsel for Defendants: Douglas Van Essen, Clary, Nantz, Wood, Hoffius, Rankin & Cooper, 500 Calder Plaza, 250 Monroe Ave. NW, Grand Rapids MI 49503. Phone: (616) 459-9487; Nathan Driggers, Driggers, Schultz, Herbst & Paterson, 2600 W. Big Beaver Rd., Ste. 550, Troy MI 48084. Phone: (313) 649-6000

5. Environmental Protection Agency v City of New Orleans, Civil No 93-3212 (1998).

I supervised the litigation of this case from 1993 to 1998 and was lead counsel for the settlement, and later amendments, to the consent decree. This was an enforcement case brought primarily under the Clean Water Act for numerous unpermitted discharges by the City. After extensive litigation, the case was resolved in a well-publicized consent decree in April 1998 in which the Sewerage and Water Board agreed to renovate its sewage collection system to prevent future discharges, pay a \$1.5 million penalty, and contribute \$2 million for improving the water quality for Lincoln Beach on Pontchartrain Lake.

U.S. District Court for the Eastern District of Louisiana
Judge Mary Ann Vial Lemmon

Counsel for litigation and co-counsel for negotiations: Elizabeth Edmonds and Arnold Rosenthal, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20044. Phone: (202) 514-3446

Opposing Counsel: Henry Diamond and Benjamin Wilson, Beveridge and Diamond, 1350 I Street, NW, Suite 700, Washington, DC 20005. Phone: (202) 789-6000

6. United States v ASARCO Inc. and Southern Peru Holdings Inc., No CV 02-2079-PHC-RCB, U.S. District Court, Arizona, January 2003

I supervised the litigation and was co-counsel for the negotiations. This was an enforcement case brought by the United States against the ASARCO Mining Company, and others, to recover past and future government restoration expenses for work at a large lead-contaminated site in Idaho. During the litigation ASARCO sought to divest itself of extremely valuable property and the United States moved in federal court to block the transfer of the property as it could render the company unable to meet all of its environmental obligations because of its precarious financial condition. To assure that the transaction would not take place without court review, the United States sought a preliminary injunction and ASARCO subsequently agreed not to transfer the asset until a settlement was reached with the United States. In settlement negotiations, which I led, the mining company agreed to set aside a fund of \$100 million to fund an independent environmental trust to pay for cleanup of environmental contamination at sites for which ASARCO is responsible.

U.S. District Court for Arizona
Judge Robert C. Broomfield

Government Counsel: David L. Dain and Kimberly J. Sabo, Environment and Natural Resources Division, US Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

Opposing Counsel: Douglas E. McAllister, General Counsel, ASARCO, 1150 North 7th Avenue, Tucson, AZ 85705. Phone: (520) 798-7500

7. United States and State of Idaho v. ASARCO, Inc. and Hecla Mining Company, 430 F.3d 972 (9th Circuit 2005).

I supervised the litigation of this case and was co-counsel for settlement negotiations with Hecla Mining Company. This was an enforcement action brought by the United States and the Coeur d'Alene Tribe in 1996 against the Hecla Mining Company and others to establish liability for natural resource damages and recovery of government expenses for the cleanup of a heavily contaminated Superfund site in Idaho.

The case history included a 78-day trial in 2001. After many years of extensive litigation, including an appeal, the case against Hecla Mining Company was resolved by consent decree in 2011. Under the settlement, Hecla agreed to pay \$263.4 million plus interest to the United States, the Coeur d'Alene Tribe and the State of Idaho to resolve claims stemming from releases of wastes from its mining operations. Settlement funds were dedicated to restoration and remediation of natural resources in the Coeur d'Alene Basin.

The settlement also includes a process for coordinating Hecla's future mining operations with cleanup activities in the Coeur d'Alene Basin.

United States District Court for the District of Idaho

Judge Edward J. Lodge

Government Counsel: Ronald M. Spritzer and Greer S. Goldman, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20044.
Phone: (202) 514-2701

State Counsel: Curt A. Fransen, Deputy Attorney General, for plaintiff-appellant State of Idaho. Office of the Attorney General, 700 W. Jefferson Street, P.O. Box 83720, Boise, ID 83720-0010. Phone: (208) 334-2400

Opposing Counsel: Elizabeth H. Temkin, Temkin, Wielga, and Hardt LLP, 1900 Wazee St, Suite 303, Denver, CO, 80202. Phone: (303) 382-2909

8. United States v Marine Shale Processors, Inc., (W.D. La.) United States of America, *et al.*, Plaintiffs, United States of America, Plaintiff-Appellee, Cross-Appellant, State of Louisiana, Intervenor-Appellee, Cross-Appellant, v. Marine Shale Processors, Defendant-Appellant, Cross-Appellee., 81 F.3d 1329, 91 F.3d 16 (5th Cir. 1996)

I supervised the litigation and appeal of this case, and directed all settlement negotiations. This was an environmental enforcement case brought by the United States in 1990 against Marine Shale Processors ("MSP") for alleged violations of a number of environmental statutes arising out of MSP's incineration of hazardous wastes in a 275 foot rotary kiln from 1985 to 1996. The State of Louisiana ("State") joined in the case as co-plaintiff. After a lengthy trial in 1994, the Court awarded the United States and the State civil penalties against MSP and its owner, totaling \$8 million for violations of the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. On appeal in 1996, the Fifth Circuit Court of Appeals affirmed \$4 million of the civil penalty award to the government, but remanded the remaining \$4 million of the award for further district court proceedings. In 2006, the Court approved a settlement between the governments, MSP, and the site owner whereby the Court entered:

- a \$6.2 million judgment for penalties in favor of the United States and the State against MSP; and
- a separate \$7 million in proceeds from MSP were transferred to the State, which the State has used for the closure and remediation of the MSP facility.

United States District Court for the Western District of Louisiana.
Judge Adrian Duplantier
Circuit Judges Garza, King and Higginbotham

Government Counsel: Tom Clark, Bruce Buckheit, Steve Silverman, Peter Appel, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

State Counsel: John Baird King, Louisiana Dept. of Env. Quality, Legal Affairs Div., Baton Rouge, LA. John B. King is a partner with Breazeale, Sachse & Wilson, LLP, and 301 Main St., Baton Rouge, LA 70802. Phone: (225) 387-4000

Opposing Counsel: Jerrold J. Ganzfried, Christopher H. Marraro, Howrey & Simon, Washington, DC; K. Eric Gisleson, Chaffe, McCall, Phillips, Toler & Sarpy, 2300 Energy Ctr., New Orleans, LA 70112. Phone: (504) 585-7000; Sidney A. Cotlar, and Russ Herman, Herman Herman Katz & Cotlar, 820 O'Keefe Avenue, New Orleans, LA 70113. Phone: (504) 581-4892 for appellant.

9. United States v BP Exploration & Production Inc., BP American Production Company, and BP P.L.C., MDL 2179, Civ.A. No. 12-970, U.S. District Court for the Eastern District of Louisiana, 2011

I supervised the litigation and was co-counsel for the settlement negotiations. This was an enforcement case brought by the United States against BP for matters arising out of the Deepwater Horizon oil spill in 2010, which claimed the lives of eleven individuals and was one of the worse ecological disasters of our lifetime. The United States filed its civil complaint in 2009 under a number of federal statutes, including the Clean Water Act and the Oil Pollution Act. The litigation continues, but this interim settlement for \$1 billion in restoration projects is being implemented now.

The following is an extract from the DoJ Press Release:

“Under an unprecedented agreement announced today by the Natural Resource Trustees for the Deepwater Horizon oil spill, BP has agreed to provide \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the spill. The Trustees involved are Alabama; Florida; Louisiana; Mississippi; Texas; the Department of the Interior (DOI); and the National Oceanic and Atmospheric Administration (NOAA). The Department of Justice provided assistance in reaching the agreement.

“This early restoration agreement, the largest of its kind ever reached, represents a first step toward fulfilling BP’s obligation to fund the complete restoration of injured public resources, including the loss of use of those resources by the people living, working and visiting the area. The Trustees will use the money to fund projects such as the rebuilding of coastal marshes, replenishment of damaged beaches, conservation of sensitive areas for ocean habitat for injured wildlife, and restoration of barrier islands and wetlands that provide natural protection from storms.

“The agreement in no way affects the ultimate liability of BP or any other entity for natural resource damages or other liabilities, but provides an opportunity to help restoration get started sooner. The selection of early restoration projects will follow a public process, and will be overseen by the Trustees.

“The full natural resource damage assessment process will continue until the Trustees have determined the full extent of damages caused by the Deepwater Horizon oil spill. At the end of the damage assessment process, the Trustees will take into account any benefits that were realized from these early restoration projects. In addition to funding early restoration projects, BP will continue to fund the damage assessment and, together with the other responsible parties, will ultimately be obligated to compensate the public for the entire injury. BP is providing the early restoration funds voluntarily, and is not required to do so at this stage of the damage assessment process. The agreement will speed needed resources to the Gulf Coast in advance of the completion of the assessment process.”

U.S. District Court for the Eastern District of Louisiana

Judge Barbier

Co-counsel: Thomas Perrelli and William Brighton, U.S. Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

Opposing Counsel: Tom Milch, Brian Israel, Law Firm of Arnold and Porter, 555 12th St. NW, Washington, DC 20004. Phone: (202) 942-5000

16. Miller v Newbauer, No 87-6573 DC CV-85-7707-RMT, U.S. Court of Appeals for the 9th Circuit, 1988.

I argued this case on appeal. A former Air Force sergeant sued five Air Force officers for common law and constitutional causes of action and interference with an employment relationship. He sought a multi-million damage award. As the Court opinion observed, the plaintiff “had been having problems in his unit for some time,” and had received an unexcused absence letter and non-judicial punishment before resigning. The Court of Appeals upheld the District Court decision that the appellant’s suit was barred by Supreme Court precedent.

U.S. Court of Appeals for the Ninth Circuit
Judges Fletcher, Alacaron and Hall

Co-counsel: John F. Cordes, Civil Division, U.S. Department of Justice, Washington, DC 20044. Phone: (202) 514-2701

Opposing counsel: Franklin L. Miller, P.O. Box 5173, Long Beach, CA 90805.
Phone: (213) 638-7571.

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s)

or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

- a. Serving as Deputy Assistant Attorney General or Acting Assistant Attorney General, Environment and Natural Resources Division. During the period 1995-2011, I served as Deputy Assistant Attorney General or Acting Assistant Attorney General (AAG), Environment and Natural Resources Division, U.S. Department of Justice. I served in that capacity in both Republican and Democratic Administrations for three different Presidents. As Acting AAG, I supervised over 650 individuals responsible for defending environmental challenges to government programs and activities, representing the United States in matters concerning the stewardship of the nation's natural resources and public lands, and bringing affirmative cases against those who violated the nation's anti-pollution laws. I worked with virtually every federal agency at all levels. During the time period that I was Acting AAG, the Environment and Natural Resources Division was rated the best place to work in the Federal Government.
- b. Advancing Environmental Enforcement. From 1991-1995, I was Chief, Environmental Enforcement Section, U.S. Department of Justice, supervising 250 individuals responsible for the nationwide enforcement of the nation's environmental statutes in federal court. During that time period, I supervised the consent decrees in Exxon Valdez oil spill, Love Canal, and all other federal civil environmental enforcement cases involving the United States. During that time period we had several record-breaking years in environmental enforcement extending over both Democratic and Republican Administrations. Subsequently, as the career Deputy Assistant Attorney General, I supervised all federal civil environmental enforcement from 1995 to 2011, over three different administrations. At the request of the State Department, I also lectured to the first South American judicial conference on environmental law, and later as the lead representative of the Department of Justice, provided keynote speeches at international environmental enforcement conferences.

Three examples of settlements that I supervised and/or negotiated during that time period are:

United States v Colonial Pipeline. I supervised this case which, at the time, was the largest civil penalty for an environmental enforcement case.

The following is an extract from the DoJ press release:

“The Department of Justice and the Environmental Protection Agency today announced a settlement with Colonial Pipeline Company, resolving charges that the company violated the Clean Water Act on seven recent occasions by spilling 1.45 million gallons of oil from its 5,500 mile pipeline in five states. Under the consent decree, Colonial will upgrade environmental protection on the pipeline at an estimated cost of at least \$30 million, and pay \$34 million, the largest civil penalty a company has paid in EPA history.

“The government maintained that pipeline corrosion, mechanical damage, and operator error in seven recent spills resulted in the release of approximately 1.45 million gallons of oil and other petroleum products into the environment, including numerous rivers, streams, and wetlands. Oil spills from the pipeline damaged a variety of aquatic systems. In one spill, more than 950,000 gallons of

diesel fuel spilled into the Reedy River in South Carolina in 1996, killing 35,000 fish and other species of wildlife, and dispersing more than 34 miles downstream. It can take years for an ecosystem to recover from damage caused by an oil spill. Other spills forming the basis of the penalty occurred in Georgia, Tennessee, Louisiana, and North Carolina.”

United States v Virginia Electric Power Co. I supervised this case, which resulted in the largest Clean Air Act settlement of an enforcement matter against a utility. This settlement required Virginia Electric Power Co. (VEPCO), one of the nation’s largest coal-fired electric utilities, to install new pollution control equipment and upgrade existing controls on eight VEPCO plants, six in Virginia and two in West Virginia, comprising 20 electricity-generating units, costing an estimated \$1.2 billion, dramatically reducing both sulfur dioxide and nitrogen oxides emissions in Virginia and West Virginia. The settlement was the culmination of a well-coordinated partnership between EPA, the Justice Department and the states of New York, New Jersey, Connecticut, Virginia, West Virginia and the National Park Service. In addition to providing for major pollution reductions, VEPCO agreed to pay a \$5.3 million civil penalty and spend at least \$13.9 million for projects in each of the five states that participated in the case and its settlement to offset the impact of past emissions.

United States v Toyota. I led the settlement efforts in the environmental enforcement case against Toyota for alleged Clean Air Act violations. The United States alleged Toyota’s on-board diagnostic system, which advised drivers of emission control system leaks, did not work properly. The following is an extract of the DoJ press release:

“The Department of Justice and the Environment Protection Agency today announced a settlement of the government’s lawsuit against Toyota Motor Corporation for Clean Air Act violations involving 2.2 million vehicles manufactured between 1996 and 1998. Under the settlement, Toyota will spend \$20 million on a supplemental environmental project to retrofit up to 3,000 public diesel fleet vehicles to make them run cleaner and extend the emission control system warranty on affected vehicles. In addition, Toyota will accelerate its compliance with certain new emission control requirements, and pay a \$500,000 civil penalty.”

I continued this work as President of Environmental Law Institute. ELI has an active program training international judges in environmental law. I have spoken at training programs, coordinated study tours in the United States of judges and foreign enforcement or environmental officials, and advised federal and state agencies on creating effective and efficient enforcement programs. ELI does not lobby or litigate.

- c. Protecting the Public Fisc. From 1995-2011, I served as Deputy Assistant Attorney General or Acting Assistant Attorney General, Environment and Natural Resource Division, U.S. Department of Justice. In that capacity I supervised federal litigation designed to protect the public fisc, such as by seeking reimbursement for money spent by EPA in the cleanup of hazardous waste sites, defending the military from environmental challenges, defending federal agencies when money judgments were sought, and assuring that the government’s position was fully presented to each court.

The best example of this effort was my supervision of our action in bankruptcy against the American Smelting and Refining Company (ASARCO) mining company, the lead

actor at sites across the United States with potential debts to many states and numerous federal agencies. After ASARCO filed bankruptcy, the United States filed the largest proof of claim in its history, and then litigated the claim before Judge Richard Schmidt of the U.S. Bankruptcy Court in Corpus Christi, Texas.

In August 2009, following lengthy litigation, the U.S. Bankruptcy Court for the Southern District of Texas held a two-week hearing on competing plans of reorganization for ASARCO that would allow the company to be purchased out of bankruptcy.

In a case that I supervised and subsequently announced to the press, in December 2009 DoJ settled the largest environmental bankruptcy in U.S. history. ASARCO Mining Company agreed to pay \$1.79 billion to fund environmental cleanup and restoration under bankruptcy reorganization of American Smelting and Refining Company LLC (ASARCO). The money from environmental settlements in the bankruptcy is being used to pay for past and future costs incurred by federal and state agencies at more than 80 sites contaminated by mining operations in 19 states, including Arizona, Alabama, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Missouri, Montana, Nebraska, New Jersey, New Mexico, Ohio, Oklahoma, Texas, Utah, and Washington.

- d. Working constructively with States on Environmental Enforcement. As Chief of Environmental Enforcement, and later Deputy Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, I made working cooperatively with State Attorneys General and environmental officials a high priority. I initiated meetings with the National Association of Attorneys General, worked on common projects, and visited State offices. And, I initiated a policy that we would alert and communicate with State Attorneys General before filing an enforcement case in their jurisdiction. As a result of these partnership efforts, ENRD has brought joint civil enforcement cases with nearly every state. These joint cases are particularly effective in achieving positive results in an efficient manner and build positive relationships.
- e. Advising Senior Military Commanders. While serving as a military judge advocate, I had the honor of teaching virtually every senior (brigade and higher) commander in the military in the mid-1980, in courses where we provided instruction on both criminal and civil law. In addition, I regularly traveled to Fort Leavenworth, Kansas, to provide instruction to new battalion commanders on both criminal law and the law of armed conflict.
- f. Advancing trial practice education inside the U.S. Department of Justice. I instituted the very first set of instruction for new attorneys in the Environment Division, which has now led to a week long course on trial practice and legal ethics. I also emphasized mentorship and integrity to all new DoJ personnel and spoke to each new class of attorneys.
- g. Promoting Rule of Law. As President of the Environmental Law Institute (ELI), I oversee a staff of over 55 attorneys and scientists, united in working to assure that ELI “fosters innovative, just, and practical law and policy solutions to enable leaders across borders and sectors to make environmental, economic, and social progress.” ELI does not lobby or litigate, but works to advance the environment through publication, education, and research. Last year, for instance, ELI sponsored or co-sponsored over 80 educational programs while publishing the Environmental Law Reporter and The Forum magazine, as well as books and newsletters.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

In the military as Chief, Administrative and Civil Law Division, The Judge Advocate General's Legal Center and School, Charlottesville, Virginia, I supervised all administrative and civil law instruction, lectured on a wide variety of subjects, and personally taught Federal Civil Litigation, Military Personnel Law, and Management. I also provided instruction to new General Officers and senior Commanders on military and administrative law. I have been unable to locate a course syllabus from this period.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have a 403(b) pension plan with the Environmental Law Institute. In addition, I am receiving a pension due to my prior federal government and military service.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

None.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

Please see SF-278 as provided by the Office of Government Ethics.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

Please see attached Financial Statement (Net Worth).

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In the event of a potential conflict of interest, I would consult the Department's designated agency ethics official.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

While in the federal government, I strongly advocated that government attorneys should be involved in pro bono service to the community, and often led that effort inside the Department of Justice. Although there are times where government attorneys could not be involved, we found that they could play a key role in staffing clinics and providing advice in conjunction with the District of Columbia Bar and local legal service providers.

As District of Columbia Bar President, I made federal government pro bono service my most significant initiative, which was recognized that year by the ABA President. In that capacity I wrote to each agency general counsel encouraging them to have their organization develop a pro bono program and to join in a council created at the Department of Justice to assist in pro bono work. To achieve my goals, I met with many of the federal agencies including the Department of Defense. We were quite successful. See one of my final DC Bar columns (attached) entitled "D.C. Bar Leads the Way in Government Pro Bono Service." Subsequently, I prepared an article on government pro bono for the Federal Bar Association entitled "Promoting Pro Bono Service for Government Attorneys," which is attached.

In 2008, I was elected to the Board of Governors for the District of Columbia Bar Foundation, a non-profit organization with a mission to "fund, support, and improve legal representation of the poor, vulnerable, and otherwise disadvantaged in the District of Columbia." The Foundation supports pro bono work and provides funds for civil legal aid and lawyer loan repayment assistance.

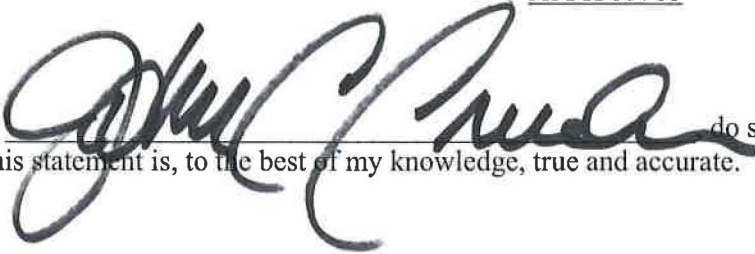
For the past ten years, I have been the swim coach of the Wakefield Special Olympic Swim Team, which now has approximately 70 mentally handicapped swimmers who practice weekly, and then compete in the spring and early summer of each year. In that capacity I am ably assisted by ten or more volunteer assistant coaches.

I have personally provided pro bono service by participating on numerous occasions in the monthly clinics sponsored by the District of Columbia Bar Association in Southeast Washington, DC.

I was appointed by the Chief Judge of the U.S. Court of Appeals for the District of Columbia to be a member of the Standing Committee on Pro Bono Legal Services, and served in that capacity from 2006 to 2011. In that capacity, I authored or contributed to the federal agency portion of the annual pro bono reports, and met monthly with the Committee to advance pro bono service in the Federal Courts.

I am quite proud of the fact that the annual government pro bono award given in the U.S. Court of Appeals for the District of Columbia was named in 2011: “The John C. Cruden Federal Agency Pro Bono Leadership Award.”

AFFIDAVIT

I,  do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

1/27/2014
(DATE)

John. C. Cruden
(NAME)


WEN-HILLS ZHENG
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires March 31, 2016
(NOTARY)