



October 30, 2018

The Honorable Robert F. Behler  
Director, Operational Test & Evaluation  
4800 Mark Center Drive  
Alexandria, VA 22311

Dear Director Behler:

The Project On Government Oversight (POGO) has spent over 35 years investigating waste, mismanagement, and abuse in the Department of Defense's weapons acquisition system. It is for this reason that we are concerned over reports we have heard, including an editorial from the Ranking Member of the House Armed Services Committee, that you may have considered submitting your FY 2018 annual DOT&E report only in classified form.<sup>1</sup> Even though your office denied these most recent reports, they do correlate with others that have come to our attention in the past as well.<sup>2</sup> Congress created your office specifically to provide it with objective, unvarnished reporting on the results and implications of operational testing for the effectiveness and combat suitability of each major acquisition program. This greatly aids in Congress's oversight functions, protecting the interests of the men and women who will have to trust their lives to these systems and of the taxpayers footing the bill.

Federal law requires you to submit to Congress an unclassified version of your annual report. Title 10 U.S. Code, § 139 states: "if the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress." By submitting only a classified version of this report, you would dramatically restrict access to the report to the House and Senate staffers who assist the members in crafting policy decisions and performing their oversight role. A course of action like this would not only violate the letter of the law but also the spirit in which your office was created.

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<sup>1</sup> Representative Adam Smith, "The Pentagon's Getting More Secretive — and It's Hurting National Security," *Defense One*, October 28, 2018. <https://www.defenseone.com/ideas/2018/10/pentagons-getting-more-secretive-and-its-hurting-national-security/152345/> (Downloaded October 30, 2018)

<sup>2</sup> Justin Doubleday, "Pentagon Says Annual Weapons Testing Report Will Remain Unclassified," *Inside Defense*, October 29, 2018. <https://insidedefense.com/insider/pentagon-says-annual-weapons-testing-report-will-remain-unclassified> (Downloaded October 30, 2018)

The Department of Defense is in the middle of a nearly unprecedented modernization effort, with each service developing centerpiece weapon systems that will serve as the backbone of the joint force for decades. This includes the F-35, the most expensive weapons program in history, the *Ford*-class aircraft carrier, and the Next-Generation Combat Vehicle. The first two programs have been subject to myriad performance issues, cost overruns, and schedule slippages. The third program is expected to be the successor to the Bradley Fighting Vehicle, which itself was a development program so plagued with issues it inspired Congress to create your office in the first place.

The law governing your office makes provisions to protect the kind of technical details a potential adversary could exploit. However, restricting access to information regarding general performance issues seems designed to aid the services and the defense contractors in avoiding embarrassment for under-performing systems. Since DOT&E's recommendations are not binding, it becomes that much more important for the public to be able to see them so the taxpayers can be guaranteed the Department purchases only weapons that have been proven effective.

Congress has given the Department enormous budgetary resources. As we have expressed before, we remain concerned that the Department continues to unacceptably reduce the public's access to basic information essential for accountability.<sup>3</sup>

Sincerely,

A handwritten signature in blue ink that reads "Danielle Brian". The signature is written in a cursive style and is positioned above the printed name.

Danielle Brian  
Executive Director

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<sup>3</sup> American Society of News Editors, Association for Alternative Newsmedia, Campaign for Liberty, Demand Progress Action, e-PluribusUnum.org, Government Accountability Project, Government Information Watch, Niskanen Center, Open the Government, Project On Government Oversight, "Civil Society Calls on Pentagon to Increase Public Access to Information," August 7, 2018. <https://www.pogo.org/letter/2018/08/civil-society-calls-on-pentagon-to-increase-public-access-to-information/>

cc:

Senator Mitch McConnell, Majority Leader, United States Senate

Senator Chuck Schumer, Minority Leader, United States Senate

Senator John Cornyn, Majority Whip, United States Senate

Senator Dick Durbin, Minority Whip, United States Senate

Representative Paul Ryan, Speaker, United States House of Representatives

Representative Kevin McCarthy, Majority Leader, United States House of Representatives

Representative Nancy Pelosi, Democratic Leader, United States House of Representatives

Senator Jim Inhofe, Chairman, Senate Committee on Armed Services

Senator Jack Reed, Ranking Member, Senate Committee on Armed Services

Representative Mac Thornberry, Chairman, House Committee on Armed Services

Representative Adam Smith, Ranking Member, House Committee on Armed Services

Senator Richard Shelby, Chairman, Senate Committee on Appropriations

Senator Patrick Leahy, Vice Chairman, Senate Committee on Appropriations

Representative Rodney Frelinghuysen, Chairman, House Committee on Appropriations

Representative Nita Lowey, Ranking Member, House Committee on Appropriations