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22 October 2018

Ms. Jessie Kong Liu
U.S. Attorney for the District of Columbia
United States Attorney's Office
555 4th Street, NW
Washington, DC 20530

Dear Ms. Liu,

1. I want to report a pattern of criminal misconduct by Presidentially Appointed, Senate-Confirmed (**PAS**) officials along with misconduct by **Schedule C** appointees and current Title 5 Federal employees within the office of the U.S. Special Counsel (**OSC**).¹

Specifically, the criminal misconduct² by the Federal employees was an organized effort to engage in a criminal conspiracy with their former employer and/or benefactor, the Government Accountability Project (**GAP**) a 5 U.S.C. § 501(c)(3) non-profit public interest group.³

The reason for this criminal conspiracy was to avoid mandated notification to Presidentially Appointed, Senate-Confirmed (**PAS**) Agency Heads of credible reports of wrongdoing identified by Federal employees, and to prevent the creation of legitimate and actionable investigative records in direct violation of 5 U.S.C. § 1212(a)(3) and 1213.

The effect of this criminal conspiracy caused direct harm to the Chief Executive:

- Denying the Chief Executive his intangible right of honest service from all Federal government employees subjected to the Federal Merit System

¹The mission of OSC, as described in GAO report 18-400, June 2018, entitled: *Office of Special Counsel Actions Needed to Improve Processing Prohibited Personnel Practice and Whistleblower Disclosure Cases*, is as follows:

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Its primary mission is to safeguard the **merit system** in federal employment by protecting employees and applicants for federal employment from prohibited personnel practices (PPP), including reprisal for **whistleblowing**. OSC also reviews claims of wrongdoing within the federal government from current federal employees, former employees, and applicants for federal employment. These individuals, known as whistleblowers, report to OSC potential fraud, waste, and abuse in the federal government and threats to public safety or health.

² A scheme or artifice to deprive another of the intangible right of honest services. *See*: 18 U.S.C. § 1346.

³ In Form 990, Return of Organization Exempt from Income Tax, for 2016, Part I, Summary, describes GAP's mission or most significant activities as follows:

The Government Accountability Project (GAP) is a 40 year-old non-profit public interest organization that promotes government and corporate accountability by advancing occupational free speech, defending whistleblowers, and empowering citizen activists we pursue this mission through our public health & safety, international, national security, environmental oversight, and corporate and financial accountability programs. GAP is the nation's leading **whistleblower protection organization**. [Bold added.]

- Subverting the ability of the Presidentially Appointed, Senate-Confirmed (**PAS**) Agency Heads to effectively fulfill the mandate of their office in accordance with the Constitution

Office of U.S. Special Counsel (**OSC**)/Federal Inspectors General:

- Derailing credible reports of wrongdoing properly reported, via the whistleblower safe channel, to the U.S. Special Counsel for investigation from reaching Presidentially Appointed, Senate-Confirmed (**PAS**) Agency Heads for action
- Transferring to the Federal Inspector General (**IG**) community the decision making authority legally reserved for Presidentially Appointed, Senate-Confirmed (**PAS**) Agency Heads to act on credible reports of wrongdoing
- Allowing the U.S. Special Counsel and the Federal Inspector General (**IG**) community, based on self-interest, to arbitrarily circumvent the Federal Merit System, to capriciously enforce good order and discipline on only selected members of the Federal workforce
- Insulting the Federal Merit System, violating the Whistleblower Protection Act (**WPA**),⁴ and denying the equitable application to all Federal employees of whistleblower due-process rights mandated by Congress

Office of the U.S. Special Counsel (**OSC**)/Government Accountability Project (**GAP**):

- Acting in a quid pro quo relationship, designed to further the re-nomination of **Carolyn N. Lerner (PAS)** to a second five-year term as U.S. Special Counsel, by not reporting misconduct by current and former Presidentially Appointed, Senate-Confirmed (**PAS**) Agency officials
- Creating a false front for the Government Accountability Project (**GAP**) to exploit the collusive relationship with the Office of Special Counsel (**OSC**), for mutual personnel gain, while purporting to serve as the nation's leading whistleblower protection agency
- Securing 501(c)(3) tax-exempt status from the Internal Revenue Service (**IRS**) for the Government Accountability Project (**GAP**) under the false pretext of legally representing Federal whistleblowers

The pattern of criminal misconduct within the Office of Special Counsel (**OSC**) was orchestrated by the leadership team including: **Carolyn N. Lerner (PAS)**, U.S. Special Counsel; **Mark Cohen, (Schedule C)** Deputy Special Counsel (former Executive Director, **GAP**); **Adam Miles, (Schedule C)**, Deputy Special Counsel, Policy & Congressional (former employee, **GAP**); **Ann Wagner**, Associate Special Counsel, General Law Division; **Louis Lopez**, Associate Special Counsel, Investigations and Prosecution Division, and **Lisa V. Terry**, General Counsel.

⁴ The Whistleblower Protection Act (WPA) protects Federal employee whistleblowers, who report the existence of an activity constituting a violation of law, rule, regulation, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to public health, and safety. *See*: 5 U.S.C. § 1212/§ 2302(b)(8)/§ 2302(b)(9).

The pattern of criminal misconduct within the Government Accountability Project (GAP) was orchestrated by the leadership team including: **Louis Clark**, Executive Director & CEO; **Tom Devine**, Legal Director; and **Richard A. Salzman**, Board of Directors.

Additionally, the **OSC/GAP** Leadership Team conspired with the Department of Defense (**DoD**) Inspector General (**DoD IG**), **Glenn A. Fine** and Department of Justice (**DOJ**) Inspector General (**DOJ IG**), **Michael E. Horowitz (PAS)**, to ensure that my **OSC-12** Disclosure of Agency Wrongdoing (**DI-15-2333**) of criminal misconduct within the **DoD IG** was not properly acted upon, in accordance with 5 U.S.C. § 1213, to avoid notification of the Secretary of Defense, and the development of a legitimate and actionable investigative record. [See: enclosure (1)]

TAKEAWAY: The actions by the aforementioned Presidentially Appointed, Senate-Confirmed (**PAS**) officials, **Schedule C** appointees and current Title 5 Federal employees within the Office of the U.S. Special Counsel (**OSC**) reflect a clear and convincing attempt to subvert the authority of the Chief Executive and his Presidentially Appointed, Senate-Confirmed (**PAS**) Agency Heads to properly fulfill the mandate of their office in accordance with the Constitution.

Carolyn Lerner (PAS), **Glenn A. Fine** and **Michael E. Horowitz (PAS)** with intent insulted the Federal Merit System and denied the equitable application to Federal employees of their whistleblower due-process rights mandated by Congress.

Those actions were a direct and substantial violation of the provisions of both the Whistleblower Protection Act (**WPA**) and 5 U.S.C. Part II, Chapter 12, Subchapter II - Office of Special Counsel (**OSC**).

2. The following information supplements my complaint of criminal misconduct:

1. On July 9, 2018, I brought my firm conviction regarding criminal misconduct occurring within the Office of the U.S. Special Counsel (**OSC**) to the direct attention of **Henry J. Kerner (PAS)**, U.S. Special Counsel, and requested that he fulfill his legal mandate, under 1212(a)(3) and 1213, and demanded that he make “an immediate criminal referral to the agency head, Department of Justice (**DoJ**), **Jefferson B. Sessions III.**” I stated:

“Despite the fact that the OSC Disclosure Unit (DU) has not published a standard for making a 45-day “substantial likelihood” determination there can be no reasonable excuse for not making a timely 45-day “substantial likelihood” determination when considering the gravitas of the evidence submitted by a whistleblower to the OSC with a firm conviction that serious wrong doing had occurred.

“This is clearly a case of intentional misconduct aimed at actively preventing formal agency head notification and development of an actionable investigative record: a clear and unmistakable violation of federal law.” [See: enclosure (2)]

3. On July 20, 2018, I filed **OSC Form 12** Disclosure of Agency Wrongdoing (**DI-18-4945**) with the U.S. Special Counsel, **Henry J. Kerner (PAS)**, informing him that there was clear and convincing information evidencing a pattern of wrongdoing, occurring within the Office of the U.S. Special Counsel (**OSC**), and that as the U.S. Special

Counsel he had a legal obligation, as a direct report to the Chief Executive, to make official agency head notification to the Chief Executive, and demand independent investigation into long-standing misconduct occurring within the **OSC**. I notified **Henry J. Kerner (PAS)** of his legal responsibility as the U.S. Special Counsel and noted “Nothing short of immediate Chief Executive notification and request for full criminal investigation into the system failure of the [**OSC**] is in order.”

In accordance with 5 U.S.C. § 1213, **Henry J. Kerner (PAS)** has 45 days to make a “substantial likelihood” finding determination in regard to **OSC Form 12** Disclosure of Agency Wrongdoing (**DI-18-4945**). To date, **Henry J. Kerner (PAS)** has “elected” not to respond. I stated:

“I disclose, via Whistleblower safe channel, what I firmly believe is a violation of law, rule, or regulation [5 U.S.C. § 1213], occurring with full knowledge of the U.S. Special Counsel, occurring within the U.S. Special Counsel’s Disclosure Unit (DU).

“As a result of inability/reluctance to comply with federal law, the U.S. Special Counsel’s Disclosure Unit (DU) is subverting the Whistleblower Protection Act (WPA), insulting the Federal Merit System, and denying individual process rights.” [See: enclosure (3)]

4. On August 16, 2018, I provided the U.S. Special Counsel, **Henry J. Kerner (PAS)**, my official response to the “partial” investigation into my **OSC Form 12** Disclosure of Agency Wrongdoing (**DI-15-2333**).

In my response to **Henry J. Kerner (PAS)**, I noted the grave insufficiency, and obvious lack of investigative independence and objectivity by Department of Justice (**DOJ**) Inspector General (**DOJ-IG**)/Chair, Council of Inspector General on Integrity and Efficiency (**CIGIE**), **Michael E. Horowitz (PAS)**.

My disclosure alleged senior leader criminal misconduct occurring within the **DoD IG**, under the supervision of the former Department of Justice (**DOJ**) Inspector General (**IG**) and current “Acting” Department of Defense Inspector General (**DoD IG**), **Glenn A. Fine**.

My response to **Henry J. Kerner (PAS)** in addition to rejecting the conduct and substance of the investigation by **Michael E. Horowitz (PAS)**, also provided the following disclosures of violations of 1212(a)(3) and 1213. I requested the following:

- “the U.S. Special Counsel comply with the statute governing the U.S. Special Counsel’s “**substantial likelihood**” finding determinations [5 U.S.C. § 1213(b)] and make proper Agency Head Notification (Secretary of Defense, **James N. Mattis**/U.S. Attorney General, **Jefferson B. Sessions**) regarding whistleblower disclosure (**DI-15-2333**);
- “the U.S. Attorney General, **Jefferson B. Sessions**, be requested to initiate an independent investigation into criminal misconduct by DoD

IG, **Lynne M. Halbrooks** and DOD IG General Counsel (GC), **Henry C. Shelley Jr.**, and

- “an immediate independent investigation be undertaken by the U.S. Special Counsel into allegations of multiple violations of the Whistleblower Protection Act (WPA) by the following members of the Federal Inspector General community: **Michael E. Horowitz, Glenn A. Fine, and Scott S. Dahl**, ref: 5 U.S.C. § 7515(b)(1)(B).” [See: enclosure (4)]

5. On September 26, 2018, I filed an **IRS** Form 13909 Tax-Exempt Organization Complaint (Referral) with the **IRS** Criminal Division alleging that the Government Accountability Project (**GAP**), a 501(c)(3) is actively engaged in violations of the regulations that grant **GAP** federal tax-exempt status.

The materials submitted in my disclosure included email of February 24, 2015, between U.S. Special Counsel, **Carolyn N. Lerner (PAS)** and **John D. Podesta Jr.**, Chairman of the 2016 Hillary Clinton Presidential Campaign to actively lobby the U.S. Congress for re-confirmation as the U.S. Special Counsel, for a second five-year term; along with, discussion of her Schedule C, former Government Accountability Project (**GAP**) employees: **Mark Cohen (Schedule C)**, Principal Deputy U.S. Counsel, and **Adam Miles (Schedule C)**, Deputy Special Counsel Policy & Congressional Affairs:

“John – I spoke to Luke (Luke Albee) and he suggested I follow-up with you. **Just to re-cap, my five-year term as head of the U.S. Office of Special Counsel is up next June.** If re-nominated, I anticipate getting plenty of R (Republican) support – Grassley and Lee might be my biggest fans in the Senate but the later we go into the President’s term it may be hard for anyone to get through. **I’d also like to reassure my political folks here at OSC that re-nomination is on the horizon, so they don’t start leaving.** Any insights into how I should approach this would be much appreciated. Thanks so much. Carolyn 202-257-7825.”
[Bold added.][See: enclosure (5)]

6. On October 12, 2018, I filed a complaint with the Office of Disciplinary Counsel, The Board on Professional Responsibility, District of Columbia Court of Appeals in regard to serious ethical and professional legal misconduct by senior leadership of the Government Accountability Project (**GAP**): **Louis Clark**, Executive Director & Chief Executive Officer and **Tom Devine**, his Legal Director. I stated in part:

“In fact, Tom Devine pursued his own personal interest and subordinated my interests in deference to the desire to ensure that nothing would interrupt the re-nomination of Carolyn Lerner for a second 5-year term as U.S. Special Counsel. The action of Mr. Devine was part of a self-interested partisan relationship with both Carolyn N. Lerner and former GAP employees who had become Schedule C political appointees in the Office of U.S. Special Counsel (OSC).” [See: enclosure (6)]

The serious nature of my criminal complaint reflects a clear and present systemic threat to the Constitutional authority of the Chief Executive to properly protect and oversee 2.3 million

Federal employees, bound by the Federal Merit System, to protect the health, well-being, and safety of the American people.

7. I am immediately available to meet with your criminal investigative team to discuss my criminal complaint of a clear and convincing scheme designed to deprive Federal whistleblowers of the intangible right of honest services⁵ by senior officials of the Government Accountability Project (**GAP**); Office of the U.S. Special Counsel (**OSC**); Department of Defense, Inspector General (**DoD-IG**); Department of Justice, Inspector General (**DOJ-IG**); and the Counsel of Inspectors General for Integrity and Efficiency (**CIGIE**).

Sincerely,

John R. Crane

John R. Crane
1-202-372-5321

Enclosure (1): J.R. Crane Whistleblower Reprisal Allegation Synopsis dtd 21 Jul 2018
Enclosure (2): J.R. Crane ltr to H.J. Kerner (U.S. Special Counsel) dtd 09 July 2018
Enclosure (3): J.R. Crane OSC-12 Disclosure of Wrongdoing within Office of the U.S. Special Counsel (DI-18-4945) dtd 23 Jul 2018
Enclosure (4): J.R. Crane ltr to H.J. Kerner (U.S. Special Counsel) dtd 16 Aug 2018
Enclosure (5): J.R. Crane IRS Form-13909 Tax-Exempt Complaint (Referral) on Government Accountability (GAP) Political Lobbying via Former GAP Employees employed by the U.S. Government [Office of Special Counsel (OSC)] dtd 26 Sep 2018
Enclosure (6): J.R. Crane District of Columbia (D.C.) Office of Disciplinary Counsel Complaint (T.M. Devine GAP Legal Director) dtd 12 Oct 2018

⁵ A scheme or artifice to deprive another of the intangible right of honest services. *See*: 18 U.S.C. § 1346.

John R. Crane (SES)

21 July 2018

WHISTLEBLOWER REPRISAL ALLEGATIONS

Against

LYNNE HALBROOKS

Acting Inspector General, Department of Defense (DoD IG)

SUBJECT: Ms. Lynne Halbrooks, Acting Inspector General, and her leadership team to include General Counsel Henry C. Shelley Jr., engaged in gross mismanagement, abuse of authority, and whistleblower retaliation against Mr. John R. Crane, Assistant Inspector General for Communications and Congressional Liaison.

OVERVIEW: Ms. Halbrooks subjected Mr. Crane to serial concurrent investigations in order to remove Mr. Crane from Federal service in retaliation for the refusal of Mr. Crane to reveal identities of DoD IG whistleblowers making allegations to Congress of misconduct against both Ms. Halbrooks and Mr. Shelley and to deter Mr. Crane from making whistleblowing disclosures.

Ms. Halbrooks was actively pursuing efforts to have Secretary Leon Panetta recommend her nomination to the Senate as permanent Inspector General. Ms. Halbrooks attempted to isolate, contain and destroy DoD IG whistleblowers and suppress DoD IG criminal investigative findings against Secretary Panetta to advance her nomination to be IG.

Mr. Crane on September 13, 2012, made disclosures of misconduct by Ms. Halbrooks to Senator Grassley in accordance with the Whistleblower Protection Act of 1988, as amended.

Retaliation - Initiation of serial investigations against Mr. Crane for not providing identities of whistleblowers alleging misconduct by Ms. Halbrooks and to deter Mr. Crane from making whistleblower disclosures to Congress.

False Statements - Ms. Halbrooks and Mr. Shelley made false statements under oath to investigators to develop an investigative record against Mr. Crane. Ms. Halbrooks then ruled on the veracity of her own false statements and that of Mr. Shelley in making a determination to remove Mr. Crane from Federal Service.

Investigative Misconduct – Suppressed ZDT ROI: Ms. Halbrooks suppressed the ROI and DoD IG criminal investigative findings against Secretary of Defense Leon Panetta and Under Secretary of Defense (Intelligence) Michael Vickers, for disclosing Top Secret information to Hollywood movie producer(s) in regard to production of the film Zero Dark Thirty (ZDT). The information threatened the lives of Seal Team 6, their families and threatened the lives of Special Operators conducting future operations. Seal Team 6 killed Osama bin Laden on May 2, 2011, in Pakistan.

Investigative Misconduct – Dawood Military Hospital: Ms. Halbrooks suppressed information to Congress in regard to the direct DoD IG culpability in not responding to critical health, and safety information regarding patient care at Dawood Military Hospital, Afghanistan that resulted

Enclosure (1)

in the death of Afghan soldiers. Ms. Halbrooks refused to interview the IG for the NATO Training Mission Combined Security Transition Command who directly reported misconduct.

Investigative Misconduct – False Statements to DoJ Re: Espionage Trial: Ms. Halbrooks and Mr. Shelley provided false statements to the DoJ that potentially exculpatory records requested by the DoJ attorneys representing Mr. Drake against charges of espionage, for storing his disclosures to the DoD IG at his home, had been destroyed. Mr. Crane as the FOIA Appellate Authority and supervisor of the FOIA office challenged the statement of record destruction as false.

BACKGROUND:

Mr. Crane on February 9, 2015, provided affidavits and supporting information in regard to gross mismanagement, abuse of authority, and whistleblower reprisal by Ms. Halbrooks to Ms. Carolyn Lerner, Special Counsel, Office of Special Counsel. Title 5 USC 1213(b) requires that OSC make a “substantial likelihood” finding within 45 days and refer to the Secretary of Defense for investigation to be completed within 60 days by his Inspector General and that the investigation be provided to OSC and the whistleblower for comments that are sent to the President and Congress.

ZDT/Grassley – Senator Grassley conducted an oversight review of the whistleblower disclosures of Mr. Crane, and in a oversight review dated November 17, 2014, concluded: Halbrooks contacts with subjects of the ongoing investigation raise ethical issues; Halbrooks made inaccurate and misleading statements in response to Grassley’s questions; Halbrooks’ heavy-handed tactics during internal POGO leak investigation raised concerns about the treatment of whistleblowers.

ZDT/OSC – OSC on April 19, 2017, after **799 days**, made a “substantial likelihood” determination pursuant to §1213(b), but did not refer the investigation to the Secretary of Defense as required by statute. Instead, the OSC referred the allegations to Mr. Michael E. Horowitz, Chair of the Council of Inspectors General on Integrity and Efficiency for referral to the Integrity Committee. The IC decided, however, to countermand the OSC determination that the allegations warranted investigation, and refused to investigate the actions of Ms. Halbrooks and Mr. Shelley.

False Statement to DoJ – OSC on March 18, 2016, after **403 days**, made a “substantial likelihood” determination pursuant to §1213(b), but did not refer the investigation to the Secretary of Defense as required by statute. Instead, the OSC referred the allegations to Mr. Michael E. Horowitz, Chair of the CIGIE and DoJ IG for investigation.

Retaliation/False Statements – OSC on April 19, 2017, after **799 days**, made determinations pursuant to §1213(g)(2), but did not refer the investigation to the Secretary of Defense for response as required by statute. Instead, the OSC referred the allegations to Mr. Michael E. Horowitz, CIGIE for referral to the IC. The OSC has no status on a response from the IC.

IMPACT: The Secretary of Defense, although responsible for the general management and supervision of the DoD IG, has been given no actionable information in regard to substantial and specific danger to public health and safety to include both military and civilian personnel under his cognizance. In addition, the actions of Ms. Lerner, Mr. Fine, Acting DoD IG, and Mr. Horowitz, Chair, CIGIE, have withheld from the DoD Agency head gross mismanagement, abuse of authority, and criminal activity within the DoD office of Inspector General.

July 9, 2018

John R. Crane
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**SUBJECT: DISCLOSURE OF WRONGDOING WITHIN THE U.S. OFFICE OF
SPECIAL COUNSEL**

Mr. Kerner,

I waited over **403** days for the U.S. Office Special Counsel (OSC), Disclosure Unit (DU), under the supervision of Director, **Catherine A. McMullen**/Deputy Director, **Karen Gorman** to make an OSC 45-day “substantial likelihood” finding, as required by law [5 USC 1213(b)].

The inability/reluctance of the OSC’s Disclosure Unit (DU) to make a finding, within the legally mandated 45-day window, must be **fully investigated** and federal employee misconduct immediately addressed.

In my Disclosure (**DI-15-2333**), submitted to the OSC on **09 February 2015**, I delivered over **211** pages of evidence, specifically detailing Senior Leader Misconduct involving Department of Defense (DoD) Acting Inspector General **Lynne Halbrooks** and her General Counsel, **Henry C. Shelley Jr.**

Additionally, my Disclosure (**DI-15-2333**) included Senator **Charles E. Grassley’s** Oversight Review into Acting Inspector General (IG) and Principle Deputy Inspector General (PDIG) **Lynne Halbrooks’** gross mismanagement/abuse of authority on the DoD IG’s production of the *Release of the Department of Defense (DoD) Information to the Media: Zero Dark Thirty (ZDT) Report*.¹

Under the Whistleblower Protection Act (WPA), as amended, I also provided substantive first-hand information to Senate investigators who conducted Senator Grassley’s Oversight Review.

Senator Grassley’s Oversight Review substantiated the fact that **Lynne Halbrooks**, in her capacity as the acting DoD IG, did in fact, exercise Gross Mismanagement/Abuse of

¹<https://www.grassley.senate.gov/sites/default/files/judiciary/upload/Zero%20Dark%20Thirty,%2012-02-14,%20final%20report,%20Redacted.pdf>.

Authority while actively protecting her direct supervisor, former Central Intelligence Agency (CIA) Director and Secretary of Defense, **Leon Panetta**, from a full and fair DoD IG investigation.

Despite the fact that the OSC Disclosure Unit (DU) has not published a standard for making a 45-day “substantial likelihood” determination, there can be no reasonable excuse for not making a timely 45-day “substantial likelihood” determination when considering the gravitas of the evidence submitted by a Whistleblower to the OSC with a firm conviction that serious wrong doing had occurred.

This is clearly a case of **intentional misconduct** aimed at actively preventing formal agency head notification and development of an actionable investigative record: a clear and unmistakable violation of federal law.

The importance of my Whistleblower Disclosure, delivered via a safe channel, more than adequately demonstrated what I firmly believe evidenced violation of law, rule, and regulation; gross mismanagement; abuse of authority, and **substantial and specific danger** to public health and safety.

The first-hand information I provided to the OSC’S Disclosure Unit (DU) clearly reflected a **clear and convincing pattern** of Wrongdoing that demanded timely investigation.

The results of Senator Grassley’s Oversight Review, based upon my reliable, first-hand information, offers further credibility on my Whistleblower Disclosure that more than adequately reflects the obvious need for timely agency head notification and development of an investigative record [5 USC 1213(b)/(c)/(d)].

In the words of Senator Grassley discussing his Oversight Review findings:

“I undertook this inquiry because I received reports from whistleblowers (*John R. Crane*) who were concerned that PDIG Halbrooks deliberately suppressed the report for two reasons: (1) to protect senior officials from **disciplinary** action or **prosecution** and (2) in the process, to further her **candidacy** for nomination to be the next DOD IG.”

“Senior officials, including former Central Intelligence Agency (CIA) Director and DOD Secretary **Leon Panetta** and Under Secretary for Intelligence (USDI) **Michael Vickers**, were

accused of allegedly making unauthorized disclosures of highly classified information on the Osama bin Laden raid.”

“These alleged disclosures could have placed DoD Special Operations **personnel** and their families in **harm’s way**.”

“The convergence of these potential conflicts-of-interest **needed scrutiny**. My main concern was that she may have handled the conflicts in ways that could compromise the **integrity** and **independence** of the Inspector General’s Office (OIG).”

In point of fact: Senator Grassley’s Oversight Review revealed that **Lynne Halbrooks** exercised Gross Mismanagement/Abuse of Authority while protecting her direct supervisor, former Central Intelligence Agency (CIA) Director and Secretary of Defense, **Leon Panetta**, from full and fair investigation.

In a pattern of well practiced criminal conduct, the leadership team of the OSC consisting of: U.S. Special Counsel, **Carolyn N. Lerner**; Principle Deputy Special Counsel, **Mark Cohen**; Deputy Special Counsel, Policy & Congressional Affairs, **Adam Miles**; and the leadership of the Government Accountability Project (**GAP**), Executive Director **Louis Clark**, and GAP Legal Director, **Tom Devine** actively conspired to ensure that agency head notification was avoided in order to stop the creation of an agency investigative record in direct violation of 5 USC 1213(b).

This is nothing short of a direct assault upon the Whistleblower Protection Act (WPA), as amended, an insult to the Federal Merit System, and a direct violation of my due-process rights.

I am firmly convinced that I am not the only Whistleblower subjected to this outright criminal conspiracy.

There is no question that the OSC/GAP Leadership Team conspired with the DoD Inspector General, **Glenn A. Fine** and the DOJ Inspector General, **Michael E. Horowitz** to ensure that my Whistleblower Disclosure would not be properly processed in accordance with 5 USC 1213; in order to, avoid agency head notification and development of a legitimate investigative record.

To make matters worse, the DoD Inspector General, **Glenn A. Fine** and DOJ Inspector General, **Michael E. Horowitz**, conspired to use the Council of Inspectors General on

Integrity and Efficiency (CIGIE) to ensure that “Acting” Inspector General **Lynne Halbrooks** and her General Counsel, **Henry C. Shelley Jr.** were inappropriately shielded from accountability demanded of all federal employees under the federal merit system.

There is clear and convincing evidence to substantiate the fact that the collusion of **Glenn A. Fine/Michael E. Horowitz**, two senior level federal Inspectors General (IG) violated numerous laws, rules, and regulations, specifically related to the Inspectors General (IG) Act of 1978, as amended, and took action that clearly demonstrate an unforgivable compromise of the **integrity** and **independence** standard demanded of a presidentially nominated and Senate confirmed Federal Inspector General.

OFFICAL DISCLOSURE: I demand that an immediate criminal referral be made to the agency head, Department of Justice (DoJ), **Jefferson B. Sesssions III**, and that in your capacity as the U.S. Special Counsel, you immediately petition the MSPB for a Stay of Personnel Action pursuant to 5 USC 1214.

Very Respectfully,

John R. Crane

John R. Crane

E-Filing form printed on 7/23/2018 9:10 AM

Form12 7/20/2018**Status** Submitted**Original Entry Date** 7/20/2018 4:13 PM**Last Modified** 7/23/2018 9:01 AM**Case Number**

DI-18-4945

User Information

John Crane

johnrcrane@me.com

A summary of the data you entered:**Name of the person seeking OSC action ("Complainant"): prefix**
Mr.**Name of the person seeking OSC action ("Complainant"): First name**
John**Name of the person seeking OSC action ("Complainant"): Middle name**
Rudel**Name of the person seeking OSC action ("Complainant"): Last name**
Crane**Name of the person seeking OSC action ("Complainant"): Suffix****Status: Other (For Other, please specify)****Contact Information: (Home or mailing address): Street**
P.O. Box 7185**Contact Information: (Home or mailing address): Apt No****Contact Information: (Home or mailing address): City**
McLean**Contact Information: (Home or mailing address): State**
Virginia**Contact Information: (Home or mailing address): Zipcode**
22106**Contact Information: (Home or mailing address): Country**

UNITED STATES

Phone Number: International Number

False

Phone Number: Country Code

00000

Phone numbers: Home

Phone numbers: Home Ext

Phone numbers: Work

Phone numbers: Work Ext

Phone numbers: Cell

(202) 372-5321

Phone numbers: Cell Ext

Phone numbers: Fax

Phone numbers: Fax Ext

Phone numbers: Other

Phone numbers: Other Ext

Email: Email

johnrcrane@me.com

Title

Former SES DoD IG

Series

AA-0000

Grade

SES

Agency: Name

Department of Defense

Agency: Component Name

Office of the Inspector General

Agency: Street

4800 Mark Center Drive

Agency: Apt No

Agency: City
Alexandria

Agency: State
Virginia

Agency: Zipcode
22350-1500

Agency: Country
UNITED STATES

Outreach: For Other, please describe:

GAO-18-400 Actions Needed to Improve Processing of Prohibited Personnel Practice and Whistleblower Disclosure Cases

Outreach: Date (approximate):
6/14/2018

Are you filing as an attorney of the Complainant?
False

Attorney: prefix

Attorney: First name

Attorney: Middle name

Attorney: Last name

Attorney: Suffix

Attorney: Street

Attorney: Apt No

Attorney: City

Attorney: State

Attorney: Zipcode

Attorney: Country

Attorney Phone numbers: Work

Attorney Phone numbers: Work Ext

Attorney Phone numbers: Cell

Attorney Phone numbers: Cell Ext

Attorney Phone numbers: Fax

Attorney Phone numbers: Fax Ext

Attorney Phone numbers: Other

Attorney Phone numbers: Other Ext

Attorney Email: Email

Other sources(s) (please explain):

Please identify the U.S. government department or agency involved in your disclosure
Office of U.S. Special Counsel

Please identify the organizational unit of the department or agency involved
Disclosure Unit

Address of the organizational unit
1730 M Street, N.w., Suite 218, Washington, D.C. 20036-3600

Please identify the type of agency wrong doing that you are alleging
Violation of law, rule or regulation

Violation of law, rule or regulation (please specify):
law, rule or regulation

Please identify the type of agency wrong doing that you are alleging

Please identify the type of agency wrong doing that you are alleging

Please identify the type of agency wrong doing that you are alleging

Please identify the type of agency wrong doing that you are alleging

Please identify the type of agency wrong doing that you are alleging

Please describe the agency wrong doing that you are disclosing
I disclose, via Whistleblower safe channel, what I firmly believe is a violation of law, rule, or regulation [5 U.S.C. § 1213], occurring with full knowledge of the U.S. Special Counsel, occurring within the U.S. Special Counsel's Disclosure Unit (DU) , supervised by Director, Catherine A. McMullen and former Deputy Director, Karen Gorman.

As a result of inability/reluctance to comply with federal law, the U.S. Special Counsel's Disclosure Unit (DU) is subverting the Whistleblower Protection Act (WPA), insulting the Federal Merit System, and denying individual due-process rights.

By intentionally subverting reports of credible information reflecting agency wrongdoing (45-day "substantial likelihood" FINDINGS) and omitting agency head notification; the OSC directly impacts the ability of the agency head's Inspector General (IG) to properly substantiate or non-substantiate allegations of wrongdoing and make legitimate "substantial likelihood" DETERMINATIONS.

In an effort to prevent agency head notification of wrongdoing and creating legitimate investigative record, the rights of every Whistleblower using the OSC as a safe channel to report wrongdoing has been fatally compromised.

Nothing short of immediate Chief Executive notification and request for full criminal investigation into the systemic failure of the U.S. Office of Special Counsel under the leadership of U.S. Special Counsel, Carolyn N. Lerner; Principle Deputy Special Counsel, Mark Cohen; Acting U.S. Special Counsel, Adam Miles; Chief of Disclosure Unit (DU), Catherine A. McMullen; former Deputy Chief of Disclosure Unit (DU), Karen Gorman; and Chief of Complaints Unit (CU), Barbara J. Wheeler is in order.

Due to the nature of systemic failure of the U.S. Special Counsel, during the period June 2011- September 2017, an independent Reconciliation Commission, appointed by the Chief Executive, should be established to formally review all Whistleblower Disclosures submitted to the U.S. Special Counsel during that period.

Other Actions You Are Taking On Your Disclosure: Inspector General of department / agency involved

Other Actions You Are Taking On Your Disclosure: Inspector General of department / agency involved Date

Other Actions You Are Taking On Your Disclosure: Other office of department / agency involved

Other Actions You Are Taking On Your Disclosure: Other office of department / agency involved Date

Other Actions You Are Taking On Your Disclosure: Other office of department / agency involved Text

Other Actions You Are Taking On Your Disclosure: Department of Justice

Other Actions You Are Taking On Your Disclosure: Department of Justice Date

Other Actions You Are Taking On Your Disclosure: Other Executive Branch / department / agency

Other Actions You Are Taking On Your Disclosure: Other Executive Branch / department / agency Date

Other Actions You Are Taking On Your Disclosure: Other Executive Branch / department / agency

Text

Other Actions You Are Taking On Your Disclosure: General Accounting Office (GAO)

Other Actions You Are Taking On Your Disclosure: General Accounting Office (GAO)

Other Actions You Are Taking On Your Disclosure: Congress or congressional committee

Other Actions You Are Taking On Your Disclosure: Congress or congressional committee Date

Other Actions You Are Taking On Your Disclosure: Congress or congressional committee Text

Other Actions You Are Taking On Your Disclosure: Press / media (newspaper, television, other)

Other Actions You Are Taking On Your Disclosure: Press / media (newspaper, television, other) Date

Other Actions You Are Taking On Your Disclosure: Press / media (newspaper, television, other) Text

Other Actions You Are Taking On Your Disclosure: what is the current status of the matter?

I disclose, via Whistleblower safe channel, what I firmly believe is a violation of law, rule, or regulation [5 U.S.C. § 1213], occurring with full knowledge of the U.S. Special Counsel, occurring within the U.S. Special Counsel's Disclosure Unit (DU) , supervised by Director, Catherine A. McMullen and former Deputy Director, Karen Gorman.

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during that period.

Consent

I consent to disclosure of my name

Signature

GAP/Devine

Status

Former Federal Employee

I know about the information I am disclosing here based on (check all that apply)

I have personal and/or direct knowledge of events or records involved

August 16, 2018

John R. Crane
P.O. Box 7185
McLean, VA 22106

Mr. Henry Kerner
U.S. Office of Special Counsel
1730 M Street, NW #300
Washington, DC 20036

SUBJECT: *A Review of Allegations that Department of Defense Office of Inspector General (DOD IG) Personnel Destroyed Audit Documents in Violation of DOD IG Policy, Oversight and Review Division, Report No. 18-02, April 2018*

RE: OSC File No. DI-15-2333

Mr. Kerner,

1. On **June 12, 2018**, I received a letter from your office requesting written comment on the report of investigation conducted by the Department of Justice (**DOJ**), Inspector General (**IG**)/Chair, Council of Inspectors General on Integrity and Efficiency (**CIGIE**), **Michael E. Horowitz**.

As you are aware, the U.S. Special Counsel, **Carolyn N. Lerner**, Department of Defense (**DOD**) Inspector General (**IG**), **Glenn A. Fine**, and Department of Justice (**DOJ**), Inspector General (**IG**), **Michael E. Horowitz** collectively developed a plan to forgo Agency Head Notification (Secretary of Defense, **James N. Mattis**/U.S. Attorney General, **Jefferson B. Sessions**) required under 5 U.S.C. § 1213(b)/ 5 U.S.C. § 1212(a)(3).

Carolyn N. Lerner, **Glenn A. Fine**, and **Michael E. Horowitz**, also agreed to split Whistleblower Disclosure (**DI-15-2333**) into three separate uncoordinated efforts under the investigative control of **Michael E. Horowitz** in his capacity as both **DoJ IG** and as the Chair, of the **CIGIE**.

In my Disclosure (**DI-15-2333**), submitted to **Carolyn N. Lerner** on **09 February 2015**, I delivered over **211** pages of evidence, specifically detailing Senior Leader Misconduct that included allegations of Whistleblower Reprisal and criminal violation(s) of Title 18 involving **DoD** Principal Deputy Inspector General (**PDIG**) **Lynne M. Halbrooks** and **DoD IG** General Counsel, **Henry C. Shelley Jr.**

The criminal allegations evidenced that on or about **15 February 2011**, **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, made false representations to **William M. Welch II**, Senior Litigation Counsel, Public Integrity Section, DOJ, claiming that potentially exculpatory evidence requested by the **Federal Public Defender** representing **Thomas A. Drake** in a Federal prosecution case

was destroyed as part of a routine **DoD IG** classified record purge, ref: U.S. Special Counsel ltr dtd 18 March 2016.

RESULT: On **18 March 2016**, after **403** days, **Carolyn N. Lerner** elected to complete the then mandatory 15-Day determination process and positively concluded there was a “**substantial likelihood**” that the disclosure presented violations of laws, rules, or regulations [5 U.S.C. § 1213(b)].

2. I cannot, however, in good faith consider a response to the **Michael E. Horowitz** report: *Allegations that Department of Defense Office of Inspector General (DOD IG) Personnel Destroyed Audit Document in Violation of DOD IG Policy*, without addressing the systemic failure of the U.S. Special Counsel to safeguard the Federal Merit System, protect my due-process rights, and uphold the Whistleblower Protection Act (**WPA**).

When **Carolyn N. Lerner** took **403** days to make a “**substantial likelihood**” finding on Disclosure (**DI-15-2333**), the investigative evidence base (witness statements/documentation) had already been allowed to significantly degrade.

If **Carolyn N. Lerner** had complied with 5 U.S.C. § 1213, the “**substantial likelihood**” finding would have occurred on or before **24 February 2015**, well before **Lynne M. Halbrooks** resigned from Federal service being replaced as **PDIG** by former **DOJ IG**, **Glenn A. Fine**.

The actions of **Carolyn N. Lerner**, **Glenn A. Fine** and **Michael E. Horowitz**, shielded IG misconduct from Agency Head accountability, violated Federal statute governing the U.S. Special Counsel, violated my due-process rights under the **WPA**, and evidenced Senior Leader Misconduct and Inspector General Abuse of Authority, ref: 5 U.S.C. § 1213.

This action also questions the independence and objectivity associated with having the U.S. Special Counsel and U.S. Special Counsel Principal Deputy fall under the authority of **Michael E. Horowitz** in regard to investigation of wrongdoing (5 U.S.C. § 1213), ref: CIGIE Integrity Committee Policy and Procedures 2018 (w/correction 1), section 2(C), p. 1, dtd 13 April 2018.

In this example, both **Carolyn N. Lerner** and **Michael E. Horowitz** agreed to violate statute and compromise the U.S. Special Counsel mandate to safeguard the Federal Merit System and protect the due-process rights of a Federal whistleblower. In effect, because of the lack of independence and objectivity there was no check on misconduct.

3. To date, there has been no responsible action on the second and third parts of Disclosure (**DI-15-2333**) reported to U.S. Special Counsel, **Carolyn N. Lerner**, on **09 February 2015**:

- **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, in regard to the suppression of DoD IG criminal investigative findings in the compromise of **Top Secret** information by Secretary Leon Panetta in regard to Operation Zero Dark Thirty (**ZDT**) to kill Osama bin Laden.
- **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, in regard to Whistleblower Reprisal and Senior Official Misconduct/Abuse of Authority.

On October 11, 2017, Acting Special Counsel, **Tristan Leavitt**, reported to me that the **CIGIE Integrity Committee (IC)**, Chaired by the Department of Labor (**DOL**) **IG**, **Scott S. Dahl**, declined to investigate criminal allegations against **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, in regard to **ZDT**.

The U.S. Special Counsel noted that “the ICs decision countermanded the Special Counsel’s statutory determination that the allegations warranted investigation.”, ref: OSC ltr dtd **11 October 2017**.

And, the U.S. Special Counsel noted, “this case highlights the challenges OSC [Office of Special Counsel] faces in addressing allegations of misconduct by inspectors general and their high-level employees under the statutory framework of 5 USC § 1213.”, ref: OSC ltr dtd **11 October 2017**.

4. **Carolyn N. Lerner**, as noted, after 403 days, completed the then mandatory 15-Day determination process and positively concluded there was a “**substantial likelihood**” that the disclosure presented credible violations of laws, rules, or regulations [5 U.S.C. § 1213(b)].

Michael E. Horowitz then took over 761 days to issue a report that contained readily available official record information from **11 June 2015** that **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, did in fact, make false representations concerning the destruction of official DoD IG records, to **William M. Welch II**.

United States District Court Judge **Richard D. Bennett**, who presided over the **Thomas A. Drake** case, in response to receiving my affidavit of **09 February 2015**, contacted Judge **Stephanie A. Gallagher**, United States Judge Magistrate, and requested an investigation of whether the statement by **William M. Welch II** to Judge **Richard D. Bennett** of **February 15 2011**, was accurate concerning the representation that, “most of the hard copy documents related to the audit (DoD IG) were destroyed before the defendant was charged, pursuant to a standard (DoD IG) document destruction policy.”

Judge **Stephanie A. Gallagher** on **13 May 2015**, referred the matter for investigation to the Public Integrity Section of the DOJ.

On **11 June 2015**, **Raymond N. Hulser**, Chief, Criminal Division, Public Integrity responded via letter to Judge **Stephanie A. Gallagher** informing her **William M. Welch II**, “confirmed that the representation that the government made in its February 15, 2011, letter to Judge Bennett regarding the destruction of records related to Mr. Drake’s whistleblower claim was based on representations that were made to the trial team by the DoD OIG.” The representations from **Lynne M. Halbrooks** and **Henry C. Shelley Jr.** were, in fact, false.

DoD IG Audit records were known by **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, to be located in secure DoD IG spaces located at Fort Meade.

There is no credible reason why **Michael E. Horowitz** would require 761 days to complete his investigative report. The delay by **Michael E. Horowitz** allowed **Henry C. Shelley Jr.** to retire from Federal service prior to the investigative report being delivered to the U.S. Special Counsel.

The evidence was readily available and clear so **Michael E. Horowitz** could easily have met the 60-day requirement as per 5 U.S.C. § 1213.

5. The result of the actions by **Carolyn N. Lerner**, **Michael E. Horowitz**, **Scott S. Dahl**, and **Glenn A. Fine** has been that investigations, required by 5 U.S.C. § 1213 into (DI-15-2333) have been compromised as the evidentiary investigative base (documentation/witnesses) has been allowed to degrade. The degradation challenges the ability of investigators either to substantiate or non-substantiate allegations.

This failure ultimately rests with the action(s)/inaction(s) of **Carolyn N. Lerner** who had the sole responsibility to safeguard the Federal Merit System and protect the Federal whistleblower while serving as a Whistleblower Protection Act (WPA) safe channel.

It was, and remains, the responsibility of the U.S. Special Counsel to ensure prompt and actionable investigation and to hold the **CIGIE** accountable to fulfill its own mission to support the laws governing the effectiveness of the Federal Merit System.

6. In the face of “**substantial likelihood**” findings of serious criminal misconduct by senior DoD IG leaders, **Michael E. Horowitz**, in his capacity as the DOJ IG elected to use the limited authorities of the Inspector General Act of 1978, as amended, and did not make a referral to the U.S. Attorney General for criminal investigation of fellow senior level Inspector General personnel.

This decision ensured that testimony from **Lynne M. Halbrooks** and **William M. Welch II** could not be compelled for inclusion into the DOJ criminal investigative record.

The deeply conflicted action(s) of **Carolyn N. Lerner** and **Michael E. Horowitz** not only violate U.S.C. 5 § 1213, but also run counter to 5 U.S.C. § 1212(a)(3) that states; “the Office of Special Counsel shall receive, review, and, where appropriate, forward to the **Attorney General** or an agency head under section 1213, disclosures of violations of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”

There is no doubt that a “**substantial likelihood**” finding by the U.S. Special Counsel satisfies the legal demand for prompt formal Federal Agency Head notification and the demand for the Agency Head to develop a timely investigative record (witness statements/documentation) needed to substantiate allegations of agency wrongdoing that allows the Agency Head to take proactive steps to mitigate the identified risk to the interests of the American people.

7. The actions of **Carolyn N. Lerner**, **Glenn A. Fine**, **Michael E. Horowitz** and **Scott S. Dahl**, have been to, in effect, give the **CIGIE** the status of a super-empowered class of Federal employees within the Executive Branch who exist outside the oversight or statutory requirements

of 5 U.S.C. § 1213 while ignoring the laws, rules, and regulations that govern the conduct of all other Federal employees codified under the Federal Merit System.

The above actions directly violate the **CIGIE** mandated framework for managing, operating, and conducting the work of the Offices of Inspector General (**OIGs**) and violate the **CIGIE** demand for IGs to follow the Standards for Ethical Conduct for Employees of the Executive Branch (Ethical Standards) and the Federal conflict of interest laws, ref: *CIGIE Quality Standards for Federal Offices of Inspector General*, Section 2(B), p. 8, dtd August 2012.

The aforementioned powers assumed by members of the **CIGIE** are also in direct conflict with the **CIGIE** demand that, "The Office of Inspectors General (**OIGs**) have a special need for high standards of professionalism and integrity in light of the mission of the Inspectors General under the Act", ref: *CIGIE Quality Standards for Federal Offices of Inspector General*, Section 1(A), p. 3, dtd August 2012.

8. The investigative report, prepared by **Michael E. Horowitz**, does not comply with the basic **CIGIE** Quality Standards for Investigation (QSI) and clearly lacks investigative independence due to the following personal and external impairments:

- personal impairments: (1) Official, professional, personal, or financial relationships that affect the extent of the inquiry; limit disclosure of information; or weaken the investigative work in any way; (2) Preconceived opinions of individuals, groups, organizations or objectives of a particular program that could bias the investigation; (3) Previous involvement in a decision-making or management capacity that would affect current operations of the entity or program being investigated; (4) Biases, including those induced by political or social convictions that result from employment in, or loyalty to, a particular group (**CIGIE**) or organization (U.S. Special Counsel)
- external impairments: (1) Interference in the assignment of cases [inappropriate partition of OSC-12 Disclosure (**DI-15-2333**) into parts]; (2) Influence on the extent and thoroughness of the investigative scope, the way in which the investigation is conducted, the individual(s) who should be interviewed; the evidence that should be obtained; and the content of the investigative report.

9. As a result of the systemic failure of **Carolyn N. Lerner** to protect my due-process rights under both the Federal Merit System and the **WPA**, along with the impropriety and loss of independence and objectivity displayed by **Carolyn N. Lerner**, **Michael E. Horowitz**, **Scott S. Dahl**, and **Glenn A. Fine**, I request the following:

- that the U.S. Special Counsel comply with the statute governing the U.S. Special Counsel's "substantial likelihood" finding determinations [5 U.S.C. § 1213(b)] and make proper Agency Head Notification (Secretary of Defense, **James N. Mattis**/U.S. Attorney General, **Jefferson B. Sessions**) regarding whistleblower Disclosure (**DI-15-2333**);

- that the U.S. Attorney General, **Jefferson B. Sessions**, be requested to initiate an independent investigation into criminal misconduct by DoD IG, **Lynne M. Halbrooks** and DOD IG General Counsel (GC), **Henry C. Shelley Jr.**, and

- that an immediate independent investigation be undertaken by the U.S. Special Counsel into allegations of multiple violations of the Whistleblower Protection Act (WPA) by the following members of the Federal Inspector General community: **Michael E. Horowitz**, **Glenn A. Fine**, and **Scott S. Dahl**, ref: 5 U.S.C. § 7515(b)(1)(B).

I look forward to your response.

Very Respectfully,

John R. Crane

Copy to:
Tristan Leavitt

Tax-Exempt Organization Complaint (Referral)

1. Name of referred organization

Government Accountability Project

Street address

1612 K Street, NW Suite 1100

City

Washington

State

DC

ZIP code

20006

Date of referral

26 September 2018

2. Organization's Employer Identification Number (EIN)

52-1343924

3. Nature of violation

- ☐ Directors/Officers/Persons are using income/assets for personal gain
- ☐ Organization is engaged in commercial, for-profit business activities
- ☐ Income/Assets are being used to support illegal or terrorist activities
- ☒ Organization is involved in a political campaign
- ☒ Organization is engaged in excessive lobbying activities
- ☐ Organization refused to disclose or provide a copy of Form 990
- ☐ Organization failed to report employment, income or excise tax liability properly
- ☐ Organization failed to file required federal tax returns and forms
- ☒ Organization engaged in deceptive or improper fundraising practices
- ☐ Other (describe)

4. Details of violation

Name(s) of person(s) involved

Louis C. Clark, Tom Devine, Richard A. Salzman, Carolyn N. Lerner, Mark Cohen, Adam Miles

Organizational title(s)

Date(s)

2013 - present

Dollar amount(s) (if known)

Unknown

Description of activities

GAP serving as a capture system to subvert law and seek out Federal whistleblowers, for partisan reasons, to obstruct reporting/accountability of senior Federal officials.

5. Submitter information

Name

John R. Crane

Occupation or business

Former Federal Employee - Assistant Inspector General, Department of Defense

Street address

P.O. Box 7185

City

McLean

State

VA

ZIP code

22106

Telephone number

202.372.5321

- ☐ I am concerned that I might face retaliation or retribution if my identity is disclosed

6. **Submission and documentation:** The completed form, along with any supporting documentation, may be mailed to IRS EO Classification, Mail Code 4910DAL, 1100 Commerce Street Dallas, TX 75242-1198, faxed to 214-413-5415 or emailed to eoaclass@irs.gov. **Disclaimer Notice:** Your email submission of Form 13909 and attachments are not encrypted for security.

Instructions for Form 13909, Tax-Exempt Organization Complaint (Referral)

General Information

The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law. Submission of this form is voluntary.

Upon receipt of this form, the IRS will send you a letter acknowledging receipt of the information you submitted. If at a later date you wish to submit additional information regarding the organization, please attach a copy of the form initially submitted, and send it to the address shown above.

Specific Instructions

1. **Organization name and address:** Provide the current name and address of the organization. If the organization has used prior or multiple name(s) or address(es), also provide that information.
2. **Employer identification number:** Provide the organization's EIN.
The EIN is a nine-digit number, issued by the IRS, that the organization uses for tax purposes (like a Social Security Number (SSN) for an individual). If the EIN is unavailable, include a state nonprofit corporation registration number, if available.
3. **Nature of violation:** Mark the description that describes the organization's alleged violation. More than one line may apply. If none of the descriptions appear to apply, briefly state the issue on the Other line.
4. **Details of the violation:** Provide specific details of the alleged violation including names, actions, places, amounts, dates, and the nature of any evidence or documentation (who, what, where, when, how). Include the names of other organizations, entities or persons that may be involved with the organization, providing EINs or SSNs, if available.
5. **Submitter information:** Provide your name, address, and business or occupation. Include your daytime telephone number, in case we wish to contact you. The acknowledgement letter will be sent to the address you provide.

If you are concerned that you may face retribution if your identity is disclosed, check the box. You may enter "Anonymous" for Submitter's name if you do not want to be identified.
6. **Submission and documentation:** Mail the completed form, including any supporting documentation that you would like for us to review, to the address provided on the form. You may also fax or email the completed form and any supporting documentation to the fax number or email address provided on the form. Include a cover letter describing the documentation or evidence you are providing. If you have already received an acknowledgment letter, include a copy of that letter. If possible, please try to submit all documentation at the same time.

If your referral relates to a church please be aware that Congress has imposed special limitations, found in IRC section 7611, on how and when the IRS may conduct civil tax inquiries and examinations of churches. You can find out more about these special limitations in Publication 1828, Tax Guide for Churches and Religious Organizations, in the section on Special Rules Limiting IRS Authority to Audit a Church.
7. **Claim for reward:** To claim a reward for providing this information to the IRS, file Form 211, Application for Award for Original Information.
8. **Note:** Federal law prohibits the IRS from providing you with status updates or information about specific actions taken in response to the information you submit.

John R. Crane
P.O. Box 7185
McLean, VA 22106
johnrcrane@me.com
202.372.5321

Internal Revenue Service
Criminal Investigation
1111 Constitution Ave., NW
Room 2501
Washington, DC 20224

To whom it may concern,

I am writing to allege that the Government Accountability Project (GAP), a not-for-profit corporation exempted from federal income tax, under section 501(c)(3) of the Internal Revenue Code, is actively engaged in violations of the regulations that grant GAP federal tax-exempt status.

In Form 990, Return of Organization Exempt from Income Tax, for 2016, Part I, Summary, describes GAP's mission or most significant activities as follows:

The Government Accountability Project (GAP) is a 40 year-old non-profit public interest organization that promotes government and corporate accountability by advancing occupational free speech, defending whistleblowers, and empowering citizen activists we pursue this mission through our public health & safety, international, national security, environmental oversight, and corporate and financial accountability programs. GAP is the nation's leading **whistleblower protection organization**. [Bold added.] [See attachment 1.]

I am the former Director, National Security for GAP from February 2017- August 2017, and former Assistant Inspector General for the Department of Defense. Through knowledge gained during senior staff meetings conducted at GAP, I became aware of the orchestrated effort, within GAP, to serve as a political stalking horse to seek out, capture, and obstruct, for partisan political reason, whistleblower cases with allegations placed against senior political officials of the Obama Administration.

The effort to shutdown whistleblower allegations was part of a self-interested partisan relationship with former GAP employees who had become Schedule C political appointees in the Office of U.S. Special Counsel (OSC).

Former GAP employees who became Schedule C political appointees, within OSC, include **Mark Cohen**, former Executive Director of GAP, who became the Principle Deputy U.S.

Special Counsel and **Adam Miles**, who became the Associate U.S. Special Counsel for Policy and Congressional Affairs prior to assuming the role of Acting U.S. Special Counsel upon the resignation of both the U.S. Special Counsel, **Carolyn N. Lerner**, and Principle Deputy U.S. Special Counsel, **Mark Cohen**.

The mission of OSC, as described in GAO report 18-400, June 2018, entitled: *Office of Special Counsel Actions Needed to Improve Processing Prohibited Personnel Practice and Whistleblower Disclosure Cases*, is as follows:

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Its primary mission is to safeguard the **merit system** in federal employment by protecting employees and applicants for federal employment from prohibited personnel practices (PPP), including reprisal for **whistleblowing**. OSC also reviews claims of wrongdoing within the federal government from current federal employees, former employees, and applicants for federal employment. These individuals, known as whistleblowers, report to OSC potential fraud, waste, and abuse in the federal government and threats to public safety or health. [Bold added. See attachment 2.]

The pivot point of the constructive effort to undermine the legitimate effort of GAP/OSC, for partisan political reason, were **Louis C. Clark**, current GAP Executive Director; **Mark Cohen**, former GAP Executive Director; **Tom Devine**, current GAP Legal Director; **Adam Miles**, current Counsel to Inspector General (IG) U.S. Department of Justice (DOJ); **Carolyn N. Lerner**, former U.S. Special Counsel and former partner at James H. Heller, Douglass B. Huron, Steven Z. Chertkof, Carolyn N. Lerner, Philip J. Simon & **Richard A. Salzman**, PLLC.

Richard A. Salzman, is on the board of directors GAP and former partner with **Carolyn N. Lerner**.

This constructed effort also included **Carolyn N. Lerner** hiring former GAP employees, **Mark Cohen** and **Adam Miles**, after GAP successfully lobbied Congress and mounted a media campaign for her successful presidential nomination and conformation as the U.S. Special Counsel in June 2011.

Carolyn N. Lerner was confirmed to a five-year term that expired on June 16, 2016 and permitted a one-year carry over to continue as U.S. Special Counsel until June 16, 2017.

On October 5, 2015, President **Barak H. Obama** renominated **Carolyn N. Lerner** and placed her hearing on the Senate Executive Calendar on April 25, 2016.

In February 2017, President **Donald J. Trump** elected to not renominate **Carolyn N. Lerner** to a second 5-year term as U.S. Special Counsel, in large part due to the complaint of gross mismanagement, within the Office of U.S. Special Counsel, reported by federal whistleblower Joseph P. Carson.

In pursuit of her nomination, for a second 5-year term, as U.S. Special Counsel, **Carolyn Lerner** contacted **John D. Podesta**, Campaign Director, **Hillary R. Clinton** for President, on February 24, 2015, and stated:

John – I spoke to Luke and he suggested I follow-up with you. Just to re-cap, my five-year term as head of the U.S. Office of Special Counsel is up next June. If re-nominated, I anticipate getting plenty of **R** support – **Grassley** and **Lee** might be my biggest fans in the Senate but the later we go into the President's term it may be hard for anyone to get through. I'd also like to reassure my political folks here at OSC that re-nomination is on the horizon, so they don't start leaving. Any insights into how I should approach this would be much appreciated. Thanks so much. Carolyn 202-257-7825. [Bold added.][See attachment 3.]

The "political folks" mentioned were the two former GAP employees **Mark Cohen** and **Adam Miles**.

Mr. **Tom Devine**, GAP Legal Director, filed my whistleblower disclosure with **Carolyn N. Lerner** on February 9, 2015.

The allegations of wrongdoing were against former Secretary of Defense **Leon Panetta**, Acting DoD Inspector General **Lynne Halbrooks** and Lynne Halbrook's General Counsel **Henry C. Shelley Jr.**

After filing my whistleblower disclosure with the U.S. Special Counsel, **Carolyn N. Lerner**, directed her Principal Deputy U.S. Special Counsel, **Mark Cohen**, to appoint **Adam Miles**, Associate U.S. Special Counsel for Policy and Congressional Affairs, vice **Anne Wagner**, Associate U.S. Special Counsel General Law Division, to handle my allegations due to the fact that the allegations were placed against former senior administration officials and could negatively affect her pending renomination to a second 5-year term as U.S. Special Counsel.

A concerted effort was undertaken by GAP/OSC to derail and subvert the U.S. Special Counsel's legal mandate to make a 45-day "substantial likelihood" finding, with-in 45-days, that would have resulted in formal agency head notification of wrongdoing and demand for a 60-day agency investigation that would substantiate/non-substantiate allegations of senior leader misconduct [see 5 USC § 1213]

In place of the mandatory OSC 45-day "substantial likelihood" finding, my disclosure of wrongdoing entered into a two year period of over a dozen meetings, orchestrated by **Adam Miles**, with over a dozen requests for additional information, directly coordinated with the Department of Defense Office of Inspector General (OIG), to "support" my whistleblower disclosure of senior leader misconduct within the Department of Defense (DoD) and DoD Office of Inspector General (OIG) led by Acting Inspector General, **Glenn A. Fine**.

During this period, **Tom Devine, Adam Miles**, and the Deputy Chief of the OSC's Whistleblower Disclosure Branch, **Karen Gorman** were adamant that I not contact the media about my case or reach-out to Congress.

Throughout the entirety of the processing of my OSC whistleblower disclosure, the primary concern of both GAP and the OSC was the renomination of **Carolyn N. Lerner** to a second 5-year term as U.S. Special Counsel and the impact of numerous whistleblower disclosure cases pending against senior Obama Administration officials.

Concerned over the conflict of interest demonstrated by GAP leadership, **Louis C. Clark** and **Tom Devine**, I sent an email to them on 29 December 2016 entitled: *John Podesta/Carolyn Lerner Emails Re: Nomination*. The email states:

I suppose that everyone at GAP has seen these emails. **This is Lerner playing politics and using NGO's like GAP in efforts to get herself renominated.** . .

I was alerted to these emails, and have been strongly encouraged to review them, since they are not only public, but are in active circulations on the Hill and dated from shortly after GAP sent my disclosure to the OSC on February 9, 2015. . .

Needless to say, that these emails confirm the impression among staffers on the Hill that GAP coopted itself in 2016 in supporting the renomination of a federal official (Carolyn Lerner) before whom it had business . . .

I have repeatedly heard (emphasis: repeatedly, repeatedly, repeatedly) **that specific cases stopped in OSC** once Lerner sought renomination in February 2015, **and once GAP supported Lerner in 2016.** [Bold added.] [See attachment 3.]

After joining GAP as Director of National Security, and participating in senior staff meetings, it was obvious that GAP served as a partisan entity that had worked with former GAP employees at OSC to shut down allegations against senior officials of the prior Administration and to focus on collecting whistleblowers to become part of the "resistance" to the current Administration.

Funding for the billet of the Government Accountability Project (GAP) Director of National Security position is provided by George Soros via his Open Society Foundations (OSF).

The mission of GAP as described in Form 990 to claim its tax-exempt status is false. GAP is not "*the nation's leading whistleblower protection organization*"

Instead, GAP is a political vehicle to curate whistleblower intakes with the OSC to protect Administration officials they support, and to use other whistleblowers to attack Administration officials they oppose.

GAP is in no way focused on the merits of the whistleblower concept. Instead, GAP has weaponized the whistleblower concept in an ideological and partisan manner to reach out, select and administratively shutdown whistleblowers to cover up senior official abuse on the one hand, and to reach out and select others as vehicles to harass senior officials they oppose.

On July 9, 2018, I filed a whistleblower disclosure (**DI-18-4945**) with U.S. Special Counsel, **Henry Kerner**, specifically disclosing serious misconduct occurring within the Office of the U.S. Special Counsel (OSC). In the disclosure I state:

In a pattern of well-practiced criminal conduct, the leadership team of the OSC consisting of: U.S. Special Counsel, **Carolyn N. Lerner**; Principal Deputy Special Counsel, **Mark Cohen**, Associate Special Counsel, Policy & Congressional Affairs, **Adam Miles**; and the leadership of the Government Accountability Project (GAP), Executive Director **Louis Clark**, and GAP Legal Director, **Tom Devine** actively conspired to ensure that agency head notification was avoided in order to stop the creation of an agency investigative record in direct violation of 5 USC 1213(b).

This is nothing short of a direct assault on the **Whistleblower Protection Act (WPA)**, as amended, an insult to the **Federal Merit System**, and a direct violation of my **due-process** rights.

I am firmly convinced that **I am not the only** Whistleblower subjected to this outright criminal conspiracy. [Bold added.] [See attachment 4.]

As stated above, I allege that the Government Accountability Project (GAP), a not-for-profit corporation exempted from federal income tax, under section 501(c)(3) of the Internal Revenue Code, is actively engaged in direct violation of the regulations that grant GAP federal tax-exempt status.

I am available to immediately meet with your investigators to discuss this matter.

Sincerely,

John R. Crane

John R. Crane



OFFICE OF DISCIPLINARY COUNSEL
THE BOARD ON PROFESSIONAL RESPONSIBILITY
DISTRICT OF COLUMBIA COURT OF APPEALS

515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501 Fax (202) 638-0862
www.dcattorneydiscipline.org

(Please print or type)

A. Your Name: (Dr.) _____ Date: October 12, 2018
(Mr.) _____
(Ms.) _____
(Mrs.) Mr. John R. Crane
(First) (Initial) (Last)
Address: P.O. Box 7185
(Street) (Apt. #)
McLean Virginia 22106
(City) (State) (Zip)
Business Phone: _____ Home Phone: 703.442.8526 Cell Phone: 202.372.5321
Email Address: johnrcrane@me.com
(NOTE: It is very important that we have your telephone number(s) and that you inform our office if you have a change of address.)

B. Attorney Complained Of:
Name: Mr. Tom Devine
(First) (Initial) (Last)
Address: Government Accountability Project 1612 K Street, NW, Suite #1100
(Street) (Apt. #)
Washington DC 20006
(City) (State) (Zip)
Telephone No.: (202) 457-0034 Attorney's Bar No., if known: _____

C. Have you filed a complaint about this matter anywhere else? ☐ Yes ☒ No // If yes, please give details.

D. Do you have a written retainer agreement with the attorney? ☐ Yes ☒ No // If yes, please attach a copy.

E. Where applicable, state the name of the court where the underlying case was filed, and the case name and number.
N/A

F. Do you have other documents that are relevant? ☒ Yes ☐ No // If yes, please give details and provide copies.
See attached.

SEE REVERSE SIDE FOR REQUIRED DETAILS & SIGNATURE

G. DETAILS OF COMPLAINT: See attached.

Enclosure (6)

Lined area for text entry.

The Undersigned hereby certifies to the Office of Disciplinary Counsel
that the statements in the foregoing Complaint are true and correct to
the best of my knowledge.


SIGNATURE

**DISCLSOURE: OFFICE OF DISCIPLINARY COUNSEL (DC)
BOARD ON PROFESSIONAL RESPONSIBILITY
DISTRICT OF COLUMBIA COURT OF APPEALS**

IN RE: JOHN R. CRANE

v.

THOMAS DEVINE

LEGAL DIRECTOR

GOVERNMENT ACCOUNTABILITY

PROJECT (GAP)

Complaint

VIOLATIONS OF RULES OF PROFESSIONAL CONDUCT

As the former Assistant Inspector General for the Department of Defense, represented by Mr. **Thomas (Tom) Devine**, Legal Director, **Government Accountability Project (GAP)**, I report serious ethical and professional legal misconduct by **Tom Devine** who failed to represent me with diligence and zeal.

The **Government Accountability Project (GAP)** is a non-profit corporation exempted from federal income tax, under section 501(c)(3) of the Internal Revenue Code and acts as a nonpartisan public interest law firm that specializes in the representation of federal whistleblowers through filing OSC-11 Complaints of Prohibited Personnel Practices (PPP) and OSC-12 Disclosures of Wrongdoing with the Office of the U.S. Special Counsel (OSC).

1-14

Enclosure (1)

3-16

Tom Devine is represented on the public webpage of GAP as a leading whistleblower advocate who has “assisted over 5,000 whistleblowers in defending themselves against retaliation and in making a real differences on behalf of the public.”

This self-promotion bears no reflection on the actual quality and legal performance of **Tom Devine** on behalf of GAP or the clients that reasonably expect good and faithful legal services.

The particular violations involving the Rules of Professional Conduct that I need to bring to your attention for correction:

- **Rule 1.3 – Diligence and Zeal**

In regard to Rule 1.3, **Tom Devine** at no time represented me “zealously and diligently within the bounds of the law.”

Tom Devine in his representation of my interests: (1) “Fail[ed] to seek the lawful objectives of [the] client through reasonably available means permitted by law and the disciplinary rules, and (2) Prejudice[d] or damage[d] a client during the course of the professional relationship,” and (c) did not “act with reasonable promptness in representing a client.”

- **Rule 1.7 – Conflict of Interest: General Rule**

Tom Devine did “advance two or more adverse positions in the same manner.

Tom Devine in regard to Individual Interest Conflicts, failed to insure that his “own interests should not be permitted to have an adverse effect on the representation of a client.”

- In addition, **Tom Devine** intentionally withheld client files, after I was forced to dismiss him for failure to adequately represent me, which materially disadvantaged me as I attempted to prepare a rebuttal on the OSC-12 Disclosure

of Wrongdoing (DI-15-2333) investigation, prepared by the Department of Justice Inspector General (DOJ IG), for the U.S Special Counsel, in accordance with 5 USC §1213, into criminal allegations I had made against the former Acting Inspector General, **Lynne M. Halbrooks** and General Counsel, **Henry C. Shelley Jr.**, of the Department of Defense.

GOVERNMENT ACCOUNTABILITY PROJECT

On Form 990, Return of Organization Exempt from Income Tax, for 2016, Part I, Summary, GAP describes its mission and significant activities as follows:

The Government Accountability Project (GAP) is a 40 year-old non-profit public interest organization that promotes government and corporate accountability by advancing occupational free speech, **defending whistleblowers**, and empowering citizen activists we pursue this mission through our public health & safety, international, **national security**, environmental oversight, and corporate and financial accountability programs. **GAP is the nation's leading whistleblower protection organization.** [See attachment 1.][Bold added.]

I met with **Tom Devine**, Legal Director, GAP, on October 25, 2013, and in accordance with the mission of GAP requested legal representation. In addition, I also met with Ms. **Jesselyn Radack**, Ms. **Kathleen McClellan** and Mr. **Gaurav Laroia** attorneys with the GAP National Security & Human Rights Program to discuss my request for legal representation.

On June 25, 2014, **Jesselyn Radack**, **Kathleen McClellan**, **Tom Devine** and **Gaurav Laroia** jointly proposed a **Case Acceptance Proposal (CAP)** for my legal representation that was accepted by the GAP Legal Affairs Committee and I became a GAP client.

The CAP stated:

We believe Mr. Crane has been the subject of retaliation for his repeated whistleblowing regarding activities in the DOD IG's office. Mr. Crane is seeking GAP's assistance with his reprisal complaint when it become ripe, and in the interim for making an

independent whistleblowing disclosure regarding the action of DOD and DOJ in the Thomas Drake case. GAP will provide legal advice on his whistleblowing matters, cases, outreach to Congress and other government officials, **and will represent him in public and media advocacy, and in litigation before OSC for his reprisal complaint. . . Tom Devine will assist Mr. Crane in pursuing the reprisal portions of Mr. Crane's case at OSC.**" [See attachment 2.][Bold added.]

Subsequently, on February 9, 2015, **Tom Devine** filed an OSC-12 Whistleblower Disclosure (DI-15-2333) on my behalf with **Carolyn N. Lerner**, U.S. Special Counsel. The Disclosure stated:

Pursuant to 5 USC 1213, Mr. John Crane submits this whistleblowing disclosure to challenge illegality, abuse of authority, gross was and gross mismanagement at the U.S. Department of Defense (DOD) Office of Inspector General (OIG) . . . In support of his statement, Mr. Crane submits two affidavits . . . **A January 23, 2015, affidavit Att. 1**, details how Mr. Shelley and Ms. Halbrooks betrayed the whistleblower program's mission in one of the agency's highest takes cases, disclosures of systematic misconduct in the controversial Trailblazer program that is among the origin of illegal government surveillance . . . **An October 14, 2014 affidavit, Att. 2**, surveys the full scope of DOD OIG misconduct. [See attachment 3.] [Bold added.]

In addition, specific allegations were made to include:

4. Refusal to investigate or respond under the FOIA to a request whether documents had been illegally destroyed: In a June 2010 FOIA request, Mr. Drake's counsel at GAP filed FOIA requests on the Drake case, including whether any responsive documents had been destroyed and any surrounding circumstances. **As the senior official responsible for FOIA requests, Mr. Crane wanted a full investigation of the issue and corresponding full disclosure to Mr. Drake . . .** 7. Improper destruction of documents: After the same informal discussions with auditors, Mr. Shelley also confirmed to Mr. Crane that the auditors had "fucked up" by destroying underlying records for the Trailblazer audit, records that should have been maintained according to DoD policy and that were potential exculpatory evidence in an ongoing criminal

proceeding. **Again there was no formal process of the discovery, no accountability and no corrective action.** Mr. Shelley refused to answer Crane's request for detailed facts. [See attached.] [Bold added.]

UNITED STATES OFFICE OF SPECIAL COUNSEL

The mission of the U.S. Special Counsel, as described by the Government Accountability Office (GAO) in report (GAO-18-400) produced in June 2018, entitled: *Office of Special Counsel Actions Needed to Improve Processing Prohibited Personnel Practice and Whistleblower Disclosure Cases*, is described as follows:

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Its primary mission is to safeguard the **merit system** in federal employment by **protecting** employees and applicants for federal employment from **prohibited personnel practices (PPP)**, including reprisal for **whistleblowing**. OSC also reviews claims of **wrongdoing** within the federal government from current federal employees, former employees, and applicants for federal employment. These individuals, known as whistleblowers, report to OSC potential fraud, waste, and abuse in the federal government and threats to public safety or health. [See attachment 4.] [Bold added.]

VIOLATION OF RULES OF PROFESSIONAL CONDUCT

The action/inaction by **Tom Devine**, in his representation of my legal interests were a violation of both the GAP CAP and the Rules of Professional Conduct for an attorney licensed to practice in Washington DC.

- (1) **Mr. Devine violated Rule 1.3(b)(1): "Fail[ed] to seek the lawful objectives of [the] client through reasonably available means permitted by law and the disciplinary rules.**

In fact, **Tom Devine** failed in Diligence and Zeal to seek lawful objectives from the effective date of the CAP on June 24, 2014, (until his statement of April 9, 2018, threatening to withdraw as my attorney rather than alert **Henry Kerner**, U.S. Special Counsel, of misconduct within the Office of the U.S. Special Counsel OSC, that forced my subsequent decision on May 5, 2018, to terminate legal representation); additionally, **Tom Devine** intentionally delayed, for nearly four

years, the proper filing of an OSC-11 Reprisal Complaint to protect former employees of GAP serving with-in the Office of the U.S. Special Counsel under the supervision of **Carolyn N. Lerner**.

In fact, the October 14, 2014, affidavit submitted to the OSC on February 9, 2014, was a carefully documented 167-page document that contained every element necessary for both an OSC-12 Disclosure of Agency Wrongdoing and OSC-11 Complaint of Reprisal. The fact that the proper filing of an OSC-12 Disclosure of Wrongdoing and OSC-11 Complaint of Reprisal was essential to seeking effective U.S. Special Counsel action was not lost upon **Tom Devine**, who intentionally neglected filing an OSC-11 Complaint of Reprisal, in order to mask internal misconduct coordinated with former GAP employees serving in senior level federal positions within the Office of the U.S. Special Counsel.

(2) Mr. Devine violated Rule 1.3(b)(2): Prejudice[d] or damage[d] a client during the course of the professional relationship

Tom Divine prejudiced or damaged my interests by refusing to report misconduct by **Anne Wagner**, Associate Special Counsel, General Law Division, and her direct subordinates **Catherine McMullen**, Chief OSC-12 Disclosure Unit and **Karen Gorman**, Deputy Chief OSC-12 Disclosure Unit and **Barbara J. Wheeler**, Chief OSC-11 Complaints Examining Unit (CEU); and **Jane Juliano**, Chief Alternative Dispute Resolution Unit.

Tom Devine slow-rolled the filing of the OSC-11 Complaint of Reprisal with **Anne Wagner's**, Complaint Examining Unit, in order to maintain his inappropriate relationship with senior U.S. Special Counsel officials who did not want to open legitimate investigation into credible reports of agency senior leader misconduct.

(3) Mr. Devine violated Rule 1.3(c): A Lawyer shall act with reasonable promptness in representing a client.

The Case Acceptance Proposal (CAP) with GAP was signed on June 25, 2014, stated, "Tom Devine will assist Mr. Crane in pursuing the reprisal portions (OSC-11) of Mr. Crane's case at OSC," and GAP filed an OSC-12 Disclosure of Wrongdoing with the U.S. Special Counsel on February 9, 2015.

Due to other external motivations, **Tom Devine** never filed an OSC-11 Complaint of Reprisal despite numerous requests for positive action. As a result of the constant obfuscation and resistance to properly file an OSC-11, I was forced to sever the GAP legal representation for failure to act in the best interest of a client on May 5, 2018.

No professional shortcoming is more widely resented than allowing the interests of a client to be adversely affected by the passage of time or the change of conditions or while serving another objective that disadvantages a client.

(4) Mr. Devine violated Rule 1.7(b) – Individual Interest Conflicts

Tom Devine failed to insure that his "own interests should not be permitted to have an adverse effect on the representation of a client." In fact, **Tom Devine** pursued his own personal interests and subordinated my interests in deference to the desire to ensure that nothing would interrupt the re-nomination of **Carolyn N. Lerner** for a second 5-year term as U.S. Special Counsel. The actions of Mr. Devine was part of a self-interested partisan relationship with both **Carolyn N. Lerner** and former GAP employees who had become Schedule C political appointees in the Office of U.S. Special Counsel (OSC).

Those former GAP employees included **Mark Cohen**, former Executive Director of GAP, who became the Principle Deputy U.S. Special Counsel and **Adam Miles**, who became the Associate U.S. Special Counsel for Policy and Congressional Affairs prior to assuming the role

of Acting U.S. Special Counsel upon the resignation of both the U.S. Special Counsel, **Carolyn N. Lerner**, and Principle Deputy U.S. Special Counsel, **Mark Cohen**.

Tom Devine along with **Carolyn N. Lerner** and GAP employees, **Louis Clark**, **Mark Cohen** and **Adam Miles** successfully lobbied Congress and GAP mounted a media campaign for the successful presidential nomination and Senate confirmation of **Carolyn N. Lerner** as the U.S. Special Counsel in June 2011.

As a result of this orchestrated political activity, **Carolyn N. Lerner** was confirmed to a five-year term that expired on June 16, 2016 and permitted a one-year carry over to continue as U.S. Special Counsel until June 16, 2017. As the 5-year term of **Carolyn N. Lerner** was set to expire, GAP once again mounted a political media campaign to ask President **Barak H. Obama** to re-nominate **Carolyn N. Lerner** to a second 5-year term as U.S. Special Counsel.

In pursuit of her nomination, for a second 5-year term, as U.S. Special Counsel, **Carolyn Lerner** contacted **John D. Podesta**, Campaign Director, **Hillary R. Clinton** for President, on February 24, 2015, and stated:

John – I spoke to Luke and he suggested I follow-up with you. Just to re-cap, my five-year term as head of the U.S. Office of Special Counsel is up next June. If re-nominated, I anticipate getting plenty of **R** support – **Grassley** and **Lee** might be my biggest fans in the Senate but the later we go into the President's term it may be hard for anyone to get through. I'd also like to reassure my political folks here at OSC that re-nomination is on the horizon, so they don't start leaving. Any insights into how I should approach this would be much appreciated. Thanks so much. Carolyn 202-257-7825. [See attachment 5.][Bold added.]

The "political folks" mentioned with-in her email were former GAP employees **Mark Cohen** and **Adam Miles**.

On April 25, 2016, her re-nomination was placed on the Senate Executive Calendar for Senate confirmation. As a direct result of numerous complaints into the suitability of **Carolyn N. Lerner** to properly perform duties as the U.S. Special Counsel, led by federal whistleblower **Joseph P. Carson**, President **Donald J. Trump** elected to not re-nominate **Carolyn N. Lerner** to a second 5-year term as U.S. Special Counsel.

Mr. **Tom Devine**, GAP Legal Director, filed my whistleblower disclosure with **Carolyn N. Lerner** on February 9, 2015, two weeks before the email by **Carolyn N. Lerner** to **John Podesta**.

The allegations of wrongdoing were against former Secretary of Defense **Leon Panetta**, Acting DoD Inspector General **Lynne M. Halbrooks** and Lynne Halbrook's General Counsel **Henry C. Shelley Jr.**

After filing my whistleblower disclosure with the U.S. Special Counsel, **Carolyn N. Lerner**, directed her Principal Deputy U.S. Special Counsel, **Mark Cohen**, to appoint **Adam Miles**, Associate U.S. Special Counsel for Policy and Congressional Affairs, vice **Anne Wagner**, Associate U.S. Special Counsel General Law Division, to handle my allegations due to the fact that the allegations were placed against former senior Administration officials and could negatively affect her pending re-nomination to a second 5-year term as U.S. Special Counsel.

A concerted effort was undertaken by GAP/OSC to derail and subvert the U.S. Special Counsel legal mandate to make a 45-day "substantial likelihood" finding, with-in 45-days, that would have resulted in formal agency head notification of wrongdoing and demand for a 60-day agency investigation that would substantiate/non-substantiate allegations of senior leader misconduct [See 5 USC § 1213]

In place of the mandatory OSC 45-day “substantial likelihood” finding, my disclosure of wrongdoing against **Leon Panetta**, **Lynne M. Halbrooks** and **Henry C. Shelley Jr.**, entered into a two year period of over a dozen meetings, orchestrated by **Adam Miles**, with over a dozen requests for additional information, directly coordinated with the Department of Defense Office of Inspector General (OIG), led by Acting Inspector General **Glenn A. Fine**, to undermine my whistleblower disclosure of senior leader misconduct.

During this period, **Tom Devine**, **Adam Miles**, and the Deputy Chief of the OSC’s Whistleblower Disclosure Branch, **Karen Gorman** were adamant and directed that I not conduct an advocacy campaign by contacting the media or reaching out to Congress.

Throughout the entirety of the processing of my OSC whistleblower disclosure, the primary concern of **Tom Devine** and the OSC was the re-nomination of **Carolyn N. Lerner** to a second 5-year term as U.S. Special Counsel and the neutralize the impact of numerous whistleblower disclosure cases pending against senior Obama Administration officials.

Concerned over the conflict of interest demonstrated by **Tom Devine** and OSC, I sent an email to **Tom Devine** on 29 December 2016 entitled: *John Podesta/Carolyn Lerner Emails Re: Nomination*. The email states:

I suppose that everyone at GAP has seen these emails. **This is Lerner playing politics and using NGO’s like GAP in efforts to get herself renominated.** . . .

I was alerted to these emails, and have been strongly encouraged to review them, since they are not only public, but are in active circulations on the Hill and dated from shortly after GAP sent my disclosure to the OSC on February 9, 2015. . .

Needless to say, that these emails confirm the impression among staffers on the Hill that GAP coopted itself in 2016 in supporting the renomination of a federal official (Carolyn Lerner) before whom it had business . . .

I have repeatedly heard (emphasis: repeatedly, repeatedly, repeatedly) **that specific cases stopped in OSC** once Lerner sought renomination in February 2015, **and once GAP supported Lerner in 2016.** [See attachment 5.][Bold added.]

Tom Devine used his role as my attorney as political vehicle to curate my whistleblower intake with the OSC to protect the re-nomination of **Carolyn N. Lerner** and subordinate my interests to include the failure of **Tom Devine** to file a complaint of whistleblower reprisal with the OSC:

- **Thomas Devine withholding from me Attorney/Client files, including emails between Thomas Devine acting as my attorney and his communications on my case with Mark Cohen, Adam Miles and Karen Gorman, Chief Retaliation and Disclosure Unit, OSC.**

On June 12, 2018, the Deputy Director of the OSC-12 Disclosure Unit, **Karen Gorman**, contact me after the Associate Special Counsel for the General Law Division, **Anne Wagner** received a report of investigation from the Department of Justice Inspector General (DOJ IG), **Michael E. Horowitz**, stating:

Enclosed is a report from the U.S. Department of Justice (DOJ) in response to your allegations that Department of Defense (DOD) Office of Inspector General personnel destroyed audit documents in violation of DoD G policy. As you know, DOJ agreed to investigate the allegations involving DoD IG, under 5 U.S.C. § 1213(c).

By law you may comment on the report. 5 U.S.C. § 1213(e)(1). Your comments will be sent to the agency head, the President, and the appropriate congressional oversight committees in accordance with 5 U.S.C. § 1213(e)(3). With your consent, your comments will also become part of a public file maintained by the U.S. Office of Special Counsel (OSC). 5 U.S.C. § 1219(a)(1). The documents contained in OSC's public file will be placed on OSC's website at www.osc.gov. [See attachment 6.]

In order to respond to the OSC letter, I phoned and personally met with **Tom Devine** to obtain my client files since he was no longer my attorney. After considerable delay, I memorialized my request on July 29, 2018, stating:

As discussed earlier, I request all files, electronic and hardcopy, of materials related to me and OSC File No. DI-15-2333. I need these materials to prepare my rebuttal to the DoJ IG regarding Drake. Let me know when these materials will be expeditiously provided to me.

On August 7, 2018, I responded to an email from **Tom Devine** stating that he had no legal records that I did not already possess. In my response to **Tom Devine**, I stated:

I am requesting immediate return of all my electronic and hard copy client files at GAP in regard to my case. **Your statement that all your documents are files that I sent you is clearly false.** The email attached is an email that you never sent to me, and I certainly did not send to you. The attached email should clearly be part of my client files since it involved Drake. **It is not acceptable that I have to contact third parties to obtain emails that should be in my client files in your possession, while you deny such emails even exist.** My specific request is for the attachments to the email that you clearly received from Deborah Boardman [DoJ Public Defender re: Drake]. Send me the email you received from Boardman, that is clearly in your possession, since it will contain the documents I am attempting to obtain. I have a filing deadline of August 15th to respond to the OSC in regard to the Horowitz report. My filing depends on access to my complete client file both electronic and hard copy. You have an obligation to provide my client files. **The filing deadline is a requirement of Title 5 and your action are obstructing my ability to respond and causing me harm. An immediate response is requested.**

On August 14, 2018, after two additional weeks of **Tom Devine** not providing client files I sent **Tom Devine** an email stating:

In your representation of me, did you ever construct a client file? It would be easier if you simply sent to me the entirety of my client file. **My request is simple – the entirety of my client file.**

This process should not be taking weeks. I have been quite clear regarding what documents I am requesting.

Tom Devine did not provide any files in response to my inquiry of July 29, 2018, that would have shed light on his representation of me before the OSC. As a result, on August 14, 2018 I sent a series of emails to **Tom Devine** to obtain information is regard to his actions and stated:

Your statement is contrary to both the statements of OSC and the DoJ IG. In what would I have been the authoritative decision maker? Are you saying that I had decision making authority over Carolyn Lerner, Mark Cohen, Adam Miles, Karen Gorman, Michael Horowitz and Glenn Fine? Do you have any documentation indicating that I had any decision making authority? **As part of the search already underway, I want to see any representations you made on my behalf with Carolyn Lerner, Mark Cohen, Adam Miles and Karen Gorman . . . the decision makers were stated to be Carolyn Lerner and Mark Cohen.**

On August 16, 2018, I responded to **Henry Kerner**, U.S. Special Counsel, without the assistance of a single document being volunteered by **Tom Devine** from my client file.

Tom Devine caused me great harm by masking his unethical "relationship" with the U.S. Special Counsel, **Carolyn N. Lerner**; Principle Deputy Special Counsel, **Mark Cohen**; Acting U.S. Special Counsel, **Adam Miles**; Associate Special Counsel, **Anne Wagner**; Associate Special Counsel, **Louis Lopez**; Chief Disclosure Unit, **Catherine McMullen**; Deputy Chief Disclosure Unit, **Karen Gorman**; and Chief Complaint Examining Unit, **Barbara Wheeler** and former GAP employees placed into the Office of the U.S. Special Counsel.

As a direct result of an orchestrated GAP/U.S. Special Counsel effort to mask senior leader misconduct, subvert the Whistleblower Protection Act (WPA), insult the federal merit system, and deny individual federal whistleblowers due process rights, **Tom Devine** shut-down my ability to challenge inaccurate sections of the partial investigation conducted by the Department of Justice Inspector General (DOJ IG) that were misrepresented to shield Secretary of Defense,

Leon Panetta; Acting Department of Defense Inspector General, **Lynne M. Halbrooks** and her General Counsel, **Henry C. Shelley Jr.** from clear and convincing allegations of misconduct and gross mismanagement.

For the aforementioned reasons, I request the Office of Disciplinary Counsel, Board on Professional Responsibility of the District of Columbia Court of Appeals review my complaint and take actions to protect the law and the public interest.

I prepared the following 14-page statement, and attest, that it is true, accurate, and complete to the best of my knowledge, and belief.

Executed on 12 October 2018

John R. Crane

John R. Crane

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Jessie Kong Liu
U.S. Attorney District Columbia
555 4th Street NW
Washington, DC 20530



9590 9402 3829 8032 8648 18

2. Article Number (Transfer from service label)

7018 2290 0000 7014 3709

COMPLETE THIS SECTION ON DELIVERY
A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

OCT 25 2018

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
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- ☐ Return Receipt for Merchandise
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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

7018 2290 0000 7014 3709

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
WASHINGTON, DC 20530	
Certified Mail Fee	\$3.45
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$2.85
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.70
Total Postage and Fees	\$12.50
Sent To: U.S. Attorney's Office Street and Apt. No. or PO Box No. 555 4th Street NW City, State, ZIP+4® Washington, DC 20530	
PS Form 3800, April 2015 PSN 7530-02-000-9947 See Reverse for Instructions	

