

August 14, 2019

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Honorable Chuck Grassley
135 Hart SOB
Washington, DC 20510

SUBJECT: REQUEST FOR OVERSIGHT HEARINGS ON: 1.) OBSTRUCTION OF FEDERAL INVESTIGATORY PROCESS (18 U.S.C. § 1505) BY CIGIE INTEGRITY COMMITTEE (IC)/ALLGATION REVIEW GROUP (ARG) IN REFUSAL TO COMPLY WITH STATUTORY DEMAND FOR FEDERAL INVESTIGATION OF WHISTLEBLOWER DISCLOSURES; 2.) MISCONDUCT WITHIN THE OFFICE OF SPECIAL COUNSEL (OSC)

Senator Grassley,

1. As member, and former Chairman, Senate Committee on the Judiciary, I request formal oversight hearings into multiple whistleblower disclosures of coordinated efforts to obstruct the Federal Investigatory Process (administrative/criminal), and actions designed to degrade the evidentiary base (witness statements/evidence) necessary to substantiate instances of criminal wrongdoing by senior level political appointees.

2. As you know, previously based on my whistleblower disclosures to you, and an affidavit I submitted at your request, you conducted an oversight review that examined if Acting DoD IG **Lynne M. Halbrooks** “deliberately suppressed the report for two reasons: (1) to protect senior officials from disciplinary action [DoD Secretary **Leon Panetta**] or prosecution and (2) in the process, to further her candidacy for nomination to be the next DoD IG.” The oversight review *Zero Dark Thirty Report* was made part of the Senate record by Senator Charles Grassley in a floor statement 4 December 2014.¹

3. The disclosures that I subsequently submitted to the Office of Special Counsel (OSC) in OSC-12 (DI-15-2333), were, in part, based on my whistleblower disclosure to you stating that Acting DoD Inspector General **Lynne M. Halbrooks**, and General Counsel, **Henry C. Shelley**

¹See:

<https://www.grassley.senate.gov/news/news-releases/grassley-releases-report-inspector-generals-bungling-zero-dark-thirty>

<https://www.grassley.senate.gov/sites/default/files/judiciary/upload/Zero%20Dark%20Thirty%2C%2012-02-14%2C%20final%20report%2C%20Redacted.pdf>

Jr., suppressed the criminal findings of a Department of Defense (DoD) Inspector General (IG) investigation that former Central Intelligence Agency (CIA), Director, and DoD Secretary **Leon Panetta** made unauthorized disclosures of highly classified information on the Osama bin Laden raid to Hollywood movie producers during pre-production of the film *Zero Dark Thirty*.

4. Your oversight review concluded that: 1.) Halbrooks made inaccurate and misleading statements in response to Senator Grassley's questions; 2.) Halbrooks' contacts with subjects of the ongoing investigation raise ethical issues; and 3.) the delayed publication of the report created a perception that Halbrooks compromised the OIG's independence.

5. In regard to OSC-12 (**DI-15-2333**), the OSC made a substantial likelihood determination in accordance with 5 U.S.C. § 1213(c)(1) in regard to my disclosure and ordered **Scott S. Dahl**, Chair, Integrity Committee (IC) and member of the Allegation Review Group (ARG), and **Deborah J. Jeffrey**, Vice Chair of the IC to address issues both identified outside the scope and findings of your earlier oversight review, and to examine issues that you stated needed further review.

6. **Scott S. Dahl**, and **Deborah J. Jeffrey**, have obstructed the federal investigatory process by countermanding and refusing to comply with a statutory demand [5 USC § 1213(c)(1)] by the OSC for federal investigation (administrative/criminal) into the disclosure of misconduct OSC-12 (**DI-15-2333**) involving federal Covered Persons as defined under the rules of the IC. [See: enclosure (1).]

8. I also request that you conduct oversight hearings into the actions of **Henry J. Kerner**, U.S. Special Counsel (OSC), that violate the due process rights of federal employees, insult the Federal Merit System, and obstruct the federal investigatory process (administrative/criminal) in regard to OSC-12 Whistleblower Disclosure (**DI-18-4945**) that contains evidence of systemic wrongdoing occurring with the OSC. [See: enclosure (1).]

9. Chairman Ron Johnson, Senate Committee on Homeland Security and Governmental Affairs in a letter of 25 April 2016, in regard to the OSC, requested the Comptroller General of the United States, **Gene L. Dodaro**, to have the General Accountability Office (GAO) evaluate:

- 1.) the effectiveness and efficiency of the OSC case management processes and protocols;
- 2.) OSC's success rate in protecting whistleblowers; and
- 3.) whether there are adequate safeguards in place for proper oversight of OSC to include:
 - a. the adequacy of the mechanisms in place to prevent conflict of interest of the Special Counsel or Deputy Special Counsel on the Council of the Inspectors General on Integrity and Efficiency, Integrity Committee;
 - b. the role that senior OSC leadership plays in determining which complaints are referred for investigation. [See: enclosure (2).]

The GAO conducted your requested review and issued a report in June 2018, entitled: *Office of Special Counsel, Actions Needed to Improve Processing of Prohibited Personnel Practice and*

Whistleblower Disclosure Cases. The report highlighted serious deficiencies and contained seven recommendations to improve the OSC.²

11. The OSC under the leadership of **Tristan Leavitt**, Acting Special Counsel, provided me a letter on 11 October 2017, in regard to the refusal of **Scott S. Dahl** and **Deborah J. Jeffrey** to investigate OSC-12 (**DI-15-2333**) that stated:

Unfortunately, the IC's decision not to investigate countermanded the Special Counsel's statutory determination that the allegations warranted investigation. As we have discussed with you, **this case highlights the challenges OSC faces in addressing allegations of misconduct by inspectors general and their high-level employees under the statutory framework of § 1213.** We believe Congress has expressed a clear intent for the IC to review allegations concerning such officials. . . Nevertheless, the IC's processes and procedures and those in 5 U.S.C. § 1213 are not consistent, and **without an investigation, OSC is obviously unable to reach a determination, as required by § 1213(e)(2),** regarding the reasonableness of any findings. [See: enclosure (1).]

12. I have also requested the Attorney General, **William P. Barr**, and FBI, Director, **Christopher Wray** to investigate the actions of the **Scott S. Dahl** and **Henry J. Kerner**, along with others, in regard to the obstruction of the Federal Investigatory Process as a violation of 18 U.S.C. § 1505. [See: enclosure (3).]

13. Thank you in advance for your diligence and quick response for this request for oversight hearings in accordance with the jurisdiction of your committee. I am available to meet with you and your staff to provide further information. In addition, I can also provide to you the names of other whistleblowers who have experienced the same patterns of misconduct by **Scott S. Dahl** and **Henry J. Kerner**.

Very Respectfully,

John R. Crane

John R. Crane

Enclosures:

- (1) John R. Crane to Scott S. Dahl, Chair, Integrity Committee and Deborah J. Jeffrey, Vice Chair, dated 29 July 2019
- (2) Chairman Ron Johnson request to Honorable Gene L. Dodaro, Comptroller General of the United States, dated 25 April 2016
- (3) John R. Crane to William P. Barr, Attorney General and Christopher A. Wray, Director, Federal Bureau of Investigation, dated 06 August 2019

² See: <https://www.gao.gov/assets/700/692545.pdf>

29 July 2019

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Inspector General Deborah J. Jeffrey (CNCS IG)
Vice-Chairperson, CIGIE Integrity Committee (IC)
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SUBJECT: REQUEST FOR ANY/ALL RECORDS RELATED TO INTEGRITY COMMITTEE (IC)/ALLEGATION REVIEW GROUP (ARG) REFUSAL TO COMPLY WITH U.S. SPECIAL COUNSEL STATUTORY DEMAND FOR FEDERAL INVESTIGATION (ADMINISTRATIVE/CRIMINAL) OF COVERED PERSONS [LYNNE M. HALBROOKS ACTING INSPECTOR GENERAL, DEPARTMENT OF DEFENSE (AIG DOD)/HENRY C. SHELLEY JR. GENERAL COUNSEL AIG DOD]

Chairperson **Scott S. Dahl** (DOL IG) and Vice-Chairperson **Deborah J. Jeffrey** (CNCS),

1. On 11 October 2017, I received a letter from the U.S. Special Counsel informing me that the Council of Inspectors General on Integrity and Efficiency (CIGIE)¹ Integrity Committee (IC)² Allegation Review Group (ARG) had “countermanded” and *refused* to comply with U.S. Special Counsel (OSC)³ statutory demand for federal investigation (administrative/criminal) into credible disclosure of misconduct (OSC-12 DI-15-2333) involving federal employees covered under the CIGIE Integrity Committee (IC); 5 USC § 1213(b)⁴. [See: enclosures (1), (2).]

¹ Council of Inspectors General on Integrity and Efficiency (CIGIE) mission: “to address integrity, economy, and effectiveness issues that transcend individual Government agencies and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Offices of Inspectors General (OIG).” See: <https://ignet.gov/sites/default/files/files/QAR%20Guide%20Investigations%20July%202017.pdf>

² Integrity Committee (IC) mission: “to receive, review, and refer for investigation allegations of wrongdoing made against an Inspectors [sic] General (IG), designated senior staff of an IG, and the Special Counsel and Deputy Special Counsel of the Office of Special Counsel, and to ensure the fair, consistent, timely, and impartial disposition of allegations that fall within the IC’s statutory mandate.” See: <https://www.ignet.gov/content/integrity-0>

³ U.S. Special Counsel (OSC): the U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency the safeguards the federal merit system and protects federal employees from prohibited personnel practices and reprisal for whistleblowing. See: <https://osc.gov/Pages/about.aspx>

⁴ U.S. Special Counsel receives credible report of federal employee wrongdoing (*violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific*

2. In light of the fact there is a statutory requirement [IG Act 1978, as amended, § 4(d)] for all federal Inspectors General (IGs) to notify the U.S. Attorney General when there are reasonable grounds to believe there has been a violation of Federal criminal law [i.e., U.S. Special Counsel 45-day substantial likelihood finding (DI-15-2333)]⁵; as well as, the existence of public interest, and to avoid the appearance of impropriety, I must review all documentation related to the Integrity Committee (IC)/Allegation Review Group (ARG) decision to not conduct legitimate administrative/criminal investigation into Covered Persons of the Council of Inspectors General on Integrity and Efficiency (CIGIE).

3. As you know, during that time, the CIGIE Integrity Committee (IC) Allegation Review Group (ARG)⁶ consisted of the following federal employees:

- Department of Justice (DOJ) Criminal Division Public Integrity Section (PIN) **AnnaLou Tirol**
- CIGIE Integrity Committee (IC) Chairperson **Scott S. Dahl** (DOL IG)
- U.S. Special Counsel **Carolyn N. Lerner**; (Acting) **Adam Miles/Tristan Leavitt**

With respect to the requirement to properly refer and conduct investigation (criminal), the Attorney General's designee to the Integrity Committee (IC) Allegation Review Group (ARG) **AnnaLou Tirol** determines if criminal investigation is required after receiving credible allegations of wrongdoing against federal employees subjected the authority of the CIGIE Integrity Committee.

In determining if investigation (administrative/criminal) is warranted the three members of the Integrity Committee (IC) Allegation Review Group (ARG) are charged with ensuring consistency in properly conducting the federal investigative process (administrative/criminal) while avoiding conflicts of interest and protecting the due process rights of all federal employees.

4. This request for release of records is made as per the Freedom of Information Act/Privacy Act, 5 U.S.C. § 552, and the Council of Inspectors General on Integrity and Efficiency (CIGIE) *Integrity Committee Policies and Procedures* 2018.^{7, 8, 9, 10}

danger to public health or safety) and within 45-days the U.S. Special Counsel determines if federal investigation (administrative/criminal) is required [5 USC § 1213(b)]. See: <https://www.law.cornell.edu/uscode/text/5/1213>

⁵ The Inspector Act of 1978 as amended (IG Act), 5 USC Appendix Inspector General Act of 1978 § 4(d): "In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law." See:

<https://www.govinfo.gov/content/pkg/USCODE-2017-title5/pdf/USCODE-2017-title5-app.pdf#page=11>

⁶ Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures* 2018 w/administrative correction (1) dtd 13 April 2018. Section 3(F). [p. 2.] See: [https://ignet.gov/sites/default/files/files/Integrity Committee Policies and Procedures Revised Jan-2018 Final.pdf](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Policies%20and%20Procedures%20Revised%20Jan-2018%20Final.pdf)

⁷ **Disclosure of IC Records:** Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures* 2018 w/administrative correction (1) dtd 13 April 2018. Section 13 B. [p.13], IC records will be maintained in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a (Privacy Act"). The records may be disclosed only in response to the written request of, or with the prior consent of, the individual to whom the record pertains under the condition specifically set forth in the Privacy Act at 5 U.S.C. § 522a(b),

5. To assist with expeditious processing, I request that records: reviewed/produced/maintained/distributed by the following Responsible Management Officials (RMOs), and any other federal employee involved in the inter-agency decision-making process, be disclosed:

DEPARTMENT OF DEFENSE (DoD) OFFICE OF INSPECTOR GENERAL (OIG):

- **Lynne L. Halbrooks**, Acting Inspector General (AIG), Department of Defense (DoD) Office of Inspector General (OIG)
- **Lynne L. Halbrooks**, Principal Deputy Inspector General (PDIG), Department of Defense (DoD) Office of Inspector General (OIG)
- **Henry C. Shelley Jr.**, General Counsel (GC), Department of Defense (DoD) Office of Inspector General (OIG)
- **Michael S. Childs**, Chief of Staff (CoS), Department of Defense (DoD) Office of Inspector General (OIG)
- **Bud Rafferty**, Associate General Counsel, Department of Defense (DoD) Office of Inspector General (OIG)
- **William Kraus**, Senior Associate General Counsel, Department of Defense (DoD) Office of Inspector General (OIG)
- **Steven D. Wilson**, Assistant Inspector General (AIG) for Administration and Management, Department of Defense (DoD) Office of Inspector General

applicable regulations or as otherwise permitted or required by law. *See:*

https://ignet.gov/sites/default/files/files/Integrity_Committee_Policies_and_Procedures_Revised_Jan-2018_Final.pdf

⁸ **Access by individuals to their own records.** Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures 2018* w/administrative correction (1) dtd 13 April 2018. Section 13 B. [p.13], An individual may request access to records pertaining to himself or herself by means of the procedures prescribed by the Privacy Act and its implementing regulations. [p. 13.] *See:*

https://ignet.gov/sites/default/files/files/Integrity_Committee_Policies_and_Procedures_Revised_Jan-2018_Final.pdf

⁹ **Maintenance and Disposal of IC Records:** Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures 2018* w/administrative correction (1) dtd 13 April 2018. Section 13 B. [p.13], All documents received or transmitted by the IC in fulfilling its responsibilities under the IG Act (including, but not limited to, written allegations against Covered Persons; IC correspondence; IC Investigation Working Papers; reports of investigation; reports of final actions taken with regard to proven allegations; and memoranda providing the final dispositions of allegations determined to be frivolous or outside the authority of the IC, or otherwise closed without further investigation) will be maintained as IC records and will be kept separately from other investigation) will be maintained as IC records and will be kept separately from other CIGIE records. The **CIGIE Chairperson** is the statutory custodian of all IC records pursuant to section 11(d)(13) of the IG Act.

See: https://ignet.gov/sites/default/files/files/Integrity_Committee_Policies_and_Procedures_Revised_Jan-2018_Final.pdf

¹⁰ **Criminal Investigative Files Not Included as IC Records.** Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures 2018* w/administrative correction (1) dtd 13 April 2018. Section 13 B. [p.13]: The IC records will not include any criminal investigative files or work product except for (1) the receipt of allegation of criminal conduct; (2) referral of a matter to the IC arising from a criminal investigation; (3) referral of a matter back to the IC following consideration by Public Integrity Section (PIN) or another prosecutive authority; or (4) a summary report provided by PIN pursuant to section 6(C) of these Policies.] *See:* https://ignet.gov/sites/default/files/files/Integrity_Committee_Policies_and_Procedures_Revised_Jan-2018_Final.pdf

- **Ralph A. Suris**, Assistant Inspector General (AIG) Office of Professional Responsibility (OPR), Department of Defense (DoD) Office of Inspector General (OIG)

OFFICE OF U.S. SPECIAL COUNSEL (OSC):

- **Henry J. Kerner**, U.S. Special Counsel, Office of Special Counsel (OSC)
- **Carolyn N. Lerner**, U.S. Special Counsel, Office of Special Counsel (OSC)
- **Mark Cohn**, Principal Deputy Special Counsel, Office of Special Counsel (OSC)
- **Ellen Chubin Epstein**, Principal Deputy Special Counsel, Office of Special Counsel (OSC)
- **Susan K. Ullman**, General Counsel, Office of Special Counsel (OSC)
- **Adam Miles**, Acting U.S. Special Counsel, Office of Special Counsel (OSC)/(June 2017 - September 2017)
- **Tristan L. Leavitt**, Acting U.S. Special Counsel, Office of Special Counsel (OSC)/(September 2017 - December 2017)
- **Louis Lopez**, Associate Special Counsel Investigation and Prosecution Division, Office of Special Counsel (OSC)
- **Anne M. Wagner**, Associate Special Counsel General Law Division, Office of Special Counsel (OSC)
- **Karen Gorman**, General Law Division, Retaliation and Disclosure Unit (RDU), Office of Special Counsel (OSC)
- **Catherine McMullen**, General Law Division, Chief Disclosure Unit (OSC-12), Office of Special Counsel (OSC)

COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (CIGIE):

- **Dustin S. Brown (Deputy Director Management OPM)**, Acting Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Michael E. Horowitz (DOJ IG)**, Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Allison C. Lerner (NSF IG)**, Vice-Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Mark L. Greenblatt (DOC AIG Investigations)**, Acting Executive Director, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Atticus J. Reaser**, General Counsel, Council of the Inspectors General on Integrity and Efficiency (CIGIE)

CIGIE INTEGRITY COMMITTEE (IC):

- **Catherine S. Bruno** (Deputy Director for Compliance, FBI), designated by Director, FBI, Member CIGIE Integrity Committee (IC)
- **Dale Christopher** (Deputy Director Compliance, OGE), designated by Director, OGE, Member, CIGIE Integrity Committee (IC)
- **Scott S. Dahl**, Chairperson, CIGIE Integrity Committee (IC)
- **Deborah J. Jeffrey** (CNCS IG), Vice-Chairperson, CIGIE Integrity Committee (IC)
- **Thomas J. Howard** (AMTRAK IG), Member, CIGIE Integrity Committee (IC)
- **Mary Mitchelson** (CPB IG), Member, CIGIE Integrity Committee (IC)

- **AnnaLou Tirol** [DOJ Criminal Division, Office of Public Integrity (PIN)], Legal Advisor, CIGIE Integrity Committee (IC)

CIGIE INTEGRITY COMMITTEE (IC) ALLEGATION REVIEW GROUP (ARG):¹¹

- **AnnaLou Tirol**, Department of Justice (DOJ), Criminal Division, Public Integrity Section (PIN)
- **Scott S. Dahl** (DOL IG), Chairperson, CIGIE Integrity Committee (IC)
- **Carolyn N. Lerner**, U.S. Special Counsel, Office of Special Counsel (OSC)
- **Tristan Levitt**, Acting U.S. Special Counsel
- **Adam Miles**, Acting U.S. Special Counsel

DEPARTMENT OF JUSTICE (DoJ):

- **AnnaLou Tirol**, DOJ Criminal Division, Office of Public Integrity (PIN); and Legal Advisor, CIGIE Integrity Committee (IC)

DEPARTMENT OF JUSTICE- FEDERAL BUREAU OF INVESTIGATION (FBI)

- **Catherine S. Bruno** (Director Office of Integrity and Compliance, Office of the Deputy Director FBI, Member CIGIE Integrity Committee (IC)

U.S. ATTORNEY OFFICE DISTRICT OF COLUMBIA (DC):

- **Jesse Liu**, United States Attorney for the District of Columbia
- **T. Patrick Martin**, Chief, Criminal Division
- **J.P. Cooney**, Criminal Division, Chief Fraud and Public Corruption Section
- **Ellen Chubin Epstein**, Assistant U.S. Attorney (AUSA) Criminal Section, Fraud and Public Corruption Section

GOVERNMENT ACCOUNTABILITY OFFICE (GAO):

- **Eugene L. Dodaro**, Comptroller General of the United States, Government Accountability Office (GAO)
- **Tom Armstrong**, General Counsel, Government Accountability Office (GAO)
- **Katherine Siggerud**, Chief Operating Officer, Government Accountability Office (GAO)
- **J. Christopher Mihm**, Managing Director, Strategic Issues, Government Accountability Office (GAO)
- **Yvonne D. Jones**, Director of Strategic Issues, Government Accountability Office (GAO)

DISTRICT of COLUMBIA COURT of APPEALS- BOARD OF PROFESIONAL RESPONSIBILITY:

- **Hamilton P. Fox III**, Disciplinary Counsel, District of Columbia Court of Appeals, Office of Disciplinary Counsel, Board on Professional Responsibility

¹¹ Council of the Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee (IC) Report to Congress, 07 January 2019 [p. 1]. See: https://www.ignet.gov/sites/default/files/files/2018_IC_Annual_Report.pdf

- **Becky Neal**, Deputy Disciplinary Counsel, District of Columbia Court of Appeals, Office of Disciplinary Counsel, Board on Professional Responsibility
- **Joseph N. Bowman**, Assistant Disciplinary Counsel, District of Columbia Court of Appeals, Office of Disciplinary Counsel, Board on Professional Responsibility

INTERNAL REVENUE SERVICE (IRS):

- **Charles P. Rettig**, Commissioner, U.S. Internal Revenue Service (IRS)
- **Michael J. Desmond**, Chief Counsel, U.S. Internal Revenue Service (IRS)
- **Don Fort**, Chief, Criminal Investigations, U.S. Internal Revenue Service (IRS)

GOVERNMENT ACCOUNTABILITY PROJECT (GAP)/501(c)(3):

- **Louis Clark**, Executive Director and Chief Executive Officer (CEO)
- **Tom Devine**, Legal Director, Government Accountability Project (GAP)
- **Michael Termini**, Chief of Staff (CoS)
- **Karen Grey**, Legal Counsel
- **Richard Salzman**, Chair, Board of Directors
- **Adam Miles**, Legislative Representative
- **Mark Cohn**, Executive Director and Chief Executive Officer (CEO)

6. On 9 July 2018, I provided U.S. Special Counsel **Henry J. Kerner** a disclosure informing him of serious criminal wrongdoing occurring with the Office of the U.S. Special Counsel related to obstruction of the federal investigatory process (administrative/criminal); 18 U.S.C. § 1505. On 20 July 2018, I filed an electronic OSC-12 Disclosure of Wrongdoing (**DI-18-4945**) with U.S. Special Counsel **Henry J. Kerner** again informing him of serious criminal wrongdoing occurring within the Office of the U.S. Special Counsel (**DI-18-4945**) related to obstruction of the federal investigatory process (administrative/criminal); 18 U.S.C. § 1505. [See: enclosures (3), (4).]

7. On 07 December 2018, I sent a follow-up demand to U.S. Special Counsel **Henry J. Kerner** reminding him of his statutory responsibility to safeguard the federal merit system and protect the due process rights of federal whistleblowers and render a 45-Day Substantial Likelihood Finding on (**DI-18-4945**)¹² something the U.S. Special Counsel **Henry J. Kerner** chose to ignore either out of gross mismanagement or abuse of authority. [See: enclosure (5).]

8. On 11 June 2019, I sent the U.S. Special Counsel **Henry J. Kerner** a second follow-up demand for statutory compliance and rendering of a 45-Day Substantial Likelihood Finding on (**DI-18-4945**). I informed **Henry Kerner** that there was an OSC proceeding and, that he was fully aware of the fact that his inability/reluctance to perform his statutory duties materially degraded the quality of the evidentiary base (witness statements and documentation) and served as an obstructive action to thwart the federal investigatory process (administrative/criminal); 18 USC § 1505. [See: enclosure (6).]

¹² U.S. Special Counsel (OSC): the U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency the safeguards the federal merit system and protects federal employees from prohibited personnel practices and reprisal for whistleblowing. See: <https://osc.gov/Pages/about.aspx>

9. Thank you in advance for your diligence and quick response to this request for records to both understand and demand proper performance of duty and effective execution of the federal investigative process (administrative/criminal).

Very Respectfully,

John R. Crane

John R. Crane

Enclosures:

- (1) U.S. Special Counsel OSC-12 45-Day Substantial Likelihood Finding (**DI-15-2333**) Notification, dated 19 May 2017
- (2) U.S. Special Counsel Notification of CIGIE Integrity Committee (IC) Refusal to Conduct Federal Investigatory Process, dated 11 October 2017
- (3) John R. Crane to U.S. Special Counsel Wrongdoing Notification Submission dated 09 July 2018
- (4) U.S. Special Counsel OSC-12 Disclosure of Wrongdoing (**DI-18-4945**), dated 20 July 2018
- (5) John R. Crane to U.S. Special Counsel Notification and Demand for Statutory Action (**DI-18-4945**), dated 07 December 2018
- (6) John R. Crane to U.S. Special Counsel Notification and Demand Follow-Up for Statutory Action (**DI-18-4945**), dated 11 June 2019

Cc:

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May 18, 2017

Mr. John Crane
c/o Tom Devine
Legal Director
Government Accountability Project
1612 K Street, N.W., Suite 1100
Washington, DC 20006

Re: OSC File No. DI-15-2333

Dear Mr. Crane:

The Office of Special Counsel (OSC) has reviewed the allegations you disclosed in the above-referenced matter. You made initial disclosures to OSC in February 2015, and supplemental disclosures since that time.

Under 5 U.S.C. § 1213(b), whenever the Special Counsel receives information alleging a disclosure of information from an employee who reasonably believes the information evidences a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, she is required to review the information and determine whether there is a substantial likelihood that it discloses such wrongdoing. If so, she is required under 1213(c)(1) to transmit the information to the appropriate agency head and require that the agency head conduct an investigation and submit a written report. Under 5 U.S.C. § 1213(g)(2), if the Special Counsel receives information, but does not make a substantial likelihood determination under 1213(b), the Special Counsel may transmit the information to the head of the agency for a response, with the consent of the employee.

Because your disclosures involve the Defense Department's Office of Inspector General (DOD OIG), rather than transmit the allegations to the Secretary of Defense, we forwarded the allegations to the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) under these authorities. Our intent in referring the allegations to the IC is to ensure that an impartial and thorough review or investigation is conducted, as appropriate, without compromising the independence of the DoD OIG by referring such matters to the agency head.

On May 15, 2017, the IC contacted OSC to confirm receipt of our referral and confirmed that it would review the allegations pursuant to its statutory authority. We will provide you with additional updates as appropriate.

As we have further discussed with you, the preliminary release of information about the referral could adversely impact the conduct of a fair and impartial investigation and/or the ability of an investigator to secure relevant evidence. We appreciate your recognition of this concern.

ENCLOSURE 1

JUL 29 2019

JOHN R. CRANE

Mr. John Crane
May 18, 2017
Page 2 of 2

Please contact me at (202) 254-3677, if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen P. Gorman", with a long horizontal flourish extending to the right.

Karen Gorman
Chief, Retaliation and Disclosure Unit

ENCLOSURE 1

JUL 29 2019

JOHN R. CRANE

U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600



October 11, 2017

Mr. John Crane
c/o Tom Devine
Legal Director
Government Accountability Project
1612 K Street, N.W., Suite 1100
Washington, DC 20006

Re: OSC File No. DI-15-2333

Dear Mr. Crane:

We are writing to report to you on the resolution of your disclosures to OSC, made initially in February 2015, and supplemented since that time.

You were the Assistant Inspector General for Communication and Congressional Liaison at Department of Defense (DoD), Office of Inspector General (OIG). In that role, you oversaw the whistleblower outreach program and were the senior official in charge of FOIA and Privacy Act functions. You were also the OIG's FOIA Appellate Authority.

You disclosed that senior DoD OIG officials, particularly former Acting Inspector General Lynn Halbrooks and OIG General Counsel Henry Shelley, engaged in an abuse of authority when they departed from prior OIG practice and determined not to publicly release a report of investigation. You alleged they did this in order to protect a senior DoD official who was the subject of the investigation. You also alleged that, between 2011 and 2014, Ms. Halbrooks and Mr. Shelley: (1) directed an investigative team to depart from normal investigative practices; (2) abruptly canceled scheduled subject interviews; (3) improperly met with subject officials during the investigation; (4) removed key findings or information from the final report; and (5) delayed release of the report for improper reasons. Finally, you alleged that senior OIG employees: (1) applied improper standards to civilian reprisal investigations; (2) failed to correct identified deficiencies in military reprisal programs; (3) abused their authority in numerous investigations; and (4) abused their authority by removing investigative independence in civilian reprisal investigations.

In your disclosure, you alleged that the actions of senior OIG officials represented a continuation of a pattern of conduct that Senator Charles Grassley identified in a November 2014 report to then-DoD Inspector General Jon Rymer. Your disclosures to OSC overlapped substantially with the concerns raised by Senator Grassley. Although the report addressed many of the issues raised in your disclosures, it left open some questions about the propriety of certain of the actions and decisions of senior DoD OIG officials.

ENCLOSURE 2

JUL 29 2019

JOHN R. CRANE

Under 5 U.S.C. § 1213(b), whenever the Special Counsel receives information alleging a disclosure of information from an employee who reasonably believes the information evidences a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, she is required to review the information and determine whether there is a substantial likelihood that it discloses such wrongdoing. If so, she is required under 1213(c)(1) to transmit the information to the appropriate agency head and require that the agency head conduct an investigation and submit a written report. Under 5 U.S.C. § 1213(g)(2), if the Special Counsel receives information, but does not make a substantial likelihood determination under 1213(b), the Special Counsel may transmit the information to the head of the agency for a response, with the consent of the employee.

OSC generally does not refer allegations if a prior investigation already addressed the whistleblower's disclosures. However, as stated, Senator Grassley's report identified unresolved questions. In addition, your supplemental disclosures included the new information concerning the OIG's failure to release a report of investigation derivative of the issues identified in Senator Grassley's report.

Because your disclosures involved the DoD OIG, they posed a unique jurisdictional issue. Transmitting the allegations to the Secretary of Defense and requiring DoD to investigate its OIG would have compromised the independence of the OIG. Under the Inspector General Act of 1978 (IG Act), allegations of misconduct by inspectors general and their senior staff are within the jurisdiction of the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE).¹ Thus, to ensure that an impartial and thorough review or investigation was conducted, on April 19, 2017, then-Special Counsel Carolyn Lerner forwarded the allegations to the CIGIE IC pursuant to OSC's § 1213 authorities.

The IC notified OSC that it reviewed this matter, requested and received a response from Mr. Shelley, and that the matter is now closed.

Unfortunately, the IC's decision not to investigate countermanded the Special Counsel's statutory determination that the allegations warranted investigation. As we have discussed with you, this case highlights the challenges OSC faces in addressing allegations of misconduct by inspectors general and their high-level employees under the statutory framework of § 1213. We believe Congress has expressed a clear intent for the IC to review allegations concerning such officials, and since OSC received your allegations, Congress enacted the IG Empowerment Act of 2016 to establish a process aimed at ensuring the efficient resolution of jurisdictional issues between OSC and the IC. Nevertheless, the IC's processes and procedures and those in 5 U.S.C. § 1213 are not consistent, and without an investigation, OSC is obviously unable to reach a determination, as required by § 1213(e)(2), regarding the reasonableness of any findings.

¹ Under the Inspector General Empowerment Act of 2016, OSC and the IC must consult and coordinate to ensure that jurisdictional issues between OSC and the IC are resolved efficiently and effectively.

ENCLOSURE 2

JUL 29 2019

JOHN R. CRANE

Mr. John Crane
October 11, 2017
Page 3 of 3

Pursuant to OSC procedures, OSC will take no further action in connection with these allegations. However, your file remains open pending receipt of an investigative report from the Department of Justice OIG regarding other allegations you made, which OSC previously referred for investigation under § 1213. We will continue to provide you with updates on the status of that matter.

Please contact me at (202) 254-3677, if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Gorman", with a long horizontal flourish extending to the right.

Karen Gorman

Chief, Retaliation and Disclosure Unit

ENCLOSURE 2

JUL 25 2019

JOHN R. CRANE

July 9, 2018

John R. Crane
P.O. Box 7185
McLean, VA 22106
202-372-5321
johnrcrane@me.com

**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>.

ENCLOSURE 3

JUL 29 2018

JOHN R. CRANE

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

ENCLOSURE 3

JUL 29 2019

JOHN R. CRANE

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

ENCLOSURE 3

JUL 29 2019

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

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

ENCLOSURE 4

JUL 29 2018

JOHN R. CRANE

23/07/18, 09:10

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

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE

23/07/18, 09:11

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 filling 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

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE

2019/07/18, 09:1

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.

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE

23/07/18, 09:11

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

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE

23/07/18 09:10

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.

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.

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE 28/07/18, 09:11

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

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE

23/07/18, 09:10

[OSC e-Filing](#)[Log Out](#)[Go to Complaint Dashboard](#)[About](#)[Instructions](#)[Help/FAQs](#)[Contact](#)

Claims of prohibited personnel practices, including reprisal for whistleblowing, may be pursued by filing a complaint with OSC's Complaints Examining Unit (OSC Form 11, *Complaint of Prohibited Personnel Practice*). You can also alert OSC to possible wrongdoing in a federal agency through a whistleblower disclosure (OSC Form 12, *Whistleblower Disclosure*). A disclosure does not focus on resolving personnel decisions involving or against the filer or other individuals. An employee who believes he or she has suffered reprisal for whistleblowing may elect to file both OSC Form 11, *to report reprisal*, and OSC Form 12, *to disclose the underlying wrongdoing*.

You are currently on an OSC Unclassified Internet Site. As such, the information you are viewing is designed to convey only information pertaining to the filing of disclosures that do not contain classified information. You may not disclose classified information or file or submit a classified disclosure form via the Disclosure of Information form (OSC Form 12) on this web site. If your disclosure concerns both classified and unclassified information, you can submit unclassified information using the disclosure form and make arrangements to submit the classified information to OSC in accordance with governing laws and regulations.

If you are seeking to make a disclosure involving classified information, you can report this information to OSC using appropriate secure channels. If you have questions about how to disclose classified information to OSC or would like to make arrangements to submit a disclosure containing Secret or Top Secret classified information, you may contact OSC's Disclosure Unit at 1-800-572-2249 (unsecured line).

OSC Staff are available for assistance. You may contact the Complaints Examining Unit (CEU) Hotline at 1-800-872-9855 or the Disclosure Unit Hotline at 1-800-572-2249.

Form 12 Complete!

You have successfully filed a Form 12 with the OSC. You will receive an e-mail acknowledgement with your case number.

[Exit OSC Form 12](#)

page 12-2

Logged in as John Crane (johnrcrane@me.com)

Last Updated: 01/07/2010

ENCLOSURE 4

JUL 29 2019

JOHN R. CRANE

December 07, 2018

John R. Crane
P.O. Box 7185
McLean, VA 22106
202-372-5321
Johnrcrane@me.com

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

**SUBJECT: OSC-12 WHISTLEBLOWER DISCLOSURE OF CRIMINAL
WRONGDOING BY THE LEADERSHIP OF THE U.S. OFFICE OF SPECIAL
COUNSEL (DI-18-4945)**

Mr. Kerner,

1. I have waited over 140 days for you to fulfill your statutory obligation and make a positive or negative 45-day "substantial likelihood" finding on OSC-12 Whistleblower Disclosure (DI-18-4945) submitted on 20 July 2018, by a federal whistleblower reflecting information I firmly believe evidences systemic wrongdoing occurring within the Office of the U.S. Special Counsel (OSC). [See: enclosure (1).]
2. As you well know, the inability/reluctance of the U.S. Special Counsel to hold federal personnel within the Office of the U.S. Special Counsel (OSC), accountable to statutory legal standards is the basis of Whistleblower Disclosure (DI-18-4945) [See: 5 USC § 1213(a)(1)(A).]
3. The failure to properly perform the statutory 45-day "substantial likelihood" determination process, within 45 days of receipt of a whistleblower disclosure, once again, points to the critical loss of independence and objectivity required within the OSC to properly safeguard the merit system and protect federal whistleblowers. [See: 5 USC § 1213(b).]
4. On 15 August 2018, I met with your Principle Deputy Special Counsel, **Tristan Leavitt**, after he reached out to me, to discuss the failure of OSC to properly demand investigation into OSC-12 Whistleblower Disclosure (DI-15-2333) submitted on 9 February 2015, under the supervision of the OSC leadership team consisting of: **Carolyn N. Lerner, Mark Cohen, Adam Miles, Anne Wagner, and Louis Lopez**. [See: enclosure 2.]

ENCLOSURE 5

JUL 29 2019

JOHN R. CRANE

5. Both OSC-12 Whistleblower Disclosure (**DI-15-2333**), and my letter to you of 9 July 2018, that demonstrate OSC misconduct in regard to OSC-12 Whistleblower Disclosure (**DI-15-2333**), and the implications of the OSC misconduct on statutory requirements to safeguard the merit system and protect federal whistleblowers were discussed with Tristan Leavitt. [See: enclosure 3].

6. As you well know, Associate Special Counsel General Law Division (ASC GLD) Anne Wagner, as stated in my letter to you of August 16, 2018, delayed action on Whistleblower Disclosure (**DI-15-2333**) for 403 days before making a positive or negative 45-day “substantial likelihood” determination on a credible report of agency misconduct [Department of Defense (DoD)]. [See: enclosure 4].

According to statute, the determination triggers mandatory agency head notification and demand by OSC for a formal 60-day agency head investigation. [See: 5 USC § 1213 (c)(1).]

OSC’s refusal to comply with statute included:

- Failure to immediately notify the agency head (**Charles T. Hagel**) of a positive OSC “substantial likelihood” determination on wrongdoing occurring within the Department of Defense (DoD) [See: 5 USC § 1213(c)(1)]
- Failure to preserve the evidentiary base (witness statements/documentation) severely degrading the overall quality of the agency head investigation [See: 5 USC § 1213(b)]
- Violation of the Whistleblower Protection Act (WPA) of 1989, as amended, insulting the merit system, and denying a federal whistleblower the right to present information of agency wrongdoing with the expectation of OSC compliance with law, rule, or regulation [See: 5 USC § 2302(b)]
- Violation of law, rule and regulation that govern the U.S. Office of Special Counsel to establish the federal whistleblower safe channel [See: 5 USC Part II, Chapter 12, Subchapter II: Office of Special Counsel]

7. Once again, Associate Special Counsel, **Anne Wagner**, in an arbitrary and capricious abuse of authority, has failed to comply with statute and make a 45-day positive or negative “substantial likelihood” determination on information in OSC-12 Whistleblower Disclosure (**DI-18-4995**), reflecting systemic misconduct occurring within the Office of the U.S. Special Counsel (OSC). [See: USC § 1213(b)]

8. Failure to act by Associate Special Counsel, Ann Wagner, on OSC-12 Whistleblower Disclosure (**DI-18-4945**) is clear and convincing evidence that continuing to allow Associate Special Counsel, **Ann Wagner**, to serve as an “independent and objective”

ENCLOSURE 5

JUL 29 2019

JOHN R. CRANE

trier of fact is, not only a conflict of interest, but also the continuation of an effort to mask systemic OSC internal misconduct brought to your attention by numerous other federal whistleblowers.

9. I demand that you perform the duties of your office, comply with law, rule and regulation, and that you make a positive or negative 45-day "substantial likelihood" determination on OSC-12 Whistleblower Disclosure (**DI-18-4945**), that has since been supplemented at your request, with additional information regarding systemic wrongdoing occurring within the Office of the U.S. Special Counsel (OSC). [See: enclosure 5.]

V/r,

John R. Crane

John R. Crane

11 June 2019

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

Honorable Henry J. Kerner
U.S. Office of Special Counsel
1720 M Street, NW #300
Washington, DC 20036

SUBJECT: DOCUMENTED LOSS OF STATUTORY INDEPENDENCE AND OBJECTIVITY WITHIN THE OFFICE OF THE U.S. SPECIAL COUNSEL/ COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (CIGIE) INTEGRITY COMMITTEE (IC) CHAIRED BY SCOTT S. DAHL SPECIFICALLY RELATED TO INVESTIGATORY OBSTRUCTION [18 U.S.C. § 1512(b)] OF U.S. SPECIAL COUNSEL DISCLOSURE OF WRONGDOING (DI-15-2333)

U.S. Special Counsel Kerner,

1. On 09 February 2015, I submitted my OSC-12 Disclosure of Wrongdoing (**DI-15-2333**) to the U.S. Special Counsel, **Carolyn N. Lerner**, for a statutory **45-Day** determination that I properly disclosed information that reflected a substantial likelihood that there was a violation of law, rule, or regulation or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety. [See: enclosure 1]

2. Despite the fact that I submitted over 211 pages of documentation clearly identifying Senior Leader Misconduct, that included Whistleblower Reprisal and criminal violation(s) of Title 18, involving Department of Defense (DoD) Principal Deputy Inspector General (**PDIG**) **Lynne M. Halbrooks** and DoD IG General Counsel, **Henry C. Shelley Jr.**:

- The Office of U.S. Special Counsel (OSC), as an independent federal investigative and prosecutorial agency charged with safeguarding the merit system and protecting federal employees failed to safeguard the merit system or protect my due process rights as a federal employee.
- the U.S. Office of Special Counsel (OSC) delayed making a determination on my OSC-12 Disclosure of Wrongdoing (**DI-15-2333**) submitted on 09 February 2015, until notification by your office on 19 April 2017, or **789** days after the statutory **45-**

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day window for making a substantial likelihood determination under 5 U.S.C. § 1213(b) had closed. [See: enclosure 2.]

- the U.S. Office of Special Counsel (OSC) materially degraded the quality of the evidentiary base (witness statements/documentation), needed for conducting a statutorily directed agency head **60-day** formal investigation into a credible report (**DI-15-2333**) of agency wrongdoing within a subordinate independent and objective unit: DoD Office of Inspector General (OIG)
- gross mismanagement and/or abuse of authority reflected in the overall handling of OSC-12 Disclosure of Wrongdoing (**DI-15-2333**) clearly reflects the inability/reluctance of the OSC to either safeguard the merit system or protect the rights of federal employees while obstructing the federal investigative process. [See: 18 U.S.C. 1512(b)]
- violation of federal law to knowingly use intimidation or corruptly persuade another person, or to attempt to do so, or engage in misleading conduct toward another person with intent to; influence, delay, or prevent testimony in an official proceeding; withhold a record, document, or other object, from an official proceeding; alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding.
- the U.S. Special Counsel has been specifically notified of the serious nature of the corruption existing within the OSC and conflicts of interest associated with being subjected to the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee (IC). [See: **DI-18-4904/DI-18-4945/DI-18-5016**.]

3. As you are aware, no OSC or federal employee has the right to intentionally obstruct federal investigations and willingly violate federal statute, in order to avoid legitimate investigation into members of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Chair, **Michael E. Horowitz**.

4. The U.S. Special Counsel/Deputy U.S. Special Counsel currently fall under the authority of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Chair, **Michael E. Horowitz**, and the Integrity Committee (IC), chair **Scott S. Dahl** which presents an unacceptable conflict of interest and loss of investigative independence [See: *Integrity Committee Policies & Procedures*, 2.C. *Persons within the IC's Authority*, p. 1].

5. In addition, the U.S. Special Counsel is also bound by the Policies and Procedures of the Integrity Committee (IC) Chair, **Scott S. Dahl**, in regard to investigation, as a member of the Allegations Review Group. The U.S. Special Counsel thus is a decision-making authority regarding initiating investigations against **Scott S. Dahl**. In turn, **Scott**

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S. Dahl, is a decision-making authority to initiate investigations against the U.S. Special Counsel, but also is a decision-making authority in regard to the conduct of the investigations into the U.S. Special Counsel. The authority of **Michael E. Horowitz** and **Scott S. Dahl** are clearly a conflict of interest in regard to the ability of the U.S. Special Counsel to perform his mission. [See: *Integrity Committee Policies and Procedures*; 3.F. Allegation Review Group, p. 2; 6.B. Review and Referral by the Allegation Review Group, p. 4; 6.E. Action by OSC on referred allegations, p. 5.]

6. This conflict of interest is clearly reflected in the collective actions taken by the U.S. Special Counsel (**DI-15-2333**) to circumvent statute to avoid agency head notification and to negate timely investigation of fellow members of the CIGIE: DoD Principal Deputy Inspector General (**PDIG**) **Lynne M. Halbrooks** and DoD IG General Counsel, **Henry C. Shelley Jr.**

7. In your response of 11 October 2017, the U.S. Special Counsel clearly demonstrates the fact that the ability to safeguard the merit system and protect federal employees has been subordinated to shielding members of the CIGIE from legitimate investigation and independent oversight. [See: enclosure 3] It is clear that:

- all members of the CIGIE are federal employees and are equally subjected to the merit system;
- the statutory authority of the U.S. Special Counsel to safeguard the merit system and protect federal employees is not subordinated to the Inspector General Act of 1978 (IG Act), as amended, allowing for “special” treatment of inspector general personnel.

8. The claim(s) made in your response of 11 October 2017, that the U.S. Special Counsel is unable/reluctant to override CIGIE Integrity Committee (IC) Chair, **Scott S. Dahl** in his decision to “not investigate” a substantial likelihood finding by the OSC [5 U.S.C. § 1213(b)] of agency wrongdoing, as you acknowledge, countermands the U.S. Special Counsel statutory ability to demand legitimate investigation of misconduct by any federal employee subjected to the merit system.

Your office noted to me: “As we have discussed with you, this case highlights the challenges OSC faces in addressing allegation of misconduct by inspector general and their high-level employees under the statutory framework of § 1213.” [See: enclosure 3.]

Previously, on May 18, 2017, your office stated: “On May 15, 2017, the IC contacted OSC to confirm receipt of our referral and confirmed that it would review the allegation pursuant to its statutory authority” Subsequently, **Scott S. Dahl** reversed his decision and chose not to investigate countermanding your statutory authority. [See: enclosure 4.]

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9. Summary of OSC misconduct: as a direct result of gross mismanagement and/or abuse of authority, the OSC Leadership Team (**Carolyn N. Lerner, Mark Cohen, Adam Miles, Anne Wagner, Louis Lopez, Tristan Leavitt, and Carol Gorman**), violated federal statute, while conspiring to delay issuance of a statutory **45-day** substantial likelihood finding (**DI-15-2333**), in an effort to materially degrade the quality of the evidentiary base (witness statements/documentation), required for the Secretary of Defense (SecDef)/Agency Head to perform the statutory **60-day** formal investigation into credible report of agency wrongdoing, within an independent and objective subordinate unit: DoD Office of Inspector General (OIG). [See: 5 U.S.C. § 1213]

10. I demand that the U.S. Special Counsel: (1) immediately notify the Chief Executive of the OSC inability/reluctance to comply with the OSC statute to demand investigation; (2) notify the affected agency head [SecDef] of the credible report of senior leader wrongdoing within an independent and object unit assigned to the DoD; (3) notify the respective Congressional oversight committee leaders of the inability/reluctance of the U.S. Special Counsel to safeguard the merit system and protect federal employees in cases concerning allegations of wrongdoing against fellow members of the CIGIE; (4) demand that the CIGIE Integrity Committee (IC), under the direction of **Scott S. Dahl**, comply with federal statute and conduct a legitimate investigation into fellow members of the CIGIE; (5); notify the Executive Chair of the CIGIE, Margaret Weichert, of the threat to safeguarding the merit system and the failure of the U.S. Special Counsel to protect federal employees; and (6) that the U.S. Special Counsel/Deputy U.S. Special Counsel be immediately removed from the "authority" of the CIGIE, Chair, **Michael E. Horowitz**, and Integrity Committee, Chair, **Scott S. Dahl**.

11. I look forward to your immediate response on actions taken to address this failure to safeguard the merit system, protect federal employees, and the loss of agency independence and objectivity.

Very Respectfully,

John R. Crane

John R. Crane

cc:

Margaret Weichert
Acting Director
U.S. Office of Personnel
Management
1900 E Street, NW
Washington, DC 20415

Margaret Weichert
Deputy Director
U.S. Office of Management
and Budget
725 17th Street NW
Washington, DC 20503
Attn: Executive Chair CIGIE

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JUL 29 2019

JOHN R. CRANE

Emory A. Rounds III
Director
U.S. Office of Government Ethics
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Michael E. Horowitz
Chair
Council of the Inspectors General
on Integrity and Efficiency
Suite 825
1717 H Street, NW
Washington, DC 20006

Scott S. Dahl
Chair, CIGIE Integrity Committee
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Scott S. Dahl
Inspector General
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Thomas J. Howard
Inspector General
AMTRACK
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Dale Christopher
U.S. Office of Government Ethics
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Gene L. Dodaro
Comptroller General U.S.
Government Accountability Office
441 G Street, NW
Washington, DC 20548

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Mary Mitchelson
Inspector General
Corporation for Public Broadcasting
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Catherine S. Bruno
FBI Headquarters
Office of Integrity & Compliance
935 Pennsylvania Avenue, NW
Washington, DC 20535

Honorable Ron Johnson

Chair

Committee on Homeland

Security & Governmental Affairs

340 Dirksen Senate Office Building

Washington, DC, 20510

Honorable Chuck Grassley

135 Hart Senate Office Building

Washington, D.C. 20510

Honorable Elijah Cummings

Chair

Committee on

Oversight and Reform

2157 Rayburn HOB

Washington DC 20515

Honorable Gary Peters

Ranking Member

Committee on Homeland

Security & Governmental Affairs

340 Dirksen Senate Office Building

Washington, DC, 20510

Honorable Jim Jordan

Ranking Member

Committee on

Oversight and Reform

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JOHN R. CRANE

JOHN CRANE, VICE CHAIRMAN

JOHN MC CAUL, ARIZONA
ROBERT PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LAMBERT, IOWA
MICHAEL B. ENY, TEXAS
KELLY AYOTTE, NEW HAMPSHIRE
JON HAMMOND, IOWA
JOHN GARDNER, NEBRASKA

HOWARD H. CANNON, DELAWARE
CLAYTON M. CASSELL, MISSOURI
JOHN C. COCHRAN, ARIZONA
TAMMY BALOWE, WISCONSIN
JERRY E. HART, NORTH DAKOTA
CORY A. BOOKER, NEW JERSEY
CARLYN PETERS, GEORGIA

CHRISTOPHER W. SMITH, SEATTLE, WASH. STATE
JAMIE L. LEE, IOWA, SENATE STAFF, 2011-2015

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-8250

April 25, 2016

The Honorable Gene Dodaro
Comptroller General of the United States
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

The Office of Special Counsel (OSC) is the primary agency that safeguards the merit system by protecting federal employees and applicants from prohibited personnel practices, including whistleblower reprisal.¹ Since the OSC's creation in 1979, the Government Accountability Office (GAO) has periodically evaluated OSC's effectiveness in carrying out its statutory responsibilities and has identified areas for improvement. It appears GAO has not conducted a substantial programmatic review of OSC's functions for several years.²

In the 114th Congress, the Committee has examined the difficulties that federal employees have experienced after blowing the whistle on waste, fraud, and abuse in the government. The Committee has heard from whistleblowers in the Department of Homeland Security, the Department of Veterans Affairs, the Department of Defense, the Social Security Administration, and a number of other agencies. Often, after exposing misconduct, these whistleblowers may face removal from their job, suspension of pay, and retaliatory investigations.

The OSC exists to champion and protect federal whistleblowers. Because of the OSC's role in protecting federal whistleblowers, it is important that the agency operates efficiently and effectively. With the increase in whistleblower disclosures in recent years and the passage of the Whistleblower Protection Enhancement Act in 2012, the time is ripe for GAO to examine the processes and procedures of the OSC. Accordingly, I request that GAO evaluate the OSC's work, including by examining the following issues:

- The effectiveness and efficiency of OSC's case management processes and protocols. To complete this request, please evaluate:

¹ U.S. Office of Special Counsel, <https://osc.gov/Pages/about.aspx> (last visited Apr. 25, 2016).

² See, e.g., U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-07-318R, OFFICE OF SPECIAL COUNSEL NEEDS TO FOLLOW STRUCTURED LIFE CYCLE MANAGEMENT PRACTICES FOR ITS CASE TRACKING SYSTEM (2007) available at <http://www.gao.gov/products/GAO-07-318R>; see also U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-07-263R, U.S. OFFICE OF SPECIAL COUNSEL'S PROCEDURES FOR ASSIGNING INCOMING CASES TO AND WITHIN ORGANIZATIONAL UNITS (2007) available at <http://www.gao.gov/products/GAO-07-263R>.

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- OSC's processes for reviewing and referring complaints of Prohibited Personnel Practices (PPP);
 - OSC's processes for reviewing and referring disclosure complaints;
 - The metrics that the OSC uses to determine whether to refer a complaint for investigation;
 - The metrics that the OSC uses to determine how to assign complaints to OSC employees; and
 - The metrics that the OSC uses to reopen an investigation or grant a request for reconsideration.
- OSC's success rate in protecting whistleblowers. To complete this request, please evaluate:
 - OSC's practices and procedures regarding stays of personnel actions;
 - How OSC ensures a consistent approach to the treatment of complaints across the agency;
 - The training of OSC's attorneys, investigators, and other staff specialists who review, refer, or investigate PPP or disclosures to OSC; and
 - OSC's policies and practices to ensure the confidentiality of whistleblowers who have requested confidentiality.
 - Whether there are adequate safeguards in place for proper oversight of OSC. To complete this request, please evaluate:
 - How and to whom OSC employees report PPP or make disclosures;
 - The adequacy of the Memorandum of Understanding between OSC and the National Science Foundation Office of Inspector General;
 - The adequacy of the mechanisms in place to prevent a conflict of interest of the Special Counsel or Deputy Special Counsel on the Council of the Inspectors General on Integrity and Efficiency Integrity Committee; and
 - The role that senior OSC leadership plays in determining which complaints are referred for investigation.

If you have any questions about this request, please contact Kyle Brosnan of the Committee staff at (202) 224-4751. Thank you for your attention to this important matter.

Sincerely,

Ron Johnson
Chairman

cc: The Honorable Thomas R. Carper
Ranking Member

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JOHN R. CRANE

August 6, 2019

John R. Crane
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William P. Barr
U.S. Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Christopher A. Wray
Director, Federal Bureau of Investigation
FBI Headquarters
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

SUBJECT: DEMAND FOR CRIMINAL INVESTIGATION INTO SCOTT S. DAHL, DEPARTMENT OF LABOR INSPECTOR GENERAL/CHAIR, CIGIE INTEGRITY COMMITTEE (IC)/ALLEGATION REVIEW GROUP (ARG); HENRY J. KERNER, U.S. SPECIAL COUNSEL (OSC)/ALLEGATION REVIEW GROUP (ARG); ANNALOU T. TIROL, DEPARTMENT OF JUSTICE (DOJ) CRIMINAL DIVISION, CHIEF, PUBLIC INTEGRITY SECTION (PIN)/ALLEGATION REVIEW GROUP (ARG); CATHERINE BRUNO FEDERAL BUREAU OF INVESTIGATION (FBI), OFFICE OF THE DIRECTOR, OFFICE OF INTEGRITY AND COMPLIANCE/CIGIE INTEGRITY COMMITTEE (IC), OF OBSTRUCTION OF THE FEDERAL INVESTIGATORY PROCESS IN VIOLATION OF 18 U.S.C. § 1505

Attorney General Barr and Director Wray,

1. I request formal criminal investigation into disclosures of coordinated interagency efforts to obstruct the Federal Investigatory Process (administrative/criminal), in order to degrade the evidentiary base (witness statements/evidence) necessary to substantiate criminal wrongdoing by senior level political appointees.
2. In their capacity as senior Responsible Management Officials (RMOs) accountable for the proper conduct of the Federal Investigatory Process (administrative/criminal): **Scott S. Dahl**, Department of Labor, Inspector General (DOL IG) and Chair, Integrity Committee (IC)/Allegation Review Group (ARG), Council of the Inspectors General on Integrity and Efficiency (CIGIE); **Henry J. Kerner**, U.S. Special Counsel (OSC)/Allegation Review Group (ARG); **Annalou T. Tirol**, Department of Justice, Criminal Division, Chief, Public Integrity Section (PIN)/Allegation Review Group (ARG), and **Catherine Bruno**, Federal Bureau of Investigation, Office of the Director, Office of Integrity and Compliance/CIGIE, Integrity Committee,

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intentionally misused their senior level positional authority to obstruct criminal investigation into disclosures of criminal wrongdoing by senior level political appointees. [See: enclosure (1).]

3. The aforementioned federal employees obstructed statutory timelines [5 U.S.C. § 1213(b)/ 5 U.S.C. § 1213(c)(1)(b)] designed to preserve the evidentiary basis for investigation, and/or internal CIGIE Integrity Committee (IC) procedures, to prevent the independent and objective investigation of disclosures of criminal wrongdoing by senior level political appointees. [See: enclosures: (2), (3), (4), (5).]

4. Efforts by Responsible Management Offices (RMOs) to actively obstruct the Federal Investigatory Process (administrative/criminal) are violations of the due process rights of 2.1 million federal employees, an insult to the Federal Merit System, and a direct assault on all federal whistleblowers properly reporting agency wrongdoing to appropriate authority (5 U.S.C. § 1201).

5. The systemic nature of the obstruction of the Federal Investigatory Process by Responsible Management Officials (RMOs) demands immediate accountability, as well as, restoration of the due process rights that have been denied to federal whistleblowers.

6. Thank you in advance for your immediate action on this request for formal criminal investigation

Very Respectfully,

John R. Crane

John R. Crane

Enclosures:

(1) John R. Crane to Scott S. Dahl, Integrity Committee and Deborah J. Jeffrey, Vice Chair.
Dated 29 July 2019

(2) John R. Crane - Whistleblower Disclosure OSC-12 (DI-15-2333). Dated 9 February 2015

(3) John R. Crane - Whistleblower Disclosure OSC-12 (DI-18-4945). Dated 20 July 2018

(4) Dr. Darrell Whitman - Whistleblower Disclosure OSC-12 (DI-18-4904). Dated 17 July 2018

(5) Adam Lovinger - Whistleblower Disclosure OSC-12 (DI-17-5016). Dated 18 July 2017

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JOHN R. CRANE

29 July 2019

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Inspector General Scott S. Dahl (DOL IG)
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Inspector General Deborah J. Jeffrey (CNCS IG)
Vice Chair, CIGIE Integrity Committee (IC)
1717 H Street NW
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Washington, DC 20006

SUBJECT: REQUEST FOR ANY/ALL RECORDS RELATED TO INTEGRITY COMMITTEE (IC)/ALLEGATION REVIEW GROUP (ARG) REFUSAL TO COMPLY WITH U.S. SPECIAL COUNSEL STATUTORY DEMAND FOR FEDERAL INVESTIGATION (ADMINISTRATIVE/CRIMINAL) OF COVERED PERSONS [LYNNE M. HALBROOKS ACTING INSPECTOR GENERAL, DEPARTMENT OF DEFENSE (AIG DOD)/HENRY C. SHELLEY JR. GENERAL COUNSEL AIG DOD]

Chairperson **Scott S. Dahl** (DOL IG) and Vice-Chairperson **Deborah J. Jeffrey** (CNCS),

1. On 11 October 2017, I received a letter from the U.S. Special Counsel informing me that the Council of Inspectors General on Integrity and Efficiency (CIGIE)¹ Integrity Committee (IC)² Allegation Review Group (ARG) had “countermanded” and *refused* to comply with U.S. Special Counsel (OSC)³ statutory demand for federal investigation (administrative/criminal) into credible disclosure of misconduct (**OSC-12 DI-15-2333**) involving federal employees covered under the CIGIE Integrity Committee (IC); 5 USC § 1213(b)⁴. [See: enclosures (1), (2).]

¹ Council of Inspectors General on Integrity and Efficiency (**CIGIE**) mission: “to address integrity, economy, and effectiveness issues that transcend individual Government agencies and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Offices of Inspectors General (OIG).” See: <https://ignet.gov/sites/default/files/files/QAR%20Guide%20Investigations%20July%202017.pdf>

² Integrity Committee (IC) mission: “to receive, review, and refer for investigation allegations of wrongdoing made against an Inspectors [sic] General (IG), designated senior staff of an IG, and the Special Counsel and Deputy Special Counsel of the Office of Special Counsel, and to ensure the fair, consistent, timely, and impartial disposition of allegations that fall within the IC’s statutory mandate.” See: <https://www.ignet.gov/content/integrity-0>

³ U.S. Special Counsel (**OSC**): the U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency the safeguards the federal merit system and protects federal employees from prohibited personnel practices and reprisal for whistleblowing. See: <https://osc.gov/Pages/about.aspx>

⁴ U.S. Special Counsel receives credible report of federal employee wrongdoing (*violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific*

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2. In light of the fact there is a statutory requirement [IG Act 1978, as amended, § 4(d)] for all federal Inspectors General (IGs) to notify the U.S. Attorney General when there are reasonable grounds to believe there has been a violation of Federal criminal law [i.e., U.S. Special Counsel 45-day substantial likelihood finding (DI-15-2333)]⁵; as well as, the existence of public interest, and to avoid the appearance of impropriety, I must review all documentation related to the Integrity Committee (IC)/Allegation Review Group (ARG) decision to not conduct legitimate administrative/criminal investigation into Covered Persons of the Council of Inspectors General on Integrity and Efficiency (CIGIE).

3. As you know, during that time, the CIGIE Integrity Committee (IC) Allegation Review Group (ARG)⁶ consisted of the following federal employees:

- Department of Justice (DOJ) Criminal Division Public Integrity Section (PIN) **AnnaLou Tirol**
- CIGIE Integrity Committee (IC) Chairperson **Scott S. Dahl** (DOL IG)
- U.S. Special Counsel **Carolyn N. Lerner**; (Acting) **Adam Miles/Tristan Leavitt**

With respect to the requirement to properly refer and conduct investigation (criminal), the Attorney General's designee to the Integrity Committee (IC) Allegation Review Group (ARG) **AnnaLou Tirol** determines if criminal investigation is required after receiving credible allegations of wrongdoing against federal employees subjected the authority of the CIGIE Integrity Committee.

In determining if investigation (administrative/criminal) is warranted the three members of the Integrity Committee (IC) Allegation Review Group (ARG) are charged with ensuring consistency in properly conducting the federal investigative process (administrative/criminal) while avoiding conflicts of interest and protecting the due process rights of all federal employees.

4. This request for release of records is made as per the Freedom of Information Act/Privacy Act, 5 U.S.C. § 552, and the Council of Inspectors General on Integrity and Efficiency (CIGIE) *Integrity Committee Policies and Procedures* 2018.^{7, 8, 9, 10}

danger to public health or safety) and within **45-days** the U.S. Special Counsel determines if federal investigation (administrative/criminal) is required [5 USC § 1213(b)]. See: <https://www.law.cornell.edu/uscode/text/5/1213>

⁵ The Inspector Act of 1978 as amended (IG Act), 5 USC Appendix Inspector General Act of 1978 § 4(d): "In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law." See:

<https://www.govinfo.gov/content/pkg/USCODE-2017-title5/pdf/USCODE-2017-title5-app.pdf#page=11>

⁶ Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures* 2018 w/administrative correction (1) dtd 13 April 2018. Section 3(F). [p. 2.] See:

[https://ignet.gov/sites/default/files/files/Integrity Committee Policies and Procedures Revised Jan-2018_Final.pdf](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Policies%20and%20Procedures%20Revised%20Jan-2018_Final.pdf)

⁷ **Disclosure of IC Records:** Council of the Inspectors General on Integrity and Efficiency (CIGIE), *Integrity Committee Policies and Procedures* 2018 w/administrative correction (1) dtd 13 April 2018. Section 13 B. [p.13], IC records will be maintained in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a (Privacy Act"). The records may be disclosed only in response to the written request of, or with the prior consent of, the individual to whom the record pertains under the condition specifically set forth in the Privacy Act at 5 U.S.C. § 552a(b),

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- **Ralph A. Suris**, Assistant Inspector General (AIG) Office of Professional Responsibility (OPR), Department of Defense (DoD) Office of Inspector General (OIG)

OFFICE OF U.S. SPECIAL COUNSEL (OSC):

- **Henry J. Kerner**, U.S. Special Counsel, Office of Special Counsel (OSC)
- **Carolyn N. Lerner**, U.S. Special Counsel, Office of Special Counsel (OSC)
- **Mark Cohn**, Principal Deputy Special Counsel, Office of Special Counsel (OSC)
- **Ellen Chubin Epstein**, Principal Deputy Special Counsel, Office of Special Counsel (OSC)
- **Susan K. Ullman**, General Counsel, Office of Special Counsel (OSC)
- **Adam Miles**, Acting U.S. Special Counsel, Office of Special Counsel (OSC)/(June 2017 - September 2017)
- **Tristan L. Leavitt**, Acting U.S. Special Counsel, Office of Special Counsel (OSC)/(September 2017 - December 2017)
- **Louis Lopez**, Associate Special Counsel Investigation and Prosecution Division, Office of Special Counsel (OSC)
- **Anne M. Wagner**, Associate Special Counsel General Law Division, Office of Special Counsel (OSC)
- **Karen Gorman**, General Law Division, Retaliation and Disclosure Unit (RDU), Office of Special Counsel (OSC)
- **Catherine McMullen**, General Law Division, Chief Disclosure Unit (OSC-12), Office of Special Counsel (OSC)

COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (CIGIE):

- **Dustin S. Brown (Deputy Director Management OPM)**, Acting Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Michael E. Horowitz (DOJ IG)**, Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Allison C. Lerner (NSF IG)**, Vice-Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Mark L. Greenblatt (DOC AIG Investigations)**, Acting Executive Director, Council of the Inspectors General on Integrity and Efficiency (CIGIE)
- **Atticus J. Reaser**, General Counsel, Council of the Inspectors General on Integrity and Efficiency (CIGIE)

CIGIE INTEGRITY COMMITTEE (IC):

- **Catherine S. Bruno** (Deputy Director for Compliance, FBI), designated by Director, FBI, Member CIGIE Integrity Committee (IC)
- **Dale Christopher** (Deputy Director Compliance, OGE), designated by Director, OGE, Member, CIGIE Integrity Committee (IC)
- **Scott S. Dahl**, Chairperson, CIGIE Integrity Committee (IC)
- **Deborah J. Jeffrey** (CNCS IG), Vice-Chairperson, CIGIE Integrity Committee (IC)
- **Thomas J. Howard** (AMTRAK IG), Member, CIGIE Integrity Committee (IC)
- **Mary Mitchelson** (CPB IG), Member, CIGIE Integrity Committee (IC)

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2019 08 06 10:00 AM

- **AnnaLou Tirol** [DOJ Criminal Division, Office of Public Integrity (PIN)], Legal Advisor, CIGIE Integrity Committee (IC)

CIGIE INTEGRITY COMMITTEE (IC) ALLEGATION REVIEW GROUP (ARG):¹¹

- **AnnaLou Tirol**, Department of Justice (DOJ), Criminal Division, Public Integrity Section (PIN)
- **Scott S. Dahl** (DOL IG), Chairperson, CIGIE Integrity Committee (IC)
- **Carolyn N. Lerner**, U.S. Special Counsel, Office of Special Counsel (OSC)
- **Tristan Levitt**, Acting U.S. Special Counsel
- **Adam Miles**, Acting U.S. Special Counsel

DEPARTMENT OF JUSTICE (DoJ):

- **AnnaLou Tirol**, DOJ Criminal Division, Office of Public Integrity (PIN); and Legal Advisor, CIGIE Integrity Committee (IC)

DEPARTMENT OF JUSTICE- FEDERAL BUREAU OF INVESTIGATION (FBI)

- **Catherine S. Bruno** (Director Office of Integrity and Compliance, Office of the Deputy Director FBI, Member CIGIE Integrity Committee (IC)

U.S. ATTORNEY OFFICE DISTRICT OF COLUMBIA (DC):

- **Jesse Liu**, United States Attorney for the District of Columbia
- **T. Patrick Martin**, Chief, Criminal Division
- **J.P. Cooney**, Criminal Division, Chief Fraud and Public Corruption Section
- **Ellen Chubin Epstein**, Assistant U.S. Attorney (AUSA) Criminal Section, Fraud and Public Corruption Section

GOVERNMENT ACCOUNTABILITY OFFICE (GAO):

- **Eugene L. Dodaro**, Comptroller General of the United States, Government Accountability Office (GAO)
- **Tom Armstrong**, General Counsel, Government Accountability Office (GAO)
- **Katherine Siggerud**, Chief Operating Officer, Government Accountability Office (GAO)
- **J. Christopher Mihm**, Managing Director, Strategic Issues, Government Accountability Office (GAO)
- **Yvonne D. Jones**, Director of Strategic Issues, Government Accountability Office (GAO)

DISTRICT of COLUMBIA COURT of APPEALS- BOARD OF PROFESSIONAL RESPONSIBILITY:

- **Hamilton P. Fox III**, Disciplinary Counsel, District of Columbia Court of Appeals, Office of Disciplinary Counsel, Board on Professional Responsibility

¹¹ Council of the Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee (IC) Report to Congress, 07 January 2019 [p. 1]. See: https://www.igmet.gov/sites/default/files/files/2018_IC_Annual_Report.pdf

- **Becky Neal**, Deputy Disciplinary Counsel, District of Columbia Court of Appeals, Office of Disciplinary Counsel, Board on Professional Responsibility
- **Joseph N. Bowman**, Assistant Disciplinary Counsel, District of Columbia Court of Appeals, Office of Disciplinary Counsel, Board on Professional Responsibility

INTERNAL REVENUE SERVICE (IRS):

- **Charles P. Rettig**, Commissioner, U.S. Internal Revenue Service (IRS)
- **Michael J. Desmond**, Chief Counsel, U.S. Internal Revenue Service (IRS)
- **Don Fort**, Chief, Criminal Investigations, U.S. Internal Revenue Service (IRS)

GOVERNMENT ACCOUNTABILITY PROJECT (GAP)/501(c)(3):

- **Louis Clark**, Executive Director and Chief Executive Officer (CEO)
- **Tom Devine**, Legal Director, Government Accountability Project (GAP)
- **Michael Termini**, Chief of Staff (CoS)
- **Karen Grey**, Legal Counsel
- **Richard Salzman**, Chair, Board of Directors
- **Adam Miles**, Legislative Representative
- **Mark Cohn**, Executive Director and Chief Executive Officer (CEO)

6. On 9 July 2018, I provided U.S. Special Counsel **Henry J. Kerner** a disclosure informing him of serious criminal wrongdoing occurring with the Office of the U.S. Special Counsel related to obstruction of the federal investigatory process (administrative/criminal); 18 U.S.C. § 1505. On 20 July 2018, I filed an electronic OSC-12 Disclosure of Wrongdoing (**DI-18-4945**) with U.S. Special Counsel **Henry J. Kerner** again informing him of serious criminal wrongdoing occurring within the Office of the U.S. Special Counsel (**DI-18-4945**) related to obstruction of the federal investigatory process (administrative/criminal); 18 U.S.C. § 1505. [See: enclosures (3), (4).]

7. On 07 December 2018, I sent a follow-up demand to U.S. Special Counsel **Henry J. Kerner** reminding him of his statutory responsibility to safeguard the federal merit system and protect the due process rights of federal whistleblowers and render a 45-Day Substantial Likelihood Finding on (**DI-18-4945**)¹² something the U.S. Special Counsel **Henry J. Kerner** chose to ignore either out of gross mismanagement or abuse of authority. [See: enclosure (5).]

8. On 11 June 2019, I sent the U.S. Special Counsel **Henry J. Kerner** a second follow-up demand for statutory compliance and rendering of a 45-Day Substantial Likelihood Finding on (**DI-18-4945**). I informed **Henry Kerner** that there was an OSC proceeding and, that he was fully aware of the fact that his inability/reluctance to perform his statutory duties materially degraded the quality of the evidentiary base (witness statements and documentation) and served as an obstructive action to thwart the federal investigatory process (administrative/criminal); 18 USC § 1505. [See: enclosure (6).]

¹² U.S. Special Counsel (OSC): the U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency the safeguards the federal merit system and protects federal employees from prohibited personnel practices and reprisal for whistleblowing. See: <https://osc.gov/Pages/about.aspx>

ENCLOSURE 1

AUG 08 2019

9. Thank you in advance for your diligence and quick response to this request for records to both understand and demand proper performance of duty and effective execution of the federal investigative process (administrative/criminal).

Very Respectfully,

John R. Crane

John R. Crane

Enclosures:

- (1) U.S. Special Counsel OSC-12 45-Day Substantial Likelihood Finding (**DI-15-2333**) Notification, dated 19 May 2017
- (2) U.S. Special Counsel Notification of CIGIE Integrity Committee (IC) Refusal to Conduct Federal Investigatory Process, dated 11 October 2017
- (3) John R. Crane to U.S. Special Counsel Wrongdoing Notification Submission dated 09 July 2018
- (4) U.S. Special Counsel OSC-12 Disclosure of Wrongdoing (**DI-18-4945**), dated 20 July 2018
- (5) John R. Crane to U.S. Special Counsel Notification and Demand for Statutory Action (**DI-18-4945**), dated 07 December 2018
- (6) John R. Crane to U.S. Special Counsel Notification and Demand Follow-Up for Statutory Action (**DI-18-4945**), dated 11 June 2019

Cc:

Margaret Weichert
Acting Director
U.S. Office of Personnel
Management
1900 E Street, NW
Washington, DC 20415

William P. Barr
U.S. Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Emory A. Rounds III
Director
U.S. Office of Government Ethics
Suite 500
1201 New York Ave., NW
Washington, DC 20005

Margaret Weichert
Deputy Director
U.S. Office of Management
and Budget
725 17th Street, NW
Washington, DC 20503
Attn: Executive Chair CIGIE

Gene L. Dodaro
U.S. Comptroller General
Government Accountability Office
441 G Street, NW
Washington, DC 20548

ENCLOSURE 1

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Honorable Ron Johnson
Chair
Committee on Homeland
Security & Governmental Affairs
340 Dirksen SOB
Washington, DC 20510

Honorable Elijah Cummings
Chair
Committee on
Oversight and Reform
2157 Rayburn HOB
Washington DC 20515

Honorable Chuck Grassley
135 Hart SOB
Washington, D.C. 20510

Scott S. Dahl
Chair, CIGIE Integrity Committee
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Thomas J. Howard
Inspector General
AMTRAK
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Washington DC 20002

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U.S. Office of Government Ethics
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National Archives and Records
Administration
Government Information Services
8601 Adelphi Road - OGIS
College Park, MD 20740-6001

Honorable Gary Peters
Ranking Member
Committee on Homeland
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Honorable Jim Jordan
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Catherine S. Bruno
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FOIA Officer
Council of the Inspectors General
on Integrity and Efficiency
1717 H Street, NW Suite 825
Washington, DC 20006

**INFORMATION ABOUT FILING A WHISTLEBLOWER DISCLOSURE
WITH THE
OFFICE OF SPECIAL COUNSEL**

IMPORTANT

Before filling out this Office of Special Counsel (OSC) Disclosure of Information form, please read the following sections about limitations on OSC's jurisdiction over whistleblower disclosures. Only the most frequently occurring impediments to OSC jurisdiction are described. OSC may not have jurisdiction over you or your disclosure for other reasons not discussed below.

COMPLETED DISCLOSURE FORMS CAN BE SENT TO OSC BY MAIL, AT: DISCLOSURE UNIT, OFFICE OF SPECIAL COUNSEL, 1730 M STREET, N.W. (SUITE 218), WASHINGTON, DC 20036-4505. OR BY FAX: 202-254-3711

PLEASE KEEP A COPY OF DISCLOSURE MATERIALS PROVIDED TO OSC. REPRODUCTION CHARGES UNDER THE FREEDOM OF INFORMATION ACT MAY APPLY TO REQUESTS PROCESSED BY OSC FOR COPYING OF COPIES OF MATERIALS IN OSC FILES.

OSC WHISTLEBLOWER DISCLOSURE CHANNEL

The OSC Disclosure Unit serves as a secure channel that can be used to disclose -

- a violation of law, rule or regulation;
- gross mismanagement;
- gross waste of funds;
- abuse of authority, or
- substantial and specific danger to public health or safety.

OSC does **not** have authority to investigate the disclosures that it receives. The law provides that OSC will (a) refer protected disclosures that establish a substantial likelihood of wrongdoing to the appropriate agency head, and (b) require the agency head to conduct an investigation, and submit a written report on the findings of the investigation to the Special Counsel.

If OSC finds no substantial likelihood that the information discloses one or more of the categories of wrongdoing, the Special Counsel must: (a) inform the whistleblower of the reasons why the disclosure may not be acted on further; and (b) direct the whistleblower to other offices available for receiving disclosures.

OSC JURISDICTION

The Disclosure Unit has jurisdiction over federal employees, former federal employees, and applicants for federal employment. It is important to note that a disclosure must be related to an event that occurred in connection with the performance of an employee's duties and responsibilities. The Disclosure Unit has **no jurisdiction** over disclosures filed by:

APR 06 2019

FOUND ORIGIN

VISIT [HTTP://WWW.OSC.GOV](http://www.osc.gov) FOR MORE INFORMATION ABOUT
OSC JURISDICTION AND DISCLOSURE PROCEDURES

INFORMATION ABOUT FILING A WHISTLEBLOWER DISCLOSURE WITH THE OSC (*cont'd*)

- employees of the U.S. Postal Service and the Postal Rate Commission;
- members of the armed forces of the United States (*i.e.*, non-civilian military employees);
- state employees operating under federal grants; and
- employees of federal contractors.

FIRST-HAND INFORMATION REQUIRED

In order to make a "substantial likelihood" finding (*see previous page*), OSC must be in possession of reliable, first-hand information. OSC cannot request an agency head to conduct an investigation based on an employee's (or applicant's) second-hand knowledge of agency wrongdoing. This includes information received from another person, such as when a fellow employee informs you that he/she witnessed some type of wrongdoing. (Anyone with first-hand knowledge of the allegations you want to report may file a disclosure in writing directly with OSC.) Similarly, speculation about the existence of misconduct does not provide OSC with a sufficient legal basis upon which to send a matter to the head of an agency. If you think that wrongdoing took place, but can provide nothing more than unsubstantiated assertions, OSC will not be able to go forward with the matter.

DE MINIMIS ALLEGATIONS

While an allegation might technically constitute a disclosure, OSC will not review or refer *de minimis* or trivial matters.

ANONYMOUS SOURCES

While OSC will protect the identity of persons who make disclosures, it will not consider anonymous disclosures. If a disclosure is filed by an anonymous source, the disclosure will be referred to the Office of Inspector General in the appropriate agency. OSC will take no further action.

MATTERS INVESTIGATED BY AN OFFICE OF INSPECTOR GENERAL

It is the general policy of OSC not to transmit allegations of wrongdoing to the head of the agency involved if the agency's Office of Inspector General has fully investigated, or is currently investigating, the same allegations.

ENCLOSURE 2

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DISCLOSURE OF INFORMATION

(Please print legibly or type and complete all pertinent items. Enter "N/A" (Not Applicable) or "Unknown" where appropriate.)

PART 1: BACKGROUND INFORMATION

1. Name of person seeking OSC action ("Complainant"): Mr. (☒) Ms. (☐) Mrs. (☐) Miss (☐)

John R. Crane

2. Status:

Current Federal Employee (☐) Applicant for Federal Employment (☐)

Former Federal Employee (☒) Other (please specify):

3. Contact Information:

Home or mailing address: PO Box 7185

McLean, VA 22105

Telephone number(s):
() (Home)
() (Office) Ext.
(202) 372-5321 (Cell)

Fax number:

()

E-mail address: johnrcrane@me.com

4. Current position, title, series, and grade:

N/A

5. Agency Name: N/A

6. Agency Address:

N/A

7. How did you first become aware that you could file a disclosure with OSC?

OSC Brochure (☐) OSC Poster (☐) OSC Speaker (☐) OSC Web Site (☐)

Agency Personnel Office (☐) Union (☐) Co-worker (☒) News Story (☐)

Other (please describe):

Date (approximate):

ENCLOSURE 2

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8. If you are filing this complaint as a legal or other representative of the person making a disclosure, please supply the following information:

Name / title of filer: Mr. (☒) Ms. (☐) Mrs. (☐) Miss (☐)

Tom Devine, Legal Director, Government Accountability Project

9. Contact Information:

Home or mailing address: 1612 K Street, NW Suite 1100

Washington, DC 20006

Telephone number(s): (202) 888-4080 (Home)
(202) 475-0034 (Office) Ext. _____

Fax number: () _____

E-mail address: lomd@whistleblower.org

PART 2: DETAILS OF YOUR DISCLOSURE

1. 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 (☒)

Other employees have told me about events or records involved (☐)

Other source(s) (☐)

(*please explain*):

2. Please identify the U.S. government department or agency involved in your disclosure:

Department of Defense Office of Inspector General

3. Please identify the organizational unit of the department or agency involved:

Principal Deputy Inspector General, General Counsel

4. Address of the organizational unit:

Department of Defense 4800 Mark Center Drive Alexandria, VA 22350-1500

5. Please identify the type of agency wrongdoing that you are alleging (*check all that apply*). If you check "violation of law, rule, or regulation," please provide, if you can, the particular law, rule or regulation violated (by name, subject, and/or citation).

Violation of law, rule, or regulation (☒) (*please specify*): 5 USC 1213

Gross mismanagement (☒) Gross waste of funds (☒) Abuse of authority (☒)

Substantial and specific danger to public health (☐)

Substantial and specific danger to public safety (☐)

ENCLOSURE 2

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6. Please describe the agency wrongdoing that you are disclosing, indicating how the agency's actions fit within the type(s) of wrongdoing that you checked in item 5. *(Be as specific as possible about dates, locations and the identities and positions of all persons named. Also, please attach any documents that might support your disclosure. Continue on a separate sheet of paper if you need more space.)*

See attached cover letter (statement of issues), affidavits and exhibits.

ENCLOSURE 2

AUG 03 2019

PART 3: OTHER ACTIONS YOU ARE TAKING ON YOUR DISCLOSURE

1. I have previously disclosed (or am disclosing) the violations alleged here to (*complete all that apply*):

- () Inspector General of department / agency involved Date: / /
- () Other office of department / agency involved Date: / /
(*please specify*):
- () Department of Justice Date: / /
- () Other Executive Branch / department / agency Date: / /
(*please specify*):
- () General Accounting Office (GAO) Date: / /
- (✓) Congress or congressional committee Date: 09 / 13 / 12
(*please specify member or committee*):
 Senator Grassley/Chairman Levin
- () Press / media (newspaper, television, other) Date: / /
(*please specify*):

2. If you disclosed the information reported here through any other channel described in question 1, above, what is the current status of the matter?

PART 4: CONSENT, CERTIFICATION, AND SIGNATURE

Do you consent to the disclosure of your name to others outside the Office of Special Counsel if it becomes necessary in taking further action on this matter?

I **consent** to disclosure of my name:

Johnrcrane

Signature

02/09/2015

Date

I **do not consent** to disclosure of my name:

Signature

Date

ENCLOSURE 2

AUG 0 1 2015

I certify that all of the statements made in this complaint (including any continuation pages) are true, complete, and correct to the best of my knowledge and belief. I understand that a false statement or concealment of a material fact is a criminal offense punishable by a fine of up to \$10,000, imprisonment for up to five years, or both. 18 U.S.C. § 1001.

Johnrcrane

Signature

02/09/2015

Date

PART 5: PRIVACY ACT / PAPERWORK REDUCTION ACT STATEMENTS

Routine Uses. Limited disclosure of information from OSC files is needed to fulfill OSC's investigative, prosecutorial and related responsibilities. OSC has described 18 routine uses for information in its files in the *Federal Register* (F.R.), at 66 F.R. 36611 (July 12, 2001), and 66 F.R. 51095 (October 5, 2001). A copy of the routine uses is available from OSC on request. A summary of the routine uses appears below.

OSC may disclose information from its files in the following circumstances:

1. to disclose that an allegation of prohibited personnel practices or other prohibited activity has been filed;
2. to disclose information needed by the Office of Personnel Management (OPM) for inquiries involving civil service laws, rules or regulations, or to obtain an advisory opinion;
3. to disclose information about allegations or complaints of discrimination to entities concerned with enforcement of anti-discrimination laws;
4. to the MSPB or the President, when seeking disciplinary action;
5. to the involved agency, MSPB, OPM, or the President when OSC has reason to believe that a prohibited personnel practice has occurred, exists or is to be taken;
6. to disclose information to Congress in OSC's annual report;
7. to disclose information to third parties (without identifying the complainant unless OSC has the complainant's consent) as needed to conduct an investigation; obtain an agency investigation and report on information disclosed to the OSC whistleblower disclosure channel; or to give notice of the status or outcome of the investigation;
8. to disclose information as needed to obtain information about hiring or retention of an employee; issuance of a security clearance; conduct of a security or suitability investigation; award of a contract; or issuance of a license, grant, or other benefit;
9. to the Office of Management and Budget (OMB) for certain legislative coordination and clearance purposes;

ENCLOSURE 2

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10. to provide information from an individual's record to a congressional office acting pursuant to the individual's request;
11. to furnish information to the National Archives and Records Administration for records management purposes;
12. to produce summary statistics and work force or other studies;
13. to provide information needed by the Department of Justice for certain litigation purposes;
14. to provide information needed by courts or adjudicative bodies for certain litigation purposes;
15. to disclose information to the MSPB as needed in special studies authorized by law;
16. for coordination with an agency's Office of Inspector General or comparable entity, to facilitate the coordination and conduct of investigations and review of allegations;
17. to news media or the public in certain circumstances (except when the Special Counsel determines that disclosure in a particular case would be an unwarranted invasion of personal privacy); and
18. to the Department of Labor and others as needed to implement the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Veterans' Employment Opportunities Act of 1998.

Purposes, Burdens, and Other Information. An agency may not conduct or sponsor a collection of information, and persons may not be required to respond to a collection of information, unless it (a) has been approved by OMB, and (b) displays a currently valid OMB control number. The information in this form is collected pursuant to OSC's legal responsibility (at 5 U.S.C. § 1213) to receive disclosures from current or former federal employees, or applicants for federal employment, alleging possible wrongdoing by federal agencies. The information will be used by OSC to determine whether the facts establish that: (a) OSC has jurisdiction over the subject of the disclosure; (b) there is a substantial likelihood that the facts indicate a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety; and (c) referral for investigation by the agency involved, or other appropriate action is warranted. The reporting burden for this collection of information is estimated to be an average of one hour per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the form.

Please send any comments about this burden estimate, and suggestions for reducing the burden, to the U.S. Office of Special Counsel, Legal Counsel and Policy Division, 1730 M Street, N.W. (Suite 201), Washington, DC 20036-4505. Use of this form to report disclosures of information is not mandatory. As indicated in part 4 of the form, filers may request that OSC maintain their name in confidence.

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AUG 06 2019



GOVERNMENT ACCOUNTABILITY PROJECT

1612 K Street, NW, Suite #1100
Washington, DC 20006
(202) 457-0034 | info@whistleblower.org

February 9, 2015

Ms. Carolyn Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, #300
Washington, DC 20036

Re: : John Crane whistleblower disclosure

Dear Ms. Lerner:

Pursuant to 5 USC 1213, Mr. John Crane submits this whistleblowing disclosure to challenge illegality, abuse of authority, gross waste and gross mismanagement at the U.S. Department of Defense (DOD) Office of Inspector General (OIG). Mr. Crane began working at the DOD OIG in October 1988, and from 2004 until his February 13, 2013 resignation he served in a Senior Executive Service position as Assistant Inspector General for Communication and Congressional Liaison. As part of his duties, he oversaw the DOD OIG whistleblower program and supervised Daniel Meyer, who was both the Director of Whistleblowing and Transparency and the DOD Whistleblower Protection Ombudsman.

This disclosure presents evidence of a mission breakdown that continues to undermine the integrity of the DOD OIG whistleblower program. Those primarily responsible for the misconduct were Ms. Lynn Halbrooks, who has been the Principle Deputy Inspector General since 2009 and Mr. Henry Shelley, who has been the General Counsel since 2010, and is the Designated Agency Ethics Official. The misconduct peaked from 2011 to 2013 while Ms. Halbrooks served as Acting Inspector General and was seeking nomination for a permanent appointment.

In support of this 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 stakes cases, disclosures of systematic misconduct in the controversial Trailblazer program that is among the origins of illegal government surveillance. Mr. Crane charges that the OIG violated its confidentiality duties under the Inspector General Act, and engaged in retaliation by referring whistleblowers who worked within the OIG system to the Department of Justice (DOJ) for criminal investigation. The

ENCLOSURE 2

AUG 03 2015

referrals led to an Espionage Act prosecution of NSA whistleblower Thomas Drake that sought 35 years imprisonment. The January 23, 2015 affidavit also summarizes the origins of the breakdown, including conceptual flaws in applying the Whistleblower Protection Act (WPA) burdens of proof in retaliation cases; as well as refusal to refer any cases for investigation by the Civilian Reprisal Investigations (CRI) unit.¹

An October 14, 2014 affidavit, Att. 2, surveys the full scope of DOD OIG misconduct. Mr. Crane charges that Ms. Halbrooks and Mr. Shelley breached their duties through obstructing, censoring or blocking release of five high-profile whistleblower cases, and then reorganized the program to prevent future disclosures. Among the cases was a probe of alleged classified leaks by the then-Secretary of Defense while he served as Director of the Central Intelligence Agency. A DOD OIG investigation found misconduct by the Secretary, but the findings were subsequently removed by Ms. Halbrooks before the DOD IG report was issued. The actions substantiated by DOD OIG investigators would have been a far more serious offense than those alleged against Mr. Drake. Mr. Crane further charges that Ms. Halbrooks and Mr. Shelley similarly undermined the whistleblower program's integrity for investigations of internal affairs misconduct. He traces the motive that Ms. Halbrooks repeatedly expressed -- exposing misconduct through OIG reports would threaten her ability to gain necessary Administration support, including from the Secretary, for nomination as the permanent Inspector General. In numerous contexts, she ordered Mr. Crane to use the whistleblower program to suppress whistleblowing, and whistleblowers, especially with respect to Congress.

His disclosure provides further evidence that Ms. Halbrooks did not stop at covering up cases in her pursuit of the appointment. She also engaged in illegal lobbying activities in pursuit of the nomination. Finally, Mr. Crane's disclosure traces the tactic that Ms. Halbrooks adopted to shield her activities -- management by investigation -- or a steady stream of retaliatory surveillance and probes to identify and remove whistleblowers. Mr. Crane's specific charges are below.

** Long-term conceptual breakdowns in the DOD OIG whistleblower program.*

Misconduct by then Associate General Counsel Shelley immediately undercut the goals of a new Civilian Reprisal Unit created in 2003, responding to concerns by Senator Charles Grassley (R-IA). Most fundamentally, Mr. Shelley, the attorney responsible for the legal sufficiency oversight of OIG administrative investigations, refused to assign cases to CRI, depriving countless civilian whistleblowers of investigations. , Mr. Shelley had imposed the wrong legal burdens of proof on civilian reprisal investigations, replacing the Whistleblower Protection Act standards in Title 5 with the far more difficult Military Whistleblower Protection Act standards in Title 10.

1. Refusal to work with the Civilian Reprisal Investigations unit: In 2004 Mr. Shelley informed Mr. Crane that he would not refer cases to CRI, and refused to work professionally

¹ For clarity, a February 8, 2015 affidavit limited to issues involving the Drake case is enclosed as Attachment 5. Its text is identical to Attachment 1, except for removal of issues unrelated to Mr. Drake.

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with Mr. Meyer throughout the latter's tenure at the OIG. The reason was grounded in personal animus against its director, Daniel Meyer. Shelley shared four reasons why he would not work with Meyer. First, Meyer was openly gay and Mr. Shelley believed that Mr. Meyer had engaged in homosexual conduct when Mr. Meyer had served as a naval officer. During the time when Mr. Meyer served in the Navy, homosexual conduct was an offense and punishable by both imprisonment and removal from service. Second, Meyer had been a whistleblower who had challenged Navy investigative findings following an explosion on the U.S. Iowa, and had subsequently worked for a whistleblower support organization. Third, Mr. Meyer was actively communicating as liaison with Senator Grassley's office in oversight of legal standards and related problems with investigations of civilian and military reprisal cases. Finally, Mr. Shelley believed that Mr. Meyer filed whistleblowing charges about Shelley's behavior as the "Dirty Santa" at an office Christmas party, in which a series of women sat on the lap of Mr. Shelley. He believed that the allegations cost his selection as agency General Counsel. In response, he continued redirecting civilian cases to the Military Reprisal Investigations (MRI) unit for processing. As seen below, the MRI unit acted under different legal standards. None of these reasons were valid to deprive complainants of an OIG investigation under civilian standards by the office with that responsibility. (Att. 1, at 5-7, 10-15)²

2. Substituting military burdens of proof for civilian standards in civil service cases: The CRI was established in direct response to Senator Grassley's concern that the OIG was relying on Title 10 Military Whistleblower Protection Act legal burdens of proof to rule on civil service cases that should be governed by Title 5 Whistleblower Protection Act standards. The latter only requires complainants to establish a *prima facie* case by proving that protected activity was a "contributing factor" to a challenged personnel action, and requires agencies to prove they would have taken the same action for independent reasons in the absence of protected activity. Under the military standard, employees must prove that whistleblowing was the predominant motivating factor in alleged retaliation, and the agency can prove its independent justification by a preponderance of the evidence. This severe handicap was exacerbated by DOD OIG interpretation of the standard to mean accepting at face value proffered agency management excuses as sufficient to meet the preponderance of the evidence standard. "Independent justifications" were accepted without even informing whistleblowers of what they would have argued was pretext. This illegally stacked the deck against whistleblowers, thwarting the cornerstone of the Whistleblower Protection Act of 1989 and made it unrealistic for whistleblowers to prevail when acting on their rights. (Att. 1, at 5-10, 20-21, 41-42)

Upon assuming leadership of the CRI in January 2004, Mr. Meyer learned that Shelley had been substituting military for civilian legal standards for over six years in whistleblower cases. Although then-Inspector General Joseph Schmitz formally corrected the false standard on paper, the practice has continued despite further congressional oversight, as evidenced by ongoing protests from public interest groups and a September 18, 2014 protest from the

² All references to affidavits enclosed as attachments also incorporates associated exhibits on cited pages.

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Chairmen and Ranking Members of four DOD OIG oversight committees. (Att. 1, at 5-9. 15-16, 20-21, 41-42)

** Violating confidentiality duties and causing retaliatory criminal investigations of whistleblowers on the National Security Agency Trailblazer program. Perhaps the most chilling whistleblower retaliation in recent decades was the prosecution of Thomas Drake under the Espionage Act, in which the government sought 35 years imprisonment. Thomas Drake served as material witness in an investigation stemming from a September 2002 DOD OIG Hotline disclosure filed by four whistleblowers of gross waste, gross mismanagement and abuse of authority in the NSA Trailblazer program to analyze information received under mass domestic and foreign surveillance programs. The whistleblowers included former high-level NSA officials William Binney, J. Kirk Wiebe, Edward Loomis, and former House Permanent Select Committee (HPSCI) staffer Diane Roark. The disclosures also were supported by an anonymous NSA "senior executive" later identified as Thomas Drake. In a December 2004 report, OIG audit staff substantially corroborated their concerns.*

However, in December 2005 the Department of Justice opened a criminal investigation into the sources of a New York Times article exposing warrantless wiretapping.. Although the NSA and HPSCI whistleblowers had no involvement with the New York Times story, DOD OIG officials led by Mr. Shelley advocated referring them to the Department of Justice as suspects for the leak. DOD OIG criminally referred them, and all five subsequently suffered FBI raids on their homes. Mr. Drake was indicted on ten felony counts and the Department of Justice sought 35 years of incarceration, most of it under the Espionage Act. The Justice Department's case against Drake collapsed in the days before trial was set to begin, and the government dropped all felony charges in exchange for Drake's plea to a minor misdemeanor having nothing to do with classified information. Mr. Drake's life was devastated, however. Further, the chilling effect on the whistleblower community from working within institutional channels was severe. Mr. Edward Snowden has explained that the retaliation against NSA whistleblowers who worked within OIG channels was a reason he chose to make his landmark domestic surveillance disclosures through the media.

Throughout the process, Mr. Crane challenged systematic OIG misconduct in connection with the NSA disclosures. He warned that the leak prosecution of Drake was the most significant case of its kind since the attempted prosecution of Daniel Ellsberg for release of the Pentagon Papers, and that the OIG appeared to be deeply involved. He challenged whether legal confidentiality rights had been violated, as well as whether there had been retaliatory referral of witnesses for criminal investigation. He challenged the failure to act on whistleblower retaliation complaints that Mr. Drake filed against the OIG. He challenged associated destruction of relevant documents, refusal to address the documents destruction in response to an associated Freedom of Information Act (FOIA) request, and withholding exculpatory evidence for Mr. Drake. In every instance Mr. Shelley rebuffed Mr. Crane, eventually refusing to discuss the case with him. Ms. Halbrooks both as Principal Deputy and as Acting Inspector General, fully supported Mr. Shelle. dShe told Mr. Crane that he was not a "team player," said she would speed up the process to select a new "deputy" to help her control Mr. Crane, and threatened to remove his relevant investigative and FOIA authority. Consistent with a pattern throughout this disclosure, Ms. Halbrooks explained that controversy around the Drake case

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would threaten her ambitions to be nominated as permanent Inspector General. Mr. Crane's specific concerns are listed below.

3. Refusal to investigate whether confidentiality duties had been breached: Immediately after the Department of Justice opened a January 2006 leaks investigation on the *New York Times* warrantless wiretapping story, Mr. Shelley advocated proactively revealing the confidential Hotline whistleblowers' identity to DOJ. Mr. Crane protested that this could violate the identity protection requirements in Section 7(b) of the Inspector General Act. After 2007 FBI raids of the whistleblowers, Mr. Crane inquired about OIG complicity and Mr. Shelley refused to respond. After Mr. Drake's December 2010 retaliation complaint, Mr. Crane again pressed for an investigation of retaliation issues and whether there had been an improper referral. Ms. Halbrooks and Mr. Shelley refused any formal process, explaining that the matter had to be "kept off the IG's desk." (Att.1, at 25-27, 30-32, 40)

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. Halbrooks and Shelley repeatedly refused, and the issue's existence was not recognized in the agency response. They also ordered Mr. Crane not to release even a redacted version of the audit report before completion of the criminal trial, because the information could be viewed as favorable to Mr. Drake. If he did not cooperate, Ms. Halbrooks said she would remove his FOIA duties. (Att. 1, at 24-28, 36-38, 43-44)

5. Refusal to investigate Thomas Drake's retaliation complaint: In December 2010 Mr. Drake charged that the OIG had retaliated against him in connection with his disclosures by, *inter alia*, breaching confidentiality and referring him for criminal prosecution. Again, Halbrooks and Shelley refused to investigate initially, and stalled an investigation for over a year. They informed Mr. Crane that Mr. Meyer was reassigned from the CRI so that he couldn't investigate cases such as Drake's. Ms. Halbrooks also informed Mr. Crane that if he persisted in pursuing formal action, his relevant investigative duties would be removed. (Att. 1, at 30-35, 41-42)

6. Violation of confidentiality responsibilities to NSA whistleblowers: After Mr. Drake's December 2010 reprisal complaint, Mr. Shelley informally confirmed to Mr. Crane that the auditors had "fucked up" by failing to inform the whistleblowers of the limits of their confidentiality protection. There was no formal processing of the discovery, no accountability or corrective action, and Mr. Shelley refused to answer Mr. Crane's requests for specifics on the misconduct. (Att. 1, at 32-33)

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 potentially exculpatory evidence in an ongoing criminal proceeding. Again there was no formal processing of the discovery, no accountability and no corrective action. Mr. Shelley refused to answer Crane's request for detailed facts. (Att. 1, at 32-33)

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** Canceling the integrity of the DoD IG whistleblower program in relation to Congress. Ms. Lynne Halbrooks and Mr. Henry Shelley took actions that compromised and sought to transform the whistleblower protection program into its opposite – a vehicle to identify those who blow the whistle, and to silence their voices. They repeatedly demanded that Mr. Crane, as the Senior Executive supervisor of the Director for Whistleblowing and Transparency, identify confidential whistleblowers to them. More fundamentally, they demanded that he use the program to curtail congressional investigations of the DoD IG, and themselves, by stopping whistleblowing disclosures to Congress. Before forcing Mr. Crane's resignation they also implemented structural reorganizations to remove the whistleblower program's independence, and facilitated retaliation against the Director of Whistleblowing and Transparency, Mr. Daniel Meyer. Ms. Halbrooks repeatedly explained the reason to Mr. Crane: the whistleblower issues could threaten her pursuit of nomination as the DoD permanent Inspector General. For the most egregious examples, Mr. Crane seeks an independent investigation of violations of Executive Order (EO) 12731, abuse of authority, gross mismanagement, and gross waste of funds by Ms. Halbrooks and Mr. Shelley for each of the following cases:*

8. Zero Dark Thirty: This was an investigation into leaks of classified information to a Hollywood filmmaker in order to gain more favorable treatment for the Obama administration in a proposed movie depicting the Navy Seal operation that killed Osama bin Laden.

Examples of misconduct included -- orders by Ms. Halbrooks not to conduct an investigative interview with Secretary of Defense Leon Panetta contrary to normal investigative practice that allows the target of an investigation to provide exculpatory information; refusal to permit interviews of senior staff associated with the Secretary without prior approval by Ms. Halbrooks or Mr. Shelley, contrary to normal investigative practice; refusal to release the report until after Secretary Panetta left office; improperly meeting with key investigative targets, the Secretary and his Chief of Staff, to discuss media coverage of the investigation before the report was released; removal of references and findings concerning the Secretary and the Chief of Staff from the final report; instructions to stop congressional investigation of the case; and instructions to identify the confidential whistleblowers making disclosures to Congress. (Att. 2, at 14-15, 60-72)

9. Retired Military Analysts ("RMA"): This was an investigation into Pentagon contracts with retired military officers to act as expert analysts for television and other media reports on controversial Pentagon actions, allegedly seeking to influence public opinion through the appearance of independent support by surrogate experts while also providing those RMA's an unfair competitive market advantage for contracts on related matters. An initial DoD IG report of 2009 report was retracted due to concerns about its adequacy

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Examples of misconduct included -- deletion of key findings, departure from normal investigative methodology, refusal to include corrective action recommendations; and refusal to disclose or act upon a leak by Mr. Shelley of the draft findings to the *Washington Times* to facilitate a political attack on Senate Armed Services Committee Carl Levin and his staff; and instructions to Mr. Crane that his job as head of the whistleblower program was to curtail any congressional criticism of the report. (Att. 2, at 12-13, 48-60)

10. Dawood Military Hospital: This case involved allegations of neglect and abuse at a hospital treating wounded Afghani soldiers, to the extent that a patient died of starvation due to the inability of the family of the patient to bribe hospital staff.

Examples of misconduct included -- refusal by Ms. Halbrooks to conduct an interview with the chief whistleblower, himself a unit Inspector General; bypassing normal Hotline procedures to process information from the unit IG that could have saved the patient's life; and attempts by Ms. Halbrooks to withhold information requested from Congress in regard to the culpability of the Front Office in not immediately responding to critical health, and safety information regarding patient care at the hospital. (Att. 2, at 15-17, 72-85)

11. Audits: This case involved repeated demands by Senator Grassley to reform the audit program within the DoD IG based on numerous whistleblowing disclosures from DoD IG auditors. Those disclosures resulted in four oversight reports prepared by the staff of Senator Grassley into the integrity of the audit process. Issues included the failure by Ms. Halbrooks to hold accountable those who had caused the audit program to disintegrate.

Examples of misconduct included -- refusal to formally investigate allegations by Senator Grassley that the Deputy for Auditing may have "made false, and/or misleading statements to Congress"; refusal to provide substantive answers or identify responsible officials in response to congressional oversight questions leading Senator Grassley to state on the Senate Floor that "I am getting tired of being jerked around."; instructions that Mr. Crane should "shut down" congressional oversight, investigations and criticism of the audit program; and instructions that Mr. Crane identify the relevant confidential whistleblowers. (Att. 2, at 18-19, 95-101)

12. Military Reprisal Investigations: Congressional oversight investigations, particularly from Senator Grassley, the Government Accountability Office ("GAO") and internal DOD IG reviews all found severe weaknesses in the DoD IG Military Reprisal Investigation ("MRI") program in which Ms. Halbrooks and Mr. Shelley had played leadership roles. Ms. Halbrooks is responsible to supervise the MRI, and Mr. Shelley provides legal support. In 2012 Senator Grassley repeatedly demanded to know who were the "watch-dogs in-charge of MRI" and responsible for the program breakdown; and all oversight offices called for systematic corrective action.

Examples of misconduct included -- refusal to provide substantive responses to Senator Grassley's queries providing the information sought, including causes of the breakdown;

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instructions that Mr. Crane identify relevant, confidential congressional witnesses; refusal to investigate formally or permit any other meaningful steps toward accountability or corrective action; and instructions to Mr. Crane that his duty was to stop further congressional oversight and investigation. (Att. 2, at 19-21, 101-110)

13. Reorganization to eliminate independence of whistleblower program: Ms. Halbrooks and Mr. Shelley abused discretion by reorganizing the program, to prevent the Director of Whistleblowing and Transparency, Mr. Daniel Meyer, from reporting to Mr. Crane and to eliminate Mr. Meyer's investigative independence, which Mr. Crane had shielded. Instead, Mr. Meyer had to report to Mr. Larry Turner, an official without substantive experience who acted as "babysitter" for Mr. Crane. Ms. Halbrooks and Mr. Shelley wanted to stop whistleblowing allegations against themselves, and the ensuing congressional investigations. Ms. Halbrooks, in particular, was concerned that allegations against her could impact her desire to become the permanent IG. (Att. 2, at 10)

Mr. Crane's disclosure demonstrates violations of EO 12731, which states, "Employees shall not use public office for private gain." The misconduct represented abuse of authority, because Ms. Halbrooks and Mr. Shelley arbitrarily sought to deprive the public of impartial, complete fact-finding. The motives were to reinforce her personal ambitions, and to further Mr. Shelley's bias against gay staff and whistleblowers. Their misconduct constituted gross mismanagement in each investigation, because each was a significant case for which the agency mission of full fact-finding as the basis for accountability was sacrificed. Their misconduct represented gross waste of funds, because each major, costly, time-consuming case failed to result in a professionally responsible report and resolution.

"Canceling the integrity of the whistleblower program with respect to internal misconduct. Ms. Halbrooks and Mr. Shelley also violated EO 12371, engaged in abuse of authority, and engaged in gross mismanagement by refusing to act on Mr. Crane's credible allegations of internal misconduct. The targets that they shielded included the Hotline Director and Mr. Turner, whom Ms. Halbrooks had imposed as Mr. Crane's babysitting deputy. Again, the motivation was that addressing alleged misconduct could raise questions about lapses in Ms. Halbrooks' management actions that would threaten her nomination to be the permanent DoD IG Inspector General. The misconduct violated the EO, because it was based on misuse of official authority to further Ms. Halbrooks' personal ambitions. It was abuse of authority, because it discriminated against the victims of internal misconduct, to further the ambitions of Ms. Halbrooks and the interests of managers excused from potential accountability."

14. Refusal to investigate alleged sexual misconduct by a Hotline Director in response to a disclosure. In 2012, a female hotline caller alleged that in response to her disclosure, the then Director had her contact him at his private cell number and during the call told her to masturbate while he listened. Ms. Halbrooks refused to thoroughly investigate alleged sexual abuse of a caller by the Hotline Director, to the point of declining even to check the Director's cell phone

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records. The response was so unprofessional that Senator Grassley sent a May 20, 2013 letter about how the issue was handled. (Att. 2, at 11, 35-36)

15. Refusal to investigate alleged potentially violent, hostile working environment by Mr. Turner. In 2012 Ms. Jennifer Plozai, who worked for Mr. Turner and Mr. Crane, reported the climax of bullying that she believed was degenerating into workplace stalking and possible violence. The abuse allegedly had intensified to shouting and close physical contact, leaving Ms. Plozai in fear of physical danger. Ms. Halbrooks refused to investigate the alleged workplace violence complaint against Mr. Turner, the deputy she had selected to monitor and report on Mr. Crane, despite four written witness statements corroborating the concern. She hypothesized that the conflicts were Ms. Plozai's fault, and further explained that opening an investigation could raise issues threatening to her appointment as permanent IG. (Att. 2, at 17-19, 85-95, 139-41)

** Improperly lobbying by Ms. Halbrooks in pursuit of her nomination as permanent Inspector General. In her campaign to become Inspector General, Ms. Halbrooks did not limit herself to cover-ups of her own misconduct. She also instructed Mr. Crane to engage in improper lobbying to undercut the prospects of a perceived competitor for the permanent IG position; to support Secretary Panetta's efforts to advance his candidate for CIA Director, and to identify whistleblowers whose disclosures were threatening to her. Since her initiatives involved alleged misuse of public office for personal gain, if proven they constitute violations of EO 12731 and abuse of authority. Her demand for confidential whistleblower identities not only was abuse of authority by exposing them, but gross mismanagement for undermining the IG's mission duties to confidential whistleblowers. Two particularly egregious examples should be investigated.*

16. Ms. Halbrooks instructed Mr. Crane to use government resources lobbying NGO's to support her nomination: In 2013 Ms. Halbrooks instructed Mr. Crane as part of his duties to lobby NGO's such as the Project on Government Oversight (POGO) to support her nomination as permanent DoD Inspector General. (Att. 2, at 12)

17. Ms. Halbrooks instructed Mr. Crane to use government resources lobbying Congress against a competitor for the permanent DOD IG nomination: In 2012 Ms. Halbrooks instructed Mr. Crane to lobby Senate Armed Services Committee staff director Peter Levine against the candidacy of Central Intelligence Agency ("CIA") IG David Buckley, whom she believed to be her competitor for the DoD IG nomination. Further, in order to gain favor with Secretary Panetta she instructed Mr. Crane to identify whistleblowers who by contacting the media were undermining Mr. Vickers, the candidate the Secretary was supporting to become the next CIA Director. (Att. 2, at 12, 45-47)

** Abuse of authority connected with harassment. In response to whistleblowing disclosures and Mr. Shelley's anti-gay obsession, Ms. Halbrooks and Mr. Shelley carried out her threat to "manage by investigation." A steady campaign of retaliation investigations and associated harassment ensued. While most of the ensuing misconduct involved personnel actions, abuse of authority also took place without engaging in prohibited personnel practices. The more egregious examples are listed below for investigation under section 1213.*

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18. Abuse of process in selection of Mr. Larry Turner as Mr. Crane's deputy: In addition to undermining the whistleblower program's independence, Ms. Halbrooks and Mr. Shelley abused their authority through the process they used to hire Mr. Larry Turner as Mr. Crane's deputy and "babysitter." Specifically, Ms. Halbrooks and Mr. Shelley abused their authority by canceling the selection process without basis after the first interview despite Mr. Crane's confidence in a candidate to work as his assistant, and by Ms. Halbrooks and Mr. Shelley serving as both the proposing and deciding officials for the final selection of Mr. Larry Turner. Both actions were designed to discriminate against Mr. Crane and the whistleblower program by reducing its independence so it could not threaten Ms. Halbrooks. (Att. 2, at 4-5, 22-29)

19. False statements to the Department of Transportation ("DoT") Office of Inspector General ("IG"): In order to undermine Mr. Crane's credibility, Ms. Halbrooks and Mr. Shelley made knowingly false statements to the DoT IG. They denied the existence of the first interview process, and they asserted that Mr. Crane selected Mr. Turner as his top choice for the job. (Att. 2, at 7, 9-10, 41, 132-136)

20. DOT IG failure to follow professional investigative standards. At the request of Ms. Halbrooks and Mr. Shelley, the Committee of Inspectors General for Integrity and Efficiency ("CIGIE") responded to Mr. Crane's request for an investigation of Mr. Turner for allegedly making physical contact with Mr. Crane. The ensuing retaliatory investigation was a shameless witch hunt to create a false pretextual investigative record that would force Mr. Crane's removal, which it did. The retaliatory investigation itself and associated prosecutive referral both are jurisdictional as threatened personnel actions under the Whistleblower Protection Act. However, there was associated abuse of authority that is jurisdictional only under section 1213.

Before accusing Mr. Crane of false statements, the DoT IG investigative team failed to conduct a second interview to clarify initial responses as promised, failed to accept supplemental evidence as promised, and consistently violated all the other CIGIE standards for a responsible, professional investigation. (Att. 2, at 39-43)

21. Surveillance of IG staff to identify whistleblowers. While Mr. Shelley was Deputy General Counsel, he took part in a sweep of all DoD IG staff emails in an effort to identify whistleblowers. This was an abuse of authority that invaded the privacy of all DoD IG employees. The then Inspector General attempted to curb the abuse by signing out a directive stating that only the Inspector General had the authority to authorize the monitoring of e-mail. Ms. Halbrooks and Mr. Shelley had a subsequent Inspector General change the policy, so that Ms. Halbrooks and Mr. Shelley had authority to monitor e-mails. In that regard, starting in October 2010, Ms. Halbrooks and Mr. Shelley requested Mr. Crane to allow monitoring of all e-mails received by the Director for Whistleblowing and Transparency in order to identify whistleblowers within the DoD IG. Mr. Crane did not give his consent. (A22. 2, at 4). The actions violated the OSC's June 2012 directive against blanket surveillance.

Although the OSC does not have a published standard for "substantial likelihood" assessments to order a full investigation under 5 USC 1213(c), this case should qualify under any reasonable standard. Mr. Crane has made his disclosure under oath, supported his charges with

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documentary evidence and statements from supporting witnesses, including from the Director of Whistleblowing and Transparency. His disclosures consistently were supported by oversight investigations conducted by the staff of Senator Grassley, now-Chairman of the Senate Committee on the Judiciary. Indeed, Senator Grassley's December 4, 2014 Senate floor statement (Attachment 3) and report (Attachment 4) are heavily based on Mr. Crane's disclosures. But the WPA disclosure channel is necessary, because to date there neither has been an adequate record, nor meaningful corrective action for severe misconduct. As Senator Grassley stated on December 4:

[T]he highly-sanitized [Zero Dark Thirty] report that was finally issued on June 14, 2013 – six months after it was finished ... is a second-class piece of work that is not worth the paper it is written on....The project was an unmitigated disaster spawned by a series of top-level missteps and blunders. All the wasted energy and blundering produced nothing better than internal confusion, turmoil, dissent, and even more alleged misconduct. Two years worth of hard work and money was poured down a rat hole.

Mr. Crane requests that the Special Counsel begin the process of developing an accurate, complete record for corrective action necessary to restore the credibility for the whistleblower mission of the DoD IG.

Respectfully submitted,



Thomas Devine
Counsel for Mr. Crane

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

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

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23/07/18.09

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

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23/07/18.05

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

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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.

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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

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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

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23/07/18.05

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You are currently on an OSC Unclassified Internet Site. As such, the information you are viewing is designed to convey only information pertaining to the filing of disclosures that do not contain classified information. You may not disclose classified information or file or submit a classified disclosure form via the Disclosure of Information form (OSC Form 12) on this web site. If your disclosure concerns both classified and unclassified information, you can submit unclassified information using the disclosure form and make arrangements to submit the classified information to OSC in accordance with governing laws and regulations.

If you are seeking to make a disclosure involving classified information, you can report this information to OSC using appropriate secure channels. If you have questions about how to disclose classified information to OSC or would like to make arrangements to submit a disclosure containing Secret or Top Secret classified information, you may contact OSC's Disclosure Unit at 1-800-572-2249 (unsecured line).

OSC Staff are available for assistance. You may contact the Complaints Examining Unit (CEU) Hotline at 1-800-872-9855 or the Disclosure Unit Hotline at 1-800-572-2249.

Form 12 Complete!

You have successfully filed a Form 12 with the OSC. You will receive an e-mail acknowledgement with your case number.

[Exit OSC Form 12](#)

page 12-2

Logged in as John Crane (johnrcrane@me.com)

Last Updated: 01/07/2010

ENCLOSURE 3

AUG 03 2019

E-Filing form printed on 7/18/2018 11:36 AM

Form12 7/17/2018 Disclosure Number: DI-18-4904 dtd 23 Jun 2018 (205 JD)

Status Submitted

Original Entry Date 7/17/2018 2:50 PM

Last Modified 7/18/2018 7:17 AM

Case Number

User Information

Darrell Whitman

whitmandarrell45@gmail.com

A summary of the data you entered:

Name of the person seeking OSC action ("Complainant"): prefix
Dr.

Name of the person seeking OSC action ("Complainant"): First name
Darrell

Name of the person seeking OSC action ("Complainant"): Middle name

Name of the person seeking OSC action ("Complainant"): Last name
Whitman

Name of the person seeking OSC action ("Complainant"): Suffix

Status: Other (For Other, please specify)

Contact Information: (Home or mailing address): Street
109 Monte Cresta Ave,

Contact Information: (Home or mailing address): Apt No
12

Contact Information: (Home or mailing address): City
Oakland

Contact Information: (Home or mailing address): State
California

ENCLOSURE 4

AUG 06 2019
Enclosure (08)
JOHN R. CRANE

Contact Information: (Home or mailing address): Zipcode
94611

Contact Information: (Home or mailing address): Country
UNITED STATES

Phone Number: International Number
True

Phone Number: Country Code
373

Phone numbers: Home

Phone numbers: Home Ext

Phone numbers: Work

Phone numbers: Work Ext

Phone numbers: Cell
(373) 602-8361

Phone numbers: Cell Ext

Phone numbers: Fax

Phone numbers: Fax Ext

Phone numbers: Other

Phone numbers: Other Ext

Email: Email
whitmandarrell45@gmail.com

Title
Regional Investigator

ENCLOSURE 4

AUG 08 2019

JOHN R CRANE

Series
GS-0905

Grade
GS-12

Agency: Name
Department of Labor

Agency: Component Name
Occupational Safety and Health Administration

Agency: Street
200 Constitution Avenue, NW

Agency: Apt No
Room Number N3626

Agency: City
Washington

Agency: State
District of Columbia

Agency: Zipcode
20210

Agency: Country
UNITED STATES

Outreach: For Other, please describe:

Outreach: Date (approximate):
1/2/2015

Are you filling as an attorney of the Complainant?
False

Attorney: prefix

Attorney: First name

ENCLOSURE 4

AUG 09 2019

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):

ENCLOSURE 4

AUG 06 2019

JOHN R CRANE

Please identify the U.S. government department or agency involved in your disclosure

Department of Labor

Please identify the organizational unit of the department or agency involved
Occupational Safety and Health Administration

Address of the organizational unit

U.S. Department of Labor Occupational Safety & Health Administration 200
Constitution Avenue, NW Room Number N3626 Washington, D.C. 20210

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):
5 U.S.Code, Sec. 1213

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

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

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

Please identify the type of agency wrong doing that you are alleging
Substantial and specific danger to public health

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

ENCLOSURE 4

AUG 06 2013

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

ENCLOSURE 4

AUG 03 2019

JOHN R. CRANE

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?

Consent

I consent to disclosure of my name

ENCLOSURE 4

AUG 06 2019

XXXX XXXX

Signature

dwhitman45

Status

Former Federal Employee

Outreach: How did you first become aware that you could file a complaint with OSC?

OSC Web Site

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

ENCLOSURE 4

AUG 06 2019

ROUND BOARD

E-Filing form printed on 7/26/2018 4:05 PM

Form12 7/18/2017 **Disclosure Number:** DI-18-5016 dtd 27 July 2018 (209 JD)

Status Submitted

Original Entry Date 7/18/2017 9:24 AM

Last Modified 7/26/2018 1:32 PM

Case Number

User Information

Adam Lovinger

oslinger1@gmail.com

A summary of the data you entered:

Status

Current Federal Employee

Outreach: How did you first become aware that you could file a complaint with OSC?

Co-Worker

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

Name of the person seeking OSC action ("Complainant"): prefix

Mr.

Name of the person seeking OSC action ("Complainant"): First name

Adam

Name of the person seeking OSC action ("Complainant"): Middle name

Name of the person seeking OSC action ("Complainant"): Last name

Lovinger

Name of the person seeking OSC action ("Complainant"): Suffix

Status: Other (For Other, please specify)

Contact Information: (Home or mailing address): Street

4700 Langdrum Lane

Contact Information: (Home or mailing address): Apt No

Contact Information: (Home or mailing address): City

Chevy Chase

Contact Information: (Home or mailing address): State

ENCLOSURE 5

AUG 08 2019
Enclosure (10)

Maryland

Contact Information: (Home or mailing address): Zipcode
20815

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) 716-4379

Phone numbers: Cell Ext

Phone numbers: Fax

Phone numbers: Fax Ext

Phone numbers: Other

Phone numbers: Other Ext

Email: Email
oslinger1@gmail.com

Title
Foreign Affairs Analyst

Series
GS-1500

Grade
GS-15

Agency: Name
Department of Defense

ENCLOSURE 5

AUG 06 2019

JOHN R CRANE

Agency: Component Name
Washington Headquarters Services

Agency: Street
The Pentagon

Agency: Apt No

Agency: City
Washington

Agency: State
District of Columbia

Agency: Zipcode
20136

Agency: Country
UNITED STATES

Outreach: For Other, please describe:

Outreach: Date (approximate):
7/12/2017

A you filling 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

ENCLOSURE 5

AUG 05 2019

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
OSC

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

Address of the organizational unit
1730 M Street NW, Washington DC

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):

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 the full knowledge of the U.S. Special Counsel, Henry Kerner; Principle Deputy Special Counsel, Tristan Leavitt, Associate Special Counsel, Anne Wagner; occurring within the U.S. Special Counsel's Disclosure Unit (DU), under the direct leadership of Catherine A. McMullen.

ENCLOSURE 5

AUG 08 2019

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In violation of Federal law, I believe there is a pattern of the U.S. Special Counsel's Disclosure Unit (DU) intentionally 1) subverting the effectiveness the Federal Merit System, 2) violating the safe channel provision of the Whistleblower Protection Act (WPA), 3) denying individual Whistleblower due-process rights.

Write the fact that the law [5 USC 1213(b)] clearly states that the OSC's Disclosure Unit (DU) "... shall review such information, and, within 45 days after receiving the information, determination whether there is a 'substantial likelihood' that the information discloses a violation of law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety;" the OSC's Disclosure Unit (DU) continues to intentionally obfuscate/delay the legal mandate for making "substantial likelihood" findings, within 45 day of receipt, for months to years.

The OSC's inability/reluctance to perform its basic mandate as required by Congress ensures that:

A) Proper Federal Executive Agency Head Notification and demand for 60 day investigation into credible reports of agency wrongdoing does not occur; and

B) Federal Executive Agency Heads are kept in the dark;

C) N Obstructing the creation of a legitimate investigative record, thus ensuring that individual due-process rights of each Whistleblower, using the OSC as a safe channel to report wrongdoing, is irrevocably compromised [5 USC 7515(b)(1)(B)].

D) By intentionally delaying by months (and even years) the 45-day "substantial likelihood" determination process, agency investigators will be unable to properly make "substantial likelihood" Determinations on the "substantial likelihood" Findings received from the U.S. Special Counsel (OSC).

The action/inaction of the U.S. Special Counsel (OSC) also directly violates both the Merit System Principles (MSP) and serves as a Prohibited Personnel Practice (PPP), see [5 USC 2302(b)(12)], for each federal Whistleblower denied due-process under the U.S. Office of Special Counsel (OSC).

Due to my first hand knowledge and belief of the severity and systemic nature of this problem an:

i) Investigation into the internal operations of the U.S. Special Counsel; as well as, Chief Executive Notification should be performed immediately.

ii) Independent Reconciliation Commission, appointed by the Chief Executive, should also be established to formally review all Whistleblower Disclosures submitted to the U.S. Special Counsel for the last eight years.

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

ENCLOSURE 5

AUG 06 2019

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?

Consent

I consent to disclosure of my name

Signature

oslinger1

ENCLOSURE 5

AUG 08 2019

JOHN R CRANE

Address on the reverse
Turn the card to you.
■ Attach this card to the back of the mailpiece,
or on the front if space permits.

1. Article Addressed to:

Honorable Chuck Grassley
135 Hart S013
Washington, DC 20510



9590 9402 5039 9092 0527 32

2. Article Number (Transfer from service label)

7018 2290 0000 7017 8336

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

Signature: *[Signature]*
☒ Agent
☐ Addressee
B. Received by (Printed Name) *George Dymally*
C. Date of Delivery *8/14/19*
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type
- | | |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

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WASHINGTON, DC 20510

Certified Mail Fee \$3.50
\$47.50
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$0.00
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00

Postage \$7.85
Total Postage and Fees \$14.15



Sent To
Honorable Chuck Grassley
Street and Apt. No., or PO Box No.
135 Hart S013
City, State, ZIP+4®
Washington, DC 20510

PS Form 3800, Apr. 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7018 2290 0000 7017 8336