

20 May 2020

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Honorable Charles E. Grassley
President pro tempore
S-125 Capitol Building
Washington, DC 20510-7000

SUBJECT: COLLABORATIVE INTER-AGENCY EFFORT BY STATUTORY INSPECTORS GENERAL TO OBSTRUCT THE FEDERAL INVESTIGATIVE PROCESS (ADMINISTRATIVE/CRIMINAL) TO DEGRADE THE EVIDENTIARY BASE (WITNESS STATEMENTS/DOCUMENTATION) REQUIRED TO PROPERLY SUBSTANTIATE OR NON-SUBSTANTIATE INDIVIDUAL ALLEGATIONS AND DISCLOSURES OF WRONGDOING MADE AGAINST RESPONSIBLE MANAGEMENT OFFICIALS OPERATING UNDER COLOR OF OFFICE (18 U.S.C. § 1505)

Senator Grassley,

1. This is my third letter informing you of the failure of the statutory Inspectors General and the U. S. Special Counsel (OSC) to safeguard the Merit System and protect federal whistleblowers; as well as to acknowledge your decades-long support of federal whistleblowers. [See: enclosure 1 and 2.]

2. I request that you sponsor immediate oversight hearings to address fatal legislative infirmities that threaten the independent federal investigative process (Administrative/Criminal) with authorities contained within the Inspector General Act (IG Act) of 1978, as amended; Whistleblower Protection Act (WPA), as amended, and the Office of Special Counsel Reauthorization Act of 2017.

3. Additionally, I request your professional staff investigate criminal manipulation of the federal investigative process (Administrative/Criminal) clearly articulated in several federal whistleblower disclosures identifying coordinated interagency efforts by statutory Inspectors General/U.S. Special Counsel (OSC) to obstruct the federal investigative process (Administrative/Criminal) in an effort to degrade the evidentiary base (witness statements/documentation) required by investigators to properly substantiate and/or non-substantiate individual allegations or disclosures of wrongdoing leveled against responsible management officials operating under color of office.

4. I have attached my disclosure to **Michael J. Regis** informing him of the collective failure of Chairpersons **Michael E. Horowitz/Allison C. Lerner**, Council of Inspectors General on Integrity and Efficiency (CIGIE); **Scott S. Dahl/Deborah J. Jeffrey**,

Chairpersons CIGIE Integrity Committee (IC); and **Henry J. Kerner/Ellen Chubin Espstein**, U.S. Special Counsel/Principal Deputy Special Counsel (OSC) to safeguard the merit system and protect federal whistleblowers from retaliation for reporting serious criminal misconduct (18 U.S.C. 1505) occurring within the membership of the CIGIE and Office of Special Counsel (OSC). [See: enclosure 3.]

5. I am immediately available to meet with your staff to provide documentation that includes the names of other whistleblowers who have experienced similar patterns of misconduct by multiple Inspectors General and Special Counsel, **Henry J. Kerner**.

Very Respectfully,



John R. Crane

Enclosures:

- (1) Senator C.E. Grassley to J.T. Rymer DoD IG ltr on Acting DoD IG L.M. Halbrooks Direct Management of Congressionally Mandated Investigation (Zero Dark Thirty Report) dtd 17 Nov 2014
- (2) J.R. Crane ltr to Senator C.E. Grassley Request for Oversight Hearings dtd 14 August 2019
- (3) J.R. Crane ltr to M.J. Regis Acting Deputy Director of Management OMB, Acting Director OPM, and Executive Chairperson Council of Inspectors General on Integrity and Efficiency (CIGIE) dtd 15 May 2020

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

Kristine J. Lochis, *Chief Counsel and Staff Director*
Koum L. Davis, *Republican Chief Counsel and Staff Director*

November 17, 2014

Transmitted Electronically

Mr. John T. Rymer
Inspector General
Department of Defense
4800 Mark Center
Alexandria, VA 22350

Dear Inspector General Rymer,

I have concluded my oversight review of actions taken by former Acting Inspector General (IG) and current Principal Deputy Inspector General (PDIG) Lynne Halbrooks on her direct management of the Release of Department of Defense (DOD) Information to the Media, also known as the Zero Dark Thirty (ZDT) report.

I undertook this inquiry because I received reports from whistleblowers 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.¹ Senior officials, including former Central Intelligence Agency (CIA) Director and DOD Secretary Leon Panetta and Under Secretary for Intelligence (USDI) Michael Vickers, were accused of allegedly making unauthorized disclosures of highly classified information on the Osama bin Laden raid. These alleged disclosures could have placed DOD Special Operations personnel and their families in harm's way. Concurrent with the ZDT investigation, PDIG Halbrooks was being vetted for the DoD IG nomination. The convergence of these potential conflicts-of-interest needed scrutiny. My main concern was that she may have handled these conflicts in ways that could compromise the integrity and independence of the Inspector General's Office (OIG).

To address and resolve these questions, my staff examined evidence and documents provided by whistleblowers and official sources. In addition, they interviewed a number of witnesses who were directly involved in the management, preparation, and review of the report. After an in-depth evaluation of the information presented, my staff identified nine potential red flags or trouble spots in the handling of the ZDT report by top management in the Office of the Inspector General (OIG).

These areas of potential concern fall into four broad categories: 1) Impairment of IG independence and lack of commitment to the spirit and intent of the IG Act; 2) Weak leadership; 3) Mismanagement; and 4) Waste of time and money. The major red flags are as follows:

¹ Anonymous, "sitting on report" email message to Senator Grassley's staff, December 14, 2012; Whistleblower, interview by Senator Grassley's staff, September 13, 2014.

Enclosure (1)

- There are unexplained delays in publishing a controversial report on alleged misconduct by the Secretary and Under Secretary of Defense;
- There may have been improper contacts with targets of the ongoing investigation;
- Senior management failed to promptly implement a “long-standing Department policy” mandating the removal of sensitive information from the report prior to publication;
 - That policy required that all derogatory information pertaining to unauthorized disclosures by senior officials be removed from the report;
 - The removal of this information essentially gutted the report and rendered it unfit for publication;
 - Neither the requirement for nor the impact of this policy was ever communicated to the staff responsible for producing and editing the report;
 - Senior management allowed the draft report and media talking points to be prematurely circulated externally before completing the mandated edits;
 - Since the preparation of the press package is typically the last and final step in the report review process before release, this misstep caused widespread turmoil and confusion;
 - This series of missteps caused the investigative and support staff to mistakenly believe that the report was ready for issue;
 - When the report was not released promptly, whistleblowers contacted my office to report a suspected cover-up and leaked the report to POGO;
- An official was assigned to lead the project, who lacked relevant professional experience, and then top management failed to exercise due diligence over his day-to-day work and progress on the report to ensure that he followed established protocols;
- Precious time and money was wasted producing a report of questionable value due, in part, to a failure to conduct effective coordination with counterparts at the CIA OIG to resolve jurisdictional issues before the investigation started;
- The Director of Whistleblowing and Transparency was accused of making false statements without proper justification or credible evidence, which might have led to his termination were it not for your intervention;

These areas of potential concern were boiled down to nine conclusions. These are laid out in the attached staff report along with the underlying rationale for each one. Some corrective action, including an appropriate measure of accountability, appears to be justified. If misconduct and/or mismanagement occurred in the handling of the ZDT report, then PDIG Halbrooks and Deputy IG James Ives, both of whom led the ZDT review, would appear to be chiefly responsible for whatever happened. Also, my staff raises a legitimate point about whether the “long-standing practice” of removing sensitive information from reports should be applied to senior officials like the Under Secretary of Defense for Intelligence. This practice needs independent review and possible modification.

In summary, proof of weak leadership, mismanagement, and lack of independence are reflected in the end-product: the highly-sanitized ZDT report that was finally issued on June 14, 2013 – six months after it was finished. It was a second-class report that is not worth the paper on which it was written. The ZDT project was an unmitigated disaster spawned by a series of top-level missteps and blunders. All this wasted energy produced nothing better than confusion, turmoil, dissent, and more alleged misconduct. In addition, a valued employee with unique and unparalleled knowledge of whistleblowing and a rock-solid commitment to fair treatment of whistleblowers would have been fired were it not for your intervention.

The Inspector General's office needs strong leadership. Those leaders must have the courage to tell it like it is and to report promptly to the agency head and Congress with recommendations for corrective action. This is especially true when it comes to reporting alleged misconduct of top officials, like the Secretary and Under Secretary of Defense. They must find a way to strike a fair balance between shielding alleged misconduct of top officials while honoring the taxpayer's right to know how senior officials are spending their money.

When top government officials, like the Secretary and Under Secretary of Defense, stand accused of misconduct, there should be some accountability to the public. Thus far, in this matter, there has been none. By comparison, former Deputy Secretary of Defense and CIA Director Deutch mishandled highly classified information and got hammered for doing it. He lost his clearance for six years and came close to prosecution. Unlike the Zero Dark Thirty leaks, that matter was dealt with effectively and aired in public. Those lessons seem to have been forgotten.

The ZDT model was wasteful of the taxpayers' money and harmful to the perceived independence of the IG's office. It should be used as an educational tool to teach OIG employees how not to conduct sensitive investigations of alleged misconduct by senior officials.

IG Rymer, your patience with and support of this oversight review is deeply appreciated. The report prepared by my staff is attached. It is offered for further review and consideration.

Your attention to these matters would be appreciated.

Sincerely,


Charles E. Grassley
Ranking Member

Attachments

- A. Staff Report
- B. Sensitive information removed from the report

Attachment A: Staff Report

Synopsis

The ZDT report was energized by the “hemorrhage of leaks”² of highly classified information by senior officials after the Osama bin Laden raid in May 2011. Congressman King, Chairman of the Committee on Homeland Security, formally requested an investigation of the alleged leaks. His letter to the DOD and CIA IG’s dated August 9, 2011, expressed grave concern about a news report suggesting that Hollywood filmmakers were given “top-level access to the most classified mission in history.”³ He was seeking an assessment of potential damage to intelligence collection and covert operations. The King letter triggered two investigations – one by the CIA IG and the other by the DOD IG. The focus of this report is the DOD OIG inquiry. It was assigned to the directorate for Intelligence and Special Program Assessments (ISPA) and was ultimately led by Mr. James Ives and managed directly by Acting and Deputy IG Halbrooks.⁴

On December 16, 2011, the DOD OIG announced that the ISPA review would begin “immediately” and would be “coordinated” between the two IGs.⁵ ISPA prepared a report. After it was declared unclassified by the Pentagon Security Office on November 9, 2012, a “coordination package” was developed, which included a publicly-releasable version, talking points for reporters, and transmittal memos to the Defense Secretary and Chairman King.⁶ This package was circulated internally for “final review and clearance.”⁷ The next and final step was submission to PDIG Halbrooks as a request for release. By some measures, the report was ready for issue in November-December 2012.⁸ However, in fact, it was not ready. There was a major foul-up. The report review process was bungled from start to finish. All the derogatory information on unauthorized disclosures of highly classified information by the senior officials, including Secretary Panetta, listed in Attachment B still had to be stripped from the report before it could be published. This Draconian measure, which gutted the report, was mandated by a “long-standing Department policy” – guidance well known to both Halbrooks and Ives.⁹ They should have applied it to the report at the front-end of their review in July-August 2012. Both failed to communicate this need to the investigative team and others who needed that information to execute the policy and do their jobs. The result was wasted time and money. There appears to be no reasonable explanation for what happened.

² Draft of DOD OIG report 2013-092, issued by POGO on 6/4/13, p.2.

³ King letter to DOD and CIA IG’s, August 9, 2011.

⁴ Mr. Jon Rymer was confirmed as DOD IG on September 17, 2013.

⁵ DOD OIG Memo signed by DIG ISPA Brannin, December 16, 2011.

⁶ Whistleblower, affidavit presented to Senator Grassley, May 5, 2014; [REDACTED] DAIG ISPA, interview by Senator Grassley’s staff, September 4, 2014; James Ives, DIG, interview by Senator Grassley’s staff, September 10, 2014; DOD IG ISPA Timeline, provided to Senator Grassley’s staff, September 9, 2014.

⁷ Whistleblower, affidavit; Ives, interview; [REDACTED] interview; DOD IG ISPA Timeline.

⁸ Ives, interview; [REDACTED] interview.

⁹ Lynne Halbrooks, PDIG, interview by Senator Grassley’s staff, June 2, 2014; Ives, interview.

Deputy Ives finally began the mandated “substantive review” in mid-December and finished it by early January 2013.¹⁰ However, the report did not regain forward motion until after Secretary Panetta retired on February 27, 2013.¹¹ Halbrooks’ claims she did not receive it until March 25, 2013.¹² The three-month delay in reaching her desk and subsequent delays until June remain substantively unexplained.¹³ Aside from a few minor edits, there is no record of significant edits between mid-December and publication in June 2013.¹⁴ These facts create the perception that the review process was slowed by PDIG Halbrooks and others at her direction to shield DOD officials from scrutiny and perhaps to help her gain the IG nomination. These facts, when combined with her contacts with targets of the investigation, raise issues about IG independence. Similarly, the possible misuse of the policy requiring the removal of misconduct allegations from reports points to another facet of the perceived independence issue. In addition to creating confusion at the working-level, it may have caused whistleblowers, who thought the report was ready for issue, to perceive a cover-up and leak what they believed to be a final version to the Project on Government Oversight (POGO). About a week after the report appeared on the POGO web site, the IG’s office finally issued a highly sanitized version of the report and subsequently launched an internal inquiry to find the leaker, but none was found.

Conclusion # 1 - Lack of effective coordination with the CIA IG wasted time and money

The need for coordination was crystal clear. First, the inquiry crossed the lines of jurisdiction between two major agencies. Second, the alleged misconduct of the principal subject, Mr. Panetta, occurred while he was CIA Director and reportedly could not be investigated by the DOD IG, a fact relayed to Senator Grassley’s staff on several occasions during my investigation. In addition, the investigation into the leaks did not begin until after he had resigned his post with the CIA to become Secretary of Defense. Clearly, coordination was essential to untangle these thorny jurisdictional issues.

While some coordination occurred between the DOD and CIA OIGs, based on contradictory statements, it is difficult to determine how much actually took place. The August 8, 2014, letter from the DOD IG stated: “Based on the structure of Chairman King's questions, consultation and coordination between DOD OIG and CIA OIG about which office would answer specific questions was not required and did not occur.”¹⁵ That letter also states, however, that at least one meeting was held between the PDIG Halbrooks and CIA IG Buckley in August 2011.¹⁶ It was agreed that each organization would exchange a copy of its initial correspondence to King and that members of the ISPA investigative team would interact at the staff level with members of CIA OIG at various points to exchange information related to field work. Regardless of how much coordination ultimately occurred, the failure on the part of Halbrooks to anticipate the need for coordination up-front had disastrous consequences.

¹⁰ Ives, interview.

¹¹ DOD IG ISPA Timeline.

¹² Halbrooks, interview; DOD IG ISPA Timeline.

¹³ DOD IG Jon Rymer, letter to Senator Grassley, August 8, 2014.

¹⁴ DOD IG ISPA Timeline.

¹⁵ DOD IG Jon Rymer letter, August 8, 2014.

¹⁶ DOD IG Rymer, letter.

On September 18, 2012, just as the DOD OIG report was being readied for classification review, a final decision was made to refer the Panetta allegations back to the CIA OIG. According to DIG ISPA Ives, who was in charge of the project, a preliminary decision to do this had been made as early as August 3rd, 2012.¹⁷ This decision meant that all the information relative to the alleged misconduct of the Secretary and that of his Chief of Staff, Jeremy Bash, had to be stripped from the report. That included an interview by DOD OIG personnel of Chief of Staff Bash whose actions occurred while still an employee at the CIA. When that sanitization process was completed three months later, there was very little of substantive value regarding leaks left in the report.

A more positive attitude about the need for coordination on the part of Deputy Halbrooks might have helped to avoid this wasteful exercise by at least ten DOD IG employees and also helped to bring the DOD OIG's responsibilities into much sharper focus much sooner. The alleged misconduct by USDI Vickers should have been the sole focus of the report. Addressing the alleged misconduct by Secretary Panetta and his Chief of Staff Bash was the responsibility of the CIA IG. This matter should have been resolved right up-front.

Conclusion # 2 – Ives appointment to oversee the project was inappropriate

Mr. James Ives, a Deputy Director in the Defense Criminal Investigative Service (DCIS), a Senior Executive Service (SES) position, was selected to succeed Deputy IG (DIG) for Intelligence and Special Program Assessments (ISPA), Ms. Patricia Brannin, who retired on June 29, 2012. Mr. Ives assumed her management responsibilities as a detailee in the position of Acting DIG ISPA on July 1, 2012. Those included leadership of the ZDT investigation. Mr. Ives' previous experience included 20 years of service with DCIS as a Special Agent and senior manager. According to Mr. Ives, after learning of Ms. Brannin's pending retirement, he actively sought this temporary assignment with the assistance and support of DIG Halbrooks.¹⁸

The selection of Mr. Ives for this unique assignment is cause for concern.

While his investigative experience in the DCIS arena is impressive and he conducted himself with competence and professionalism during the interview, he was not well-qualified to lead a leak investigation of a top agency official like the Secretary or Under-Secretary of Defense.¹⁹ As IG Rymer pointed out during the Ives interview, the ISPA directorate has a specialized mission. It conducts evaluations, which are very different from criminal investigations – Mr. Ives' specialty.²⁰ It is unclear how Mr. Ives could be expected to readily adapt to the ISPA mission and lead the project with no relevant ISPA experience. Nor is it easy to comprehend how his selection over a project being conducted by evaluators and auditors would be mutually beneficial.

¹⁷ Ives, interview.

¹⁸ Ives, interview.

¹⁹ Ives, interview.

²⁰ Ives, interview.

During her interview, Halbrooks even referred to the ZDT team as a “junior team” doing sub-standard work and lacking a highly qualified top-level manager.²¹ [REDACTED] but at that point, it may have been too late.²²

Further, at the time of Mr. Ives’ selection, it was the understanding of the Office of General Counsel (OGC) and PDIG Halbrooks, through their interpretation of applicable law, that due to federal law enforcement service requirements, he could only remain as a detailee in this position for four months.²³ In July, at the start of his appointment, the ZDT investigation was ongoing and had reached critical mass. A preliminary draft report was about ready for review. However, the likelihood of Ives being able to see this project through to the end was not high if he was to be limited by a four-month detail. To further complicate the selection of Mr. Ives, despite the OGC’s interpretation of the law, Ives returned to his full time duties of Assistant IG of Investigations *but continued to oversee* this major report as a secondary responsibility.²⁴

All of these shortcomings occurred under the direct supervision of PDIG Halbrooks.

The appointment of Ives to this project as a four-month detailee, through no real fault of his own, was a recipe for disaster. PDIG Halbrooks should have recognized the shortcomings of appointing Ives from the beginning. The four-month limitation on his appointment, as interpreted by the DOD OIG OGC, should have been an automatic disqualifier. A project of this importance and sensitivity demanded a highly-competent, full-time manager with institutional knowledge of and experience with evaluations. Above all, the project needed a manager who would be able to see the project through to a successful conclusion.

Conclusion #3 – Ives mismanaged the report review process

Once Mr. Ives assumed his position over ISPA, he stated that his priority was to get the report out before his temporary assignment ended.²⁵ During his interview, Mr. Ives repeatedly expressed an overriding desire to keep the project moving forward, to expedite the process, and finish it before he left.²⁶ This blind desire allowed for innumerable problems to surface. He lost sight of his primary responsibilities in the report writing process. He failed to follow established report-writing procedures and failed to communicate effectively with his staff. In the final analysis, this may be the reason the report was ultimately leaked to POGO.

One of the first meetings Mr. Ives attended as the Acting DIG was on August 3rd, 2012.²⁷ According to Ives, during this meeting at which PDIG Halbrooks was present, a decision was reached to make referrals on two senior officials involved, Secretaries Panetta and Vickers.²⁸

²¹ Halbrooks, interview.

²² Halbrooks, interview.

²³ Ives, interview; DOD IG Jon Rymer, letter to Senator Grassley’s, October 14, 2014.

²⁴ Inspector General Jon Rymer, letter to Senator Charles Grassley, August 8, 2014.

²⁵ Ives, interview.

²⁶ Ives, interview.

²⁷ Ives, interview.

²⁸ Ives, interview.

Due to “a longstanding Department policy,” as well as a policy to only investigate those individuals who were within the DOD during the timeframe of the allegations, it was at this point that Ives knew the sensitive information in the report pertaining to open investigations and referrals of alleged misconduct by senior officials would have to be removed before it could be published. However, for reasons that are not fully explained or understood, he waited another five months to implement that policy.

As the staff understands it, the substantive edits consisted primarily of the six pieces of information listed in Attachment B of this report. All six items were declared unclassified by DOD on November 9, 2012. This information appeared in the report published by POGO in June 2013 but not the official version issued a week later. The block of information in Attachment B was the core substance of the report, and culling it out of the report was mandated by standing policy, according to Halbrooks and Ives.²⁹ It was not a big job. He started it on December 14th and finished, “not much past early January.”³⁰

In October 2012, despite having knowledge of the OIG policy, Mr. Ives allowed the report to go outside the agency for classification review with the information about the misconduct of senior officials and associated referrals still present in the draft. Further, once it came back, DIG Ives again allowed the report to go outside ISPA to the OGC and Office of Congressional Liaison (OCCL) for editing even though he had not made his substantive edits. Ives said he did this because he wanted to keep the report moving along.³¹ He was later told by DIG Halbrooks that the process he had used, having OGC and OCCL review and suggest edits first, was reversed and that under standard protocols, he should have reviewed and substantively edited it before it went to those two offices.³² She added to the confusion of my investigation by suggesting that the draft was circulated to OGC and OCCL without Mr. Ives’ knowledge and approval.³³ That was inaccurate, according to Mr. Ives.³⁴

Nonetheless, his actions caused much confusion because he failed to make timely “substantive” edits mandated by DOD OIG’s policies before authorizing the report to be circulated outside ISPA.³⁵ As a result of this misstep, the staff at the DOD IG began working on a press package and talking points on the report in consultation with the various offices concerned with such matters. When the report was not released, whistleblowers contacted Senator Grassley’s Office. They were confused and concerned about the delay. They perceived a potential cover-up. The crafting of talking points and circulation of the report to OGC and OCCL for final review are typically the last steps in the report process before approval for release from the PDIG.³⁶ They mistakenly believed that the report was on the cusp of publication.

²⁹ Halbrooks, interview; Ives, interview.

³⁰ Ives, interview.

³¹ Ives, interview.

³² Ives, interview.

³³ Halbrooks, interview.

³⁴ Ives, interview.

³⁵ Ives, interview.

³⁶ Anonymous, email to Senator Grassley staff, November 9, 2012; Anonymous, email to Senator Grassley staff, November 19, 2012; Whistleblower, affidavit. .

Ultimately, Mr. Ives failed to recognize his responsibility to implement the policy promptly and to communicate that need effectively with his subordinates. He failed to explain to them how the policy guidance requiring a substantive review would remove the misconduct and referral information and thereby fundamentally alter the contents of the report. They needed to understand that requirement in order to accomplish the mission but never got it. Halbrooks failed to effectively manage Ives as he attempted to navigate a novel process. Their combined failures to communicate effectively led to internal confusion and turmoil.

Mr. Ives did not grasp how the creation of those talking points and the premature circulation of an unedited draft constituted a waste of time and money, nor did he see it as a possible cause for the whistleblower leak to POGO.³⁷ While leaking the draft probably violated DOD OIG rules, it is possible this could have been avoided had DIG Ives not lost sight of the objective and failed to follow established protocols and communicated effectively.

Conclusion # 4 - The delayed publication of the report created a perception that Halbrooks compromised the OIG's independence

While there is no conclusive evidence that PDIG Halbrooks deliberately suppressed the report to protect either senior officials or herself, evidence and interviews appear to indicate the report was ready for publication in December 2012 or by early January 2013, six months before it was actually published.³⁸

For whistleblowers, the failure of the DOD IG to publish the report promptly in the December/January timeframe created confusion and some perceived abuse. One whistleblower alleged that Deputy Halbrooks repeatedly stated, "The report will not be published until after Secretary Panetta steps down."³⁹ While no other statements were found to directly support this assertion, there is evidence that appears to confirm it.

Deputy IG Ives, who was in charge of the ZDT project, didn't recall "actually doing substantive efforts much past early January."⁴⁰ However, following the completion of his substantive edits, the report did not appear to regain forward motion until after Secretary Panetta retired on February 27, 2013. According to PDIG Halbrooks, it did not reach her desk until March 25, 2013. Further, according to unofficial timelines provided by the DOD IG, no significant edits occurred between Ives' substantive edits, confirmed on January 30th, and when the OGC made minor edits on March 20th.⁴¹

³⁷ Ives, interview.

³⁸ [REDACTED] interview; Ives, interview; Whistleblower, "it's getting close to final" email message to Senator Grassley's staff, December 6, 2012.

³⁹ Whistleblower, affidavit, May 5, 2014; Anonymous, email, December 14, 2012.

⁴⁰ Ives, interview.

⁴¹ DOD IG ISPA Timeline, provided to Senator Grassley's staff, September 9, 2014.

The three-month delay in reaching Deputy Halbrooks' desk and subsequent delays until June remain substantively unexplained, other than with the reassuring words that a "rigorous and iterative internal review process" filled the void, referenced six times in the last five pages of a letter to me on August 8, 2014. A similar description, without information to back that claim, was given to me again in a letter on October 14, 2014. Aside from a thoroughly discussed 10-word edit on April 8, 2013, involving USDI Vickers, which is disputed,⁴² there appears to have been little significant editorial activity between Mr. Ives' "substantive review," starting in mid-December and publication in June 2013. These facts create the perception that the report process was slowed by PDIG Halbrooks and others working at her direction to shield DOD officials from scrutiny and perhaps to bolster her chances for gaining the IG nomination.

Conclusion #5 – Halbrooks' contacts with subjects of the ongoing investigation raise ethical issues

In the course of the ZDT report editing process, whistleblowers reported to Senate staff that derogatory information related to CIA Director Leon Panetta's leak was removed from the draft report following a Pentagon meeting between PDIG Halbrooks, Secretary of Defense Panetta, Chief of Staff Jeremy Bash, and others on December 18, 2012.⁴³ This information elicited concern over the perceived independence of the Inspector General's office and the appearance that subjects of the inquiry were influencing its content. Having truly independent IG's is vital to protecting taxpayer dollars against waste, fraud, abuse, and mismanagement – a need that is clearly embodied in the spirit and intent of the IG Act.⁴⁴

Since many agencies continue to interfere with and/or impede inspector general audits and investigations in order to hide questionable activities from the public, the timing of the December 18th meeting was called into question. During Ms. Halbrooks' interview, she revealed that such a meeting did take place. The purpose of the meeting, she said, was not related to the ZDT report but she admitted to broaching the topic of the report because of a McClatchy news story that appeared the previous day about the investigation.⁴⁵ She could not remember in detail what was discussed.⁴⁶ While further investigation indicated that the removal of the Panetta information from the report appeared to be unrelated to the meeting on December 18th, Ms. Halbrooks' judgment to discuss an ongoing investigation and report with the Secretary and his Chief of Staff, both targets of investigation, on this and other occasions, continues to be a source of concern and deserves further review.⁴⁷

⁴² Halbrooks suggested Ives overlooked this piece of information in his final review and therefore removed it on April 8, 2013; Ives disagreed, stating he more than likely took it out on or about November 14, 2012, when the Vickers misconduct [REDACTED] according to the DOD IG ISPA Timeline, AI reported on February 13, 2013 that the report as presented to AI, would have no negative impact on its investigation.

⁴³ Whistleblower, email, December 18, 2012; Whistleblower, email to Senator Grassley's staff, April 23, 2014.

⁴⁴ Inspector General Act of 1978, Section 2.

⁴⁵ Halbrooks, interview; Marisa Taylor and Jonathan Landay, "Bin Laden film leak was referred to Justice; leaker top Obama official," *McClatchy Report*, December 17, 2012, available at <http://www.mcclatchydc.com/2012/12/17/177676/bin-laden-leak-is-referred-to.html>.

⁴⁶ Halbrooks, interview.

⁴⁷ Halbrooks, interview.

Conclusion # 6 – Long-standing DOD OIG policy requiring removal of certain substantive information from the report probably made the report irrelevant

Admittedly, removing the sensitive information from the report created a dilemma. It essentially gutted the report. In Ives' words, it left "holes" in the report. The official version did not even reveal that a senior official had made unauthorized disclosures of highly classified information. Instead, it was reduced to a chronological listing of emails and meetings that skirts the core issue, falling far short of addressing and resolving Chairman King's concerns about the "hemorrhage of leaks" by top officials. After nearly two years of hard work by over ten DOD OIG personnel, ISPA was left with a work product of questionable value.

Regarding the value of the gutted report, PDIG Halbrooks stated during her interview: once that information was removed, the report was neither interesting nor important to me and just dropped off my radar screen or words to that effect.⁴⁸ While she may have been correct about the report's face-value, she was dead wrong about her responsibilities as IG for the pending report. At that point, she appears to have lost sight of her goal as IG. This report was requested by the chairman of a House oversight committee. She had a solemn duty to put it back up on her radar screen and keep it there -- front and center -- until it was fixed and up to required standards and presented proudly and enthusiastically to the Congress and Deputy Secretary of Defense and maybe even the public and to do it promptly.

Even on a verbal level, communications about the substance of the report's principal findings were essentially non-existent. In meeting with Chairman King's staff, according to Mr. Ives, he did not even "tell them the Secretary had made unauthorized disclosures," which fits with what Chairman King told McClatchy News.⁴⁹

The OIG's "longstanding practice" of removing sensitive information from reports needs independent examination. The question that needs to be answered is whether this practice should be applied to senior officials like the Under Secretary of Defense. There may be cause, given such a position, that they be held to a higher standard even if alleged misconduct had to be reported in a classified letter due to the sensitivity of the subject matter and an ongoing investigation. When top government officials, like the Under Secretary of Defense, stand accused of misconduct, there should be some accountability to the public. Thus far, in this matter, there has been none. Former Deputy Secretary of Defense and CIA Director Deutch mishandled highly classified information and got hammered for doing it. He lost his clearance for six years.⁵⁰ Unlike the ZDT leaks, that matter was dealt with effectively *and* aired in public.

⁴⁸ Halbrooks, interview.

⁴⁹ Ives, interview; *Id. McClatchy Report, December 17, 2012*.

⁵⁰ CIA OIG, Report on Improper Handling of Classified Information by John M. Deutch, February, 18, 2000 and reports by CNN, February 2009, and ABC News, February 2001.

Conclusion #7 - The final report contained no findings or recommendations for corrective action

That no findings and recommendations were offered appears to be indicative of the report's hollowness. It was gutted during DIG Ives' "substantive review." It contained little or no information of importance or interest, as PDIG Halbrooks put it. Findings and recommendations were simply not justified or necessary or even possible. Producing reports of this caliber is a waste of time and money.

Conclusion # 8 – Halbrooks made inaccurate and misleading statements in response to Senator Grassley's questions

Following a careful review of notes taken at the Halbrooks interview on June 2, 2014, Senator Grassley, on June 18, 2014, submitted a list of follow-up questions to her attention. The response to those questions is dated August 8, 2014. The answers given were largely unsatisfactory. Most answers were not substantive in nature nor did they mesh with other available information. Some appeared to be inaccurate and misleading. Some questions were simply incomplete or ignored. Others were confusing and defied understanding. In preparing this report, a complete list of such discrepancies was compiled but only two are summarized below.

In responding to an interview question on the need for coordination with the CIA IG, for example, Halbrooks stated that she was unaware of any coordination.⁵¹ Then, in the response to the same follow-up question in the letter, she said "coordination was not required and did not occur."⁵² In the very next sentence of the letter, however, she admits that coordination did occur.⁵³ Providing diametrically opposing answers simultaneously to the same question is unsatisfactory and unacceptable. Senator Grassley cited her for identical conduct in testimony she gave in October 2012 [REDACTED] and reported in a letter to IG Rymer dated May 19, 2014.

Similarly, when asked for the dates and agendas for each In-Progress Review (IPR) meeting on the ZDT report, she provided a list of seven meetings between December 2011 and July 2012, stating twice that "predecisional draft reports were not reviewed at IPR meetings." This statement appears to be inaccurate. According to Ives and [REDACTED] there were other IPR meetings where the draft report was discussed and reviewed, and some of these meetings were attended by Halbrooks. If the statements by Ives and [REDACTED] are accurate, then Halbrooks may have been involved in reviewing the report long before the March 25, 2013 date she gave during her interview for when she "first received and saw a draft for the first time."

Interviews with former Deputy Assistant IG for ISPA [REDACTED] and his supervisor, Deputy IG for ISPA, James Ives, helped to clear up most of the confusion created by PDIG Halbrooks' answers to Senator Grassley's questions.

⁵¹ Halbrooks, interview.

⁵² DOD IG Rymer, letter (August 8, 2014).

⁵³ DOD IG Rymer, letter (August 8, 2014).

Conclusion # 9 – Halbrooks’ heavy-handed tactics during internal POGO leak investigation raised concerns about the treatment of whistleblowers

On June 21, 2013, Deputy IG Halbrooks directed the Office of Professional Responsibility (OPR) to conduct an internal investigation to determine who had leaked the ZDT report to POGO. Interviews were conducted. A total of 33,269 emails were examined. In the end, investigators were unable to identify the leaker.⁵⁴ During questioning, however, Mr. Dan Meyer, the DOD OIG Director of Whistleblowing and Transparency, admitted to giving a copy of the report to the two congressional committees having jurisdiction over the matter. His admission triggered swift and decisive action. Mr. Meyer was accused of making false statements, which was followed by an attempt to suspend his clearance. This action had the potential of destroying his career. Fortunately, the new IG, Jon Rymer, intervened on Mr. Meyer’s behalf and successfully blocked those efforts because the case against Mr. Meyer did not rest on a solid foundation.

In the aftermath of the OPR leak investigation, concern was expressed about the way whistleblowers were treated. During her interview, DIG Halbrooks was asked about the treatment of whistleblowers during the OPR review. She attempted to provide assurance that her actions were “harmless,” even though they nearly led to Mr. Meyers’ termination.⁵⁵ In a follow-up question, she was asked to explain how accusing an employee of making false statements and then attempting to suspend that employee’s security clearance – a clearance that was essential to continued employment – could be characterized as harmless. She ignored the question.⁵⁶

⁵⁴ DOD OIG, OPR Report of Investigation, February 19, 2014.

⁵⁵ Halbrooks, interview;

⁵⁶ Halbrooks, interview;

Attachment B: Sensitive information removed from report⁵⁷

“This initial review did not include an interview with the Honorable Leon E. Panetta, Secretary of Defense.” (Page 2, POGO)

Removed prior to January 16, 2013, predecisional working draft in response to acting DIG ISPA review.

“..USD(I) Vickers provided the name of the Special Operations Planner to Mr. Boal and Ms. Bigelow.” (Page 6, POGO)

Removed April 8, 2013 by ISPA team. PDIG Halbrooks’ review of the predecisional working draft presented to her on March 25, 2013, questioned whether the information was related to the referral and ongoing investigation being conducted by the DoD OIG Investigation of Senior Officials.

“June 22, 2011: ASD(PA) Wilson told us he communicated with the White House to request guidance on dealing with Mr. Boal and Ms. Bigelow.” (Page 5, POGO)

Removed prior to January 16, 2013, predecisional working draft in response to acting DIG ISPA review.

June 26, 2011: ASD(PA) Wilson responded to an email from the White House Deputy Press Secretary requesting, “[A] moment to connect tomorrow on Boal.” (Page 5, POGO)

Removed prior to January 16, 2013, predecisional working draft in response to acting DIG ISPA review.

“During this awards ceremony, Director Panetta specifically recognized the unit that conducted the raid and identified the ground commander by name. Director Panetta also provided DoD information, identified by Original Classification Authorities as TOP SECRET//SI/ ...” (Page 12, POGO)

Removed prior to January 16, 2013, predecisional working draft in response to acting DIG ISPA review.

“According to the DoD PAO, the day of the event, the CIA PAO contacted the DoD PAO to state that efforts failed and the ‘Chief of Staff’ directed that the Hollywood executive be given access to the event.” (Page 12, POGO) That information, with the exception of the reference to the “Chief of Staff” is included in the June 14, 2013, publicly released report. Reference to the Chief of Staff was removed prior to January 16, 2013, predecisional working draft in response to acting DIG ISPA review.

⁵⁷ The dates shown on this document as to when each item was removed from the report were provided in a letter from the DOD OIG on August 8, 2014. The date on which item #2 was removed is disputed. Mr. Ives claims he did it on or about November 14, 2012, when Vickers’ misconduct [REDACTED] reported on February 13, 2013, that leaving it in would have no negative impact on its investigation. At least five items were removed during Ives’ “substantive review” in December 2012. All six items were declared unclassified by DOD security review on November 9, 2012 and appeared in the report published by POGO in June 4, 2013.

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August 14, 2019

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Honorable Chuck Grassley
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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

John R. Crane

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Inspector General Scott S. Dahl (DOL IG)

Chair, CIGIE Integrity Committee (IC)
1717 H Street NW
Suite 825
Washington, DC 20006

Inspector General Deborah J. Jeffrey (CNCS IG)

Vice Chair, CIGIE Integrity Committee (IC)
1717 H Street NW
Suite 825
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 Counsel 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](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Policies%20and%20Procedures%20Revised%20Jan-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](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Policies%20and%20Procedures%20Revised%20Jan-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](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Policies%20and%20Procedures%20Revised%20Jan-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](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Policies%20and%20Procedures%20Revised%20Jan-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

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15 May 2020

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SUBJECT: COLLABORATIVE INTER-AGENCY EFFORT TO OBSTRUCT THE FEDERAL INVESTIGATIVE PROCESS (ADMINISTRATIVE AND/OR CRIMINAL) TO DEGRADE THE EVIDENTIARY BASE (WITNESS STATEMENTS & DOCUMENTATION) REQUIRED TO PROPERLY SUBSTANTIATE OR NON-SUBSTANTIATE INDIVIDUAL ALLEGATIONS AND DISCLOSURES OF WRONGDOING MADE AGAINST RESPONSIBLE INSPECTOR GENERAL MANAGEMENT OFFICIALS OPERATING UNDER COLOR OF OFFICE (18 U.S.C. § 1505)

1. More than two-million civilian employees work in the Executive Branch where every federal employee knows that working for the federal government establishes a public trust imposing a responsibility to the U.S. Government and its citizens to put to the Constitution, the law, and ethical principles above private gain:

Enclosure (3)

- Federal civilian employees also know the U.S. Congress imposed a statutory obligation upon every employee to report waste, fraud, and corruption to appropriate authorities.¹ [5 C.F.R. § 2635.101(b)(11)]

a. Recognizing that agency Responsible Management Officials (RMOs) had retaliated against federal employees who reported waste, fraud, and corruption to appropriate authorities, the U.S. Congress passed the **Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017** to establish clear disciplinary standards which would:

- Remove RMOs who engage in employee retaliation against employees fulfilling their statutory duty to report waste, fraud, and corruption to appropriate authorities.^{2, 3} [P.L. 115-73; 5 U.S.C. § 7515(b)(1)(A)/(b)(1)(B)]

b. Unfortunately, senior level Inspector General RMOs continue to intentionally subvert the will and intent of the U.S. Congress by actively engaging in employee retaliation, and intentionally subvert the federal investigative process (administrative and/or criminal) to delay/ignore statutory investigative timelines which are required to preserve time-sensitive evidence required to substantiate/non-substantiate allegations and disclosures of wrongdoing leveled against senior agency officials operating under color of office:⁴

- “Wrongfully” defined as: a violation of law, rule, or regulation, gross waste of funds⁵, gross mismanagement⁶, abuse of authority⁷, substantial and specific danger to public health or safety.⁸

¹ **Basic Obligation of Public Service** for employees of the Executive Branch, 5 C.F.R. § 2635. 101(b)(11): “Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.” Accessed at: <https://www.law.cornell.edu/cfr/text/5/2635.101>

² **Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017**, P.L. 115-73/26 Oct 2017. Accessed at: <https://www.congress.gov/115/plaws/publ73/PLAW-115publ73.pdf>

³ **Discipline of Supervisors Based on Retaliation Against Whistleblowers**, 5 U.S.C. § 7515(b)(1)(A); 5 U.S.C § 7515(b)(1)(B). Accessed at: <https://www.law.cornell.edu/uscode/text/5/7515>

⁴ **Color of Office**: “A claim or assumption of right to do an act by virtue of an office, made by a person who is legally destitute of any such right.” Accessed at: <https://thelawdictionary.org/color-of-office/>

⁵ **Gross Waste of Funds**: “more than debatable expenditure that is significantly out of proportion to the benefit reasonably expected to accrue to the government.” *Van Ee v. EPA*, 64 M.S.P.R. 693, 698 (1994).

⁶ **Gross Mismanagement**: “a management action or inaction which creates a substantial risk of significant adverse impact upon the agency’s ability to accomplish its mission.” *Kavanagh v. M.S.P.B.*, 176 F. App’x 133, 135 (Fed. Cir. Apr. 10, 2006).

⁷ **Abuse of Authority**: “arbitrary or capricious exercise of power by a federal official or employee” that harms the rights of any person or that personally benefits the official/employee or their preferred associates. See: *Elkassir v. Gen. Servs. Admin.*, 257 F. App’x 326, 329 (Fed. Cir. Dec. 10, 2007).

⁸ **Substantial and Specific Danger to Public Health and Safety**: To evaluate whether the danger disclosed is “**substantial**,” courts look to the nature of the potential harm (e.g., *failure to properly plan Lead IG oversight for extremely dangerous whole of government (WoG) operations in Afghanistan/Iraq*) and on “**the potential consequences**.” *Chambers v. Dep’t of the Interior*, 515 F.3d 1362, 1369 (Fed. Cir. 2008); To determine whether the disclosed harm was “**specific**,” courts look to the **likelihood** that harm will result (e.g., was there a possibility that American personnel operating in Afghanistan/Iraq were placed in danger as a result of the Federal Inspector General (FIG) Community not conducting comprehensive oversight planning?) & **when** the harm may occur (e.g., conducting whole of government operations in Afghanistan/Iraq - the number of U.S. service members killed in Afghanistan rose during FY17. Accessed

TAKAWAY: The special trust and confidence afforded to the federal Inspector General (FIG) Community by the U.S. Congress and the Chief Executive must be reassessed and closely examined considering the stunning loss of independence and objectivity documented across multiple Offices of the Inspectors General (OIG).

a. In fact, the balance between managing OIG operational independence and the mandate to proactively keep the agency head informed on the status of all agency programs and operations, including the OIG, has been institutionally degraded.

The statutory purpose of the Inspector General process is to act as independent, nonpartisan officials (selected by virtue of demonstrated performance) focused on preventing and detecting waste, fraud, and abuse within the agencies/organizations in which OIGs are established:

- OIGs play a key role in government oversight (keeping the assigned agency head informed on the performance of programs/operations) while also supporting the U.S. Congress in establishing structures/authorities required to perform effective government oversight
- Members of the Federal Inspector General (FIG) Community are subject to the same laws, rules, and regulations that govern the rest of the more than two-million federal employees under the Merit System
- Members of the Federal Inspector General (FIG) Community do not enjoy a different level of ethical standards or immunity from the basic accountability standards designed to address ethical lapses and/or professional incompetence across the Merit System.

b. Unfortunately, the Inspectors General routinely:

- Ignore federal statute governing the federal investigative process (administrative/criminal) [5 U.S.C. *Appendix* (IG Act) § 4]
- Fail to properly keep the agency head informed [5 U.S.C. *Appendix* (IG Act) § 2]
- Aggressively retaliate against OIG employees who properly report wrongdoing (occurring within the OIG). [5 U.S.C. § 1213; 5 U.S.C. § 1214]

c. Confident in the knowledge the Council of the Inspectors General on Integrity and Efficiency (CIGIE) has usurped exclusive merit system oversight authority, which is statutorily granted to the U.S. Special Counsel (OSC)⁹ to safeguard the Merit System and protect the individual legal rights of all federal whistleblowers subjected to retaliation by members of the Federal Inspector General (FIG) Community:

at: <https://www.buzzfeednews.com/article/verabergengruen/these-us-troops-were-killed-in-combat-during-trumps-first>; Brian R. Hoke & Nathaniel P. Delemarre: <https://www.nytimes.com/2017/09/06/world/asia/cia-afghanistan-war.html>

⁹ The U.S. Special Counsel (OSC) is a statutorily established independent federal investigative and prosecutorial agency with the primary mission of safeguarding the merit system by protecting federal employees from prohibited personnel practices (PPP) especially reprisal for whistleblowing (5 U.S.C. §§ 1211-1219). Accessed at: <https://www.law.cornell.edu/uscode/text/5/part-II/chapter-12/subchapter-II>

- Despite receipt of several OSC-12 Disclosures of Wrongdoing (**DI-18-4904**, **DI-18-4945**, **DI-18-5016**) specifically notifying the U.S. Special Counsel of his duty to protect whistleblowers and demand legitimate investigations (criminal and/or administrative) of his fellow members of the CIGIE, U.S. Special Counsel **Henry J. Kerner** continues to shield his fellow CIGIE members from legitimate investigation (criminal and/or administrative) at the expense of the due process rights of all whistleblowers he swore to protect.

2. The CIGIE Integrity Committee (IC), under the leadership of **Scott S. Dahl** and **Deborah J. Jeffrey** has demonstrated a deplorable record with respect to recommending independent and objective CIGIE investigation into reports of misconduct leveled against fellow members of the Federal Inspector General (FIG) Community:
10,11,12,13,14

Fiscal Year	Allegations Received	Allegations Not Investigated by CIGIE IC	Allegations Investigated by CIGIE IC	% of Allegations Leveled Against IGs Investigated
2009	43	36	2	< 5%
2010	44	36	1	< 3%
2011	51	22	1	< 2%
2012	44	8	3	< 7%
2013	390	361	12	< 3%
2014	72	30	4	< 6%
2015	65	60	0	< 1%
2016	68	67	1	< 2%
2017	39	37	2	< 5%
2018	63	58	2	< 3%
2019	57	54	3	< 5%

Assessing the low number of cases that are actually referred for investigation under the statutory authority of the CIGIE Integrity Committee (IC) becomes more problematic when

¹⁰ Statement **Scott S. Dahl** Chairperson CIGIE Integrity Committee (IC) to U.S. House of Representatives Committee on Oversight and Reform Subcommittee on Government Operations, 18 September 2019. Accessed at: <https://docs.house.gov/meetings/GO/GO24/20190918/109944/HHRG-116-GO24-Wstate-DahlS-20190918.pdf>

¹¹ Congressional Research Service (CRS), Report R44198: Oversight of the Inspectors General Community: The IG Counsel's Integrity Committee (IC), 21 September 2015. Accessed at: <https://crsreports.congress.gov/product/pdf/R/R44198/3>

¹² FY2015 CIGIE Integrity Committee (IC) Annual Report to the President and Congress. Accessed at: [https://ignet.gov/sites/default/files/files/Integrity Committee Annual Report - FY 2015.pdf](https://ignet.gov/sites/default/files/files/Integrity%20Committee%20Annual%20Report%20FY%2015.pdf)

¹³ FY2016 CIGIE Integrity Committee (IC) Annual Report to the President and Congress. Accessed at: <https://ignet.gov/sites/default/files/files/2016%20IC%20Annual%20Report.pdf>

¹⁴ FY2017 CIGIE Integrity Committee (IC) Annual Report to the President and Congress. Accessed at: <https://ignet.gov/sites/default/files/files/2017%20IC%20Annual%20Report.pdf>

considering the fact that the CIGIE (IC) receives, reviews, and refers allegations of wrongdoing leveled against fellow Inspectors General to other Inspectors General.

In what reflects a major threat to the independence and objectivity of the U.S. Special Counsel's (OSC) ability to safeguard the Merit System and protect whistleblowers from retaliation by a CIGIE membership of super-empowered Federal Inspectors General (FIG) is the fact that the Federal Inspector General (FIG) Community utilized the IG Act of 1978, as amended, to subordinate the U.S. Special Counsel **Henry J. Kerner**/ (OSC) and Principal Deputy U.S. Special Counsel **Ellen Chubin Epstein** to the adjudicative authority of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee.

- Clearly the U.S. Special Counsel (OSC) cannot effectively safeguard and protect the Merit System while giving up the statutory authority to demand accountability of more than two-million members of the Merit System which includes every member of the Federal Inspector General (FIG) Community.
- a. In a dystopian imbalance of protective status afforded to only a handful of selected members of the Federal Inspector General (FIG) class, is the fact that the U.S. Special Counsel and Principal U.S. Deputy Special Counsel are unwilling/unable to demand independent and objective investigation of allegation(s)/disclosure(s) of wrongdoing leveled against fellow “covered” members of the CIGIE running (74) statutory Offices of Inspector General (OIGs) established across the federal government: ¹⁵
- Establishment (33),
 - Designated federal entity (DFE) (32),
 - Other permanent (7), and
 - Special (2)
- b. Currently, the CIGIE (IC) refuses to conduct whistleblower retaliation investigation into allegations/disclosures of wrongdoing leveled against fellow CIGIE members (Inspectors General) ordered under the statutory authority of the U.S. Special Counsel (OSC). [See: enclosures (1), (2).]
- c. The orchestrated subversion of the federal investigative process (administrative and/or administrative), coupled with usurpation of statutory oversight authority vested in the Office of the U.S. Special Counsel (OSC) to safeguard the merit system and protect federal whistleblowers, is criminal (18 U.S.C. § 1505) and:
- Violates the basic due process rights of all federal whistleblowers denied the right to have a legitimate hearing before an independent and objective trier of fact while

¹⁵ Congressional Research Service (CRS), R45450 *Statutory Inspectors General in the Federal Government: A Primer*, 03 January 2019. Accessed at: <https://crsreports.congress.gov/product/pdf/R/R45450>

asserting property (employment) rights granted by the U.S. Constitution and taken by illegal retaliatory action.^{16,17}

TAKEAWAY: On 16 December 2016,¹⁸ the U.S. Congress mandated that the Federal Bureau of Investigation (FBI) relinquish control over the federal investigative process (administrative and/or criminal) for the membership of the Council of the Inspectors General for Integrity and Efficiency (CIGIE) and turn it over to the exclusive membership of the CIGIE Integrity Committee (IC).

a. Perhaps more disappointing than the loss of investigative independence and objectivity entrusted to a super-empowered class of federal employees (Federal Inspectors General (FIG)) is the fact that we have forgotten the words of James Madison when he explained the need for each branch of government to balance unelected power to protect the interests of the American People.

In the words of James Madison:¹⁹

“If Men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and the next place, oblige it to control itself.”

After turning oversight control over to the oversight community, we can now confidently answer the age-old question, “Quis custodiet ipsos custodies,” which translates from Latin to “Who Will Watch the Watchers?” The answer to the age-old question is that Federal Inspectors General (FIG) “watch themselves” while actively investigating everyone else.

3. On 26 October 2017,²⁰ the U.S. Congress passed the **Dr. Chris Kirkpatrick** Whistleblower Protection Act of 2017, which established powers to ultimately remove

¹⁶ Employees have Due Process Rights, 03 December 2013. Accessed at: [Business Communications, Inc. v. U.S. Dept. of Education \(8th Cir. 12/2/13\)](#).

¹⁷ Loudermill Court explained that a “root cause” of the Due Process Clause is that, “an individual be given an opportunity for a hearing before he is deprived of any significant property interest. This principle requires some kind of hearing prior to the discharge of an employee who has a constitutionally protected property interest in his employment.” Loudermill, 470 U.S. at 542. Accessed at: https://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=1166935&version=1171499&application=A_CROBAT

¹⁸ Inspector General Empowerment Act of 2016, P.L. 114-317, 16 Dec 2016, § 3 made changes to the federal investigative process removing the Federal Bureau of Investigation (FBI) and installing Federal Inspectors General (FIG) in the sole oversight process over the membership of the CIGIE. Accessed at: <https://www.congress.gov/114/plaws/publ317/PLAW-114publ317.pdf>

¹⁹ James Madison (08 February 1788), Federalist Paper 51: *The Structure of the Government Must Furnish the Proper Checks and Balances*. Accessed at: https://avalon.law.yale.edu/18th_century/fed51.asp

²⁰ Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, P.L. 115-73/26 Oct 2017. Accessed at: <https://www.govinfo.gov/content/pkg/PLAW-115publ73/pdf/PLAW-115publ73.pdf>

Responsible Management Officials (RMOs) from federal government service for engaging in a pattern of retaliation against fellow federal employees performing their statutory duty to report misconduct occurring within the federal government. [5 C.F.R. § 2635.101(b)(11); 5 U.S.C. § 7515(b)(1)(B)]

a. The **Dr. Chris Kirkpatrick** Whistleblower Protection Act of 2017, named in honor of a brave federal employee who paid the ultimate price for whistleblowing,²¹ should have been a welcome relief to the thousands of law-abiding federal employees routinely subjected to life-altering punishment and life-long stigma for simply reporting misconduct occurring within the federal government as directed by the U.S. Congress.

b. What is clear is the U.S. Congress recognized that performing the statutory duty of reporting wrongdoing comes at great personal risk; in fact, the U.S. Congress directed that all agency heads report to the U.S. Special Counsel (OSC) the loss of any federal whistleblower to suicide [P.L. 115-73, § 105: Suicide by Employees].

TAKEAWAY: Steven P. Luke, a federal investigator assigned to the DoD Office of the Deputy Inspector General for Administrative Investigations (AI), managed by **Marguerite C. Garrison**, became a federal whistleblower when he actively resisted pressure to substantiate an allegation of wrongdoing leveled against the Director of the National Geospatial Intelligence Agency (NGA), Robert Cardillo, despite his firm conviction to the contrary, a fact he addressed to the office of Senator **Charles E. Grassley**.²²

- On 08 January 2019, **Steven P. Luke** was found dead in the trunk of his red Volvo S60 parked in the garage of the Federal Mark Center located in Alexandria Virginia.²³
- 04 February 2019, Investigator Luke was scheduled to meet with Senator **Charles E. Grassley's** Senate Whistleblower Investigator **Charles Murphy**.²⁴

a. In an effort to hide the loss of independence and functional breakdown in the federal investigative process under his direct control, Acting DoD Inspector General **Glenn A. Fine** elected to ignore Congress, forgo proper agency head notification, and take steps to avoid triggering an independent and objective federal investigation into the death of a

²¹ **Doctor Chris Kirkpatrick**, a psychologist assigned to the U.S. Department of Veterans Affairs Tomah Medical Center located in Tomah, Wisconsin became a federal whistleblower after raising concern over a policy of overmedicating patients with opiates making the patients untreatable during therapy sessions. Fired and disgraced by U.S. Veterans Affairs, Dr. Kirkpatrick in 2009 lost his fight to suicide. Accessed at: <https://dailynorthwestern.com/2017/11/20/campus/northwestern-alumnus-inspires-federal-law-aimed-protecting-whistleblowers/>

²² Amy Mackinnon, *Foreign Policy*, 20 March 2020, Investigation: "Death of a Whistleblower; Questions raised by a Pentagon investigator went unanswered following his workplace suicide." Accessed at: <https://foreignpolicy.com/2020/03/20/death-of-a-whistleblower-suicide-pentagon-office-inspector-general/>

²³ Ibid.

²⁴ Ibid.

federal whistleblower by the U.S. Special Counsel (OSC) as demanded by the U.S. Congress²⁵ [P.L. 115-73, § 105: Suicide by Employees].

b. Perhaps more troubling than not reporting the death of a federal employee whistleblower involved in administering the federal investigative (administrative and/or criminal) process is the fact that **Glenn A. Fine** also elected to not inform his agency head (Secretary of Defense, Dr. Mark T. Esper) and Congress on an uninvestigated threat to his workforce reflecting potential abuse and/or deficiency:

- The law is clear on the fact that Acting DoD Inspector General **Glenn A. Fine** had an additional non-negotiable duty to immediately report (seven-calendar-days) a serious and flagrant problem affecting the proper execution of his Investigation (administrative) Program.²⁶ [5 U.S.C. Appendix (IG Act) § 5(d)]

c. Despite the individual mandate for all senior Inspector General RMOs to properly report wrongdoing,²⁷ no member of **Glenn A. Fine's** leadership team took the personal initiative to report the loss of investigative independence (loss of life of a federal investigator under undetermined circumstances), instead they simply ignored a threat to the independence and objectivity of the Office of the Inspector General (OIG):

- **Paul Hadjiyane**, General Counsel (GC)
- **Brett A. Mansfield**, Senior Advisor to the DoD Inspector General
- **Steven A. Stebbins**, Chief of Staff
- **Daniel R. Blair**, Deputy Chief of Staff (CoS)
- **Dermot F. O'Reilly**, Deputy Inspector General for Criminal Investigations/Director Defense Criminal Investigative Service (DCIS)
- **Kelly P. Mayo**, Defense Criminal Investigative Service (DCIS) Assistant Inspector General (AIG) for Investigative Operations.
- **Marguerite C. Garrison**, Deputy Inspector General for Administrative Investigation (DIG AI)
- **Jacqueline L. Wiccarver**, Deputy Inspector General for Audit
- **Michael J. Roark**, Deputy Inspector General for Evaluations

²⁵ Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017 (P.L. 115-73, 26 Oct 2017). Section 5, Accessed at: <https://www.govinfo.gov/content/pkg/PLAW-115publ73/pdf/PLAW-115publ73.pdf>

²⁶ 5 U.S.C. Appendix (IG Act) § 5(d), Immediate Report on Serious or Flagrant Problems: "Each Inspector General *shall report immediately* to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within *seven calendar days*, together with a report by the head of the establishment containing any comments such head deems appropriate." Accessed at: <https://www.law.cornell.edu/uscode/text/5a/compiledact-95-452/section-5>.

²⁷ **Basic Obligation of Public Service** for employees of the Executive Branch, 5 C.F.R. § 2635.101(b)(11): "Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities." Accessed at: <https://www.law.cornell.edu/cfr/text/5/2635.101>

- **Michael S. Child Sr.**, Deputy Inspector General Overseas Contingency Operations (OCO)
- **Catherine M. DelPrete**, Office of Professional Responsibility (OPR)/former Agency Freedom of Information Act (FOIA) Release Authority

d. In final analysis, Principle Deputy Inspector General **Glenn A. Fine** established an unacceptable culture of corruption that infected his senior leadership team allowing him to brazenly violate his oath of office and routinely engage in professional behavior that at best reflects gross mismanagement²⁸ and at worst reflects outright criminal abuse of his authority:²⁹

- Nothing short of immediate removal of the entire senior DoD OIG leadership team coupled with visible accountability measures will restore the independence and objectivity required within an Office of Inspector General (OIG).

e. The personal sacrifice of **Steven P. Luke** a dedicated federal investigator who performed his duty at great personal price cannot go unanswered: the DoD Inspector General's senior leadership team is not above the law.

4. On 09 February 2015, I filed a disclosure of wrongdoing (**DI-15-2333**) with the U.S. Office of Special Counsel (OSC), in which I provided first-hand knowledge of an orchestrated effort to obstruct a criminal investigation into "ongoing leaks of classified information" involving senior administration agency officials, as requested by Congressman **Peter T. King** on 09 August 2011 in his capacity as the Chairman of the House Committee on Homeland Security in violation of 18 U.S.C. § 798. [See: enclosures (3), (4).

a. As the DoD Assistant Inspector General (AIG) for Communications and Congressional Affairs, I objected to Acting Inspector General **Lynne M. Halbrooks** internally coordinating with:

- DoD OIG General Counsel (GC) **Henry C. Shelley Jr.**
- DoD OIG Deputy Inspector General for Criminal Investigation **James B. Burch**
- DoD OIG Assistant Inspector General for Criminal Investigation **James R. Ives**
- DoD OIG Deputy Inspector General for Administrative Investigation **Marguerite C. Garrison**
- Deputy Assistant Inspector General for Intelligence and Special Program Assessment (ISPA) **Patricia A. Brannin**, and externally with
- CIA Inspector General **David B. Buckley**
- CIA Deputy Inspector General **Christopher R. Sharpley**

²⁸ **Gross Mismanagement:** "a management action or inaction which creates a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission." *Kavanagh v. M.S.P.B.*, 176 F. App'x 133, 135 (Fed. Cir., Apr. 10, 2006).

²⁹ **Abuse of Authority:** "arbitrary or capricious exercise of power by a federal official or employee" that harms the rights of any person or that personally benefits the official/employee or their preferred associates. See: *Elkassir v. Gen. Servs. Admin.*, 257 F. App'x 326, 329 (Fed. Cir., Dec. 10, 2007).

- CIA OIG General Counsel (GC) **Christine S. Ruppert**
- CIA OIG Assistant Inspector General for Investigation **Howard W. Cox**

and, agreeing with CIA IG **David B. Buckley** to allow a Congressionally mandated criminal investigation to be conducted outside of the DoD IG's criminal investigative process by evaluation/audit personnel who lacked the professional education/certification (OPM Job Series 1811) to conduct an investigation into alleged/suspected criminal violation of Federal law at the highest levels of the Department of Defense.

b. The fact that Acting Inspector General **Lynne H. Halbrooks** steered a high-interest Congressional criminal investigation to the Deputy Inspector General for Intelligence and Special Program Assessment **Patricia A. Brannin**, knowing that **Patricia A. Brannin** announced her plan to retire from the federal government in June 2013, clearly evidenced an orchestrated inter-agency effort to obstruct the federal investigative process by senior Inspector General (IG) leaders of both the DoD/CIA:

- Steering a Congressionally directed criminal investigation into "ongoing leaks of classified information" involving senior administration officials out of the federal **investigative** process and into the **auditing & evaluation** process clearly indicates a complete loss of Inspector General (IG) independence and objectivity reflecting outright criminal abuse of authority. [See: enclosures (5) and (6).]

c. As the DoD Acting Inspector General **Lynne M. Halbrooks** was willing to obstruct the federal investigative process, with the cooperation of her senior investigative leadership team (**James B. Burch, James R. Ives, Henry C. Shelley Jr., and Marguerite C. Garrison**), I had no choice but to make a whistleblower disclosure:

- On 13 September 2013, I made a protected disclosure to **Charles Murphy** in the Office of Senator **Charles E. Grassley** on an inter-agency effort to obstruct the federal investigative process by senior Inspector General personnel attempting to curry favor while using their positions to offer preferential treatment to selected senior agency officials (abuse of authority) while actively defying the will of the U.S. Congress.^{30, 31} [See: enclosure (7).]

d. As a result of my disclosure of wrongdoing, Senator **Charles E. Grassley** conducted an investigation into senior leader misconduct within the DoD OIG that clearly demonstrated that Acting IG **Lynne M. Halbrooks** exercised what can be considered in the most favorable light as gross mismanagement and in the most probable light outright criminal abuse of authority orchestrating the conduct of a criminal investigation outside

³⁰ **Basic Obligation of Public Service** for employees of the Executive Branch, 5 C.F.R. § 2635.101(b)(11): "Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities." Accessed at: <https://www.law.cornell.edu/cfr/text/5/2635.101>

³¹ **Abuse of Authority:** "arbitrary or capricious exercise of power by a federal official or employee" that harms the rights of any person or that personally benefits the official/employee or their preferred associates. See: *Elkassir v. Gen. Servs. Admin.*, 257 F. App'x 326, 329 (Fed. Cir., Dec. 10, 2007).

of the federal investigative process supervised by DoD Assistant Inspector General for Criminal Investigation and Acting Deputy Inspector General for Intelligence and Special Program Assessment (ISPA) **James B. Ives**.³²

e. As unbelievable as it appears, the team of DoD OIG ISPA auditors failed to properly interview the actual subjects of the investigation (Secretary of Defense **Leon E. Panetta**, Undersecretary of Defense for Intelligence (USD-I) **Michael G. Vickers**, and SECDEF Chief of Staff **Jeremy B. Bash**), while ensuring that the investigative report (DODOIG-2013-092)³³ did not reference any of the subjects as part of an intentionally flawed federal investigation.³⁴

f. While giving false testimony to Senator **Charles E. Grassley's** investigative staff, Acting Inspector General **Lynne M. Halbrooks** made the "claim" that there was a "long standing policy" of removing vital information from DoD IG investigative reports which in the case of this Congressionally mandated investigation (Project: D2012-DINT01-0079.000/Investigative Report-DODOIG 2013-092) into "ongoing leaks of classified information" involving senior administration officials involved removal of the fact that the subject of investigation Secretary of Defense **Leon E. Panetta** was never interviewed.³⁵

- On 24 November 2014, DoD Inspector General **Jon T. Rymer** confirmed to Senator **Charles E. Grassley** that the DoD Office of Inspector General has, "no policy to 'remove sensitive information' from our reports." [See: enclosure (8).]

What is clear from the failure of the Federal Inspector General [FIG] Community to maintain independence and objectivity over the federal investigative process is the fact that Acting Inspector General **Lynne M. Halbrooks** provided false testimony to Senator **Charles E. Grassley** while attempting to hide the fact that there was, "no policy to 'remove sensitive information' from investigative reports and that there was a

³² **Senator Charles E. Grassley**, 17 November 2014, Review of actions taken by former Acting Inspector General (IG) & Principal Deputy Inspector General (PDIG) Lynne M. Halbrooks on her direct management of the Release of Department of Defense (DOD) Information to the Media, also known as the Zero Dark Thirty (ZDT) report and Halbrooks contacts with subjects to discuss an ongoing investigation. Accessed at: <https://www.grassley.senate.gov/sites/default/files/judiciary/upload/Zero%20Dark%20Thirty%2C%2012-02-14%2C%20final%20report%2C%20Redacted.pdf>

³³ *Final Report for Deputy Inspector General for Deputy Inspector General for Intelligence Special Program Assessments (ISPA) Project D2012-DINT01-0079.001*, released by Deputy Inspector General Anthony C. Thomas as an "inquiry" vice federal investigation (**DODOIG-2013-092**) on 14 June 2013. Accessed at: <https://media.defense.gov/2013/Jun/14/2001712842/-1/-1/1/DODIG-2013-092.pdf>

³⁴ **Senator Charles E. Grassley**, 17 November 2014, Review of actions taken by former Acting Inspector General (IG) & Principal Deputy Inspector General (PDIG) Lynne M. Halbrooks to remove findings: that Secretary Panetta provided TOP SECRET//SI and SECRET//ACCM to Mr. Mark Boal, who wrote and produced Zero Dark Thirty; Assistant Secretary of Defense (Public Affairs) communications with the White House regarding assistance to Mr. Boal, and CIA assistance to Mr. Boal giving access to classified post-raid CIA event. See: Attachment B: Sensitive Information Removed from Report, pg. 14. Accessed at: <https://www.grassley.senate.gov/sites/default/files/judiciary/upload/Zero%20Dark%20Thirty%2C%2012-02-14%2C%20final%20report%2C%20Redacted.pdf>

³⁵ *Ibid.*, pg 11 & 14, See: Conclusion #6 - Long-standing OIG Policy Requiring Removal of Certain Substantive Information.

collaborative interagency effort to obstruct the federal investigative process by the Federal Inspector General (FIG) Community:

- Acting Inspector General **Lynne M. Halbrooks** provided false information to Senator **Charles E. Grassley** in the proper performance of his oversight duties, in violation of federal criminal law (18 U.S. Code § 1001).

TAKEAWAY: There is clear and convincing evidence to support a federal criminal investigation into obstruction of justice by senior Inspector General (IG) leadership directly involved in the Congressionally mandated investigation (*Project: D2012-DINT01-0079.000/Investigative Report-DODOIG 2013-092*) into “ongoing leaks of classified information” involving senior administration officials.

5. On 18 March 2016, after holding my disclosure of wrongdoing (**DI-15-2333**) for **395** days, the U.S. Special Counsel (OSC) made a positive 45-day substantial likelihood finding that required an investigation into a credible report of senior leader misconduct related to the Congressionally mandated investigation (*Project: D2012-DINT01-0079.000/Investigative Report-DODOIG 2013-092*) into “ongoing leaks of classified information” involving senior administration officials; however, the U.S. Special Counsel **did not**:

- Make agency head notification (Secretary of Defense) in direct violation of 5 U.S.C. §1213(c)
- Demand an independent and objective criminal investigation into a disclosure of wrongdoing evidencing a coordinated inter-agency effort to obstruct the federal investigative process that occurred within the DoD IG/CIA IG to protect senior agency officials in violation of 18 U.S.C. § 1505.³⁶ [See: enclosure (9).]

a. On 19 April 2017, after holding my disclosure of wrongdoing (**DI-15-2333**) for **791** days, the U.S. Special Counsel made a referral to the Chairperson of the CIGIE Integrity Committee (IC) **Scott S. Dahl**/Vice-Chair CIGIE IC **Deborah J. Jeffrey** demanding investigation of DoD OIG senior leaders. [See: enclosure (10).]

The CIGIE IC under the supervision of CIGIE Integrity Committee (IC) **Scott S. Dahl** and Vice-Chair CIGIE IC **Deborah J. Jeffrey** simply refused the U.S. Special Counsel (OSC) demand to conduct investigation into senior leader misconduct occurring within the DoD IG by inspector general personnel “covered” by the CIGIE [See: enclosures (1) and (2).]
37, 38

³⁶ 18 U.S. Code § 1505. *Obstruction of Proceedings before Departments, Agencies, and Committees*. Accessed at: <https://www.law.cornell.edu/uscode/text/18/1505>

³⁷ **Gross Mismanagement:** “a management action or inaction which creates a substantial risk of significant adverse impact upon the agency’s ability to accomplish its mission.” *Kavanagh v. M.S.P.B.*, 176 F. App’x 133, 135 (Fed. Cir., Apr. 10, 2006).

³⁸ **Abuse of Authority:** “arbitrary or capricious exercise of power by a federal official or employee” that harms the rights of any person or that personally benefits the official/employee or their preferred associates. See: *Elkassir v. Gen. Servs. Admin.*, 257 F. App’x 326, 329 (Fed. Cir., Dec. 10, 2007).

TAKEAWAY: There is a substantiated breakdown in the independence and objectivity of the Federal Inspector General (FIG) Community clearly evidenced by the inability/reluctance to hold “covered” members of the Council of the Inspectors General for Integrity and Efficiency (CIGIE) accountable to the same standards vigorously enforced by the Federal Inspector General (FIG) community on the rest of the over two-million law abiding members of the Merit System.³⁹

6. In your role as the Executive Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), I demand:

(1) Immediate acknowledgment of the criminal loss of investigative independence and objectivity fostered within the membership of the CIGIE under the leadership of: CIGIE Chair, **Michael E. Horowitz**; CIGIE Vice-Chair, **Allison C. Lerner**; CIGIE Executive Director, **Alan F. Boehm**; and **CIGIE** General Counsel **Atticus J. Reaser**

(2) Demand for independent and objective DOJ investigation into criminal obstruction of justice, subversion of the federal investigative process, and interagency Inspector General misconduct cover-up (18 U.S.C. § 1505) disclosed by **John R. Crane** involving the following former/current members of the Federal Inspector General (FIG) Community, including: Acting DoD IG, **Lynne M. Halbrooks**; Acting DoD IG, **Glenn A. Fine**; DoD OIG GC, **Henry C. Shelley Jr.**; DoD OIG GC, **Brian G. Yonish**; DoD OIG FOIA Authority, **Catherine M. DelPrete**; Senior Advisor DoD IG, **Brett A. Mansfield**; DoD IG CoS, **Michael S. Child Sr.**; DoD IG CoS, **Steven A. Stebbins**; Deputy Chief of Staff (CoS), **Daniel R. Blair**; Deputy Inspector General for Administrative Investigations (AI), **Marguerite C. Garrison**; Director Whistleblower Reprisal Investigation, **Nilgun Tolek**; Assistant Inspector General for Investigation (Criminal)/Deputy Director Defense Criminal Investigative Service (DCIS), **Dermot F. O'Reilly**; Deputy Inspector General for Investigation (Criminal)/Director Defense Criminal Investigative Service (DCIS), **James B. Burch**; Principal Deputy Director, Defense Criminal Investigative Service (DCIS), **Kelly P. Mayo**; and Deputy Inspector General for Investigation (Criminal)/Deputy Director Defense Criminal Investigative Service (DCIS), **James R. Ives**

(3) Removal of CIGIE Integrity Committee (IC) leadership under the authority of Chair, **Scott S. Dahl**; Vice-Chair, **Deborah J. Jeffrey**; FBI Assistant Director Office of Integrity and Compliance; **Catherine Sheehan Bruno**; DOJ Criminal Division Acting Chief Office Public Integrity Section (PIN), **AnnaLou T. Tirol**.

(4) Removal of U.S. Special Counsel **Henry J. Kerner** and his leadership team: Principle Deputy U.S. Special Counsel, **Ellen Chubin Epstein**; Associate Special Counsel, **Louis**

³⁹ The Inspector General Act (5a U.S.C. Appendix (IG Act) § (3)(b). “An Inspector General **may be removed** from office by the President. If the Inspector General is removed from office or is transferred to another position or location within the establishment, the President shall communicate in writing the **reasons for any such removal** or transfer to both Houses of Congress, not later than 30 days before the removal or transfer.” Accessed at: <https://www.govinfo.gov/content/pkg/USCODE-2011-title5/html/USCODE-2011-title5-app-inspector.htm>

Lopez; General Counsel, **Susan K. Ullman**; Associate Special Counsel (Former MSPB Judge), **Anne E. Wagner**.

(5) Independent review on the actual disposition (including actions taken by agency heads) of substantiated allegations/disclosures made against members of the CIGIE and directed to agency heads for accountability action during the period 2009-Present. [5 U.S.C. Appendix (IG Act) § 11(d)(8)(B)]

Thank you for your time and immediate response to this direct threat to investigative independence and assault on the Chief Executive's Merit System.

Very Respectfully,



John R. Crane

Enclosures:

- (1) U.S. Special Counsel (OSC) Notification of CIGIE IC Refusal to Investigate Letter to John R. Crane dated 11 Oct 2017
- (2) CIGIE Integrity Committee (IC) Kevin H. Winter Notification of CIGIE IC Refusal to Investigate Letter to John R. Crane dated 06 Sept 2019
- (3) John R. Crane Disclosure of Investigative Wrongdoing Occurring within DoD IG Reported to U.S. Special Counsel (OSC) dated 09 Feb 2015
- (4) Congressman Peter T. King letter to DoD IG/CIA IG Demand for Investigation into Leaks of Classified Information Regarding Sensitive Military Operations dated 09 Aug 2011
- (5) Deputy Inspector General (DIG) Patricia A. Brannin Memorandum to Undersecretary of Defense for Intelligence (USD-I) Michael G. Vickers dated 10 Dec 2011
- (6) Assistant Inspector General for Communications and Congressional Liaison John R. Crane Letter to Congressman Peter T. King Announcing Investigation into Ongoing Leaks of Classified Information Regarding Sensitive Military Operations dated 23 Dec 2011
- (7) E-Mail Whistleblower Status John R. Crane to Charlie Murphy (Senator Grassley) dated 13 Sept 2012/0912PM (EST)
- (8) DoD Inspector General Jon T. Rymer Letter to Senator Charles E. Grassley dated 24 Nov 2014
- (9) U.S. Special Counsel Carolyn N. Lerner 45-Day Substantial Likelihood Finding Letter (**DI-15-2333**) to John R. Crane dated 18 Mar 2016
- (10) U.S. Special Counsel Carolyn N. Lerner 45-Day Substantial Likelihood Finding Letter (**DI-15-2333**) to John R. Crane dated 19 Apr 2017

Cc:

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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.

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.

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



Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

1717 H Street, NW, Suite 825, Washington, DC 20006 • Integrity-Complaint@cigie.gov

September 6, 2019

Via Email

John R. Crane

johnrcrane@me.com

Re: Complaint to the Integrity Committee

Dear Mr. Crane:

The Integrity Committee (IC) of the Council of Inspectors General on Integrity and Efficiency (CIGIE) received and thoroughly reviewed the concerns you submitted to us, the Office of Special Counsel (OSC), and the CIGIE Executive Chairperson on June 11, 2019, regarding the relationship between OSC and the IC and a perceived loss of investigative independence. We want to take this opportunity to address your concerns and explain our process under section 11(d) of the Inspector General Act of 1978, as amended, 5 USC app. (IG Act), and the IC Policies and Procedures (2018).¹

On April 19, 2017, OSC referred your allegations against senior employees in the Department of Defense Office of Inspector General to the IC for investigation under 5 USC 1213(c) and 5 USC 1213(g)(2). Given that the IC is not an agency head under 5 USC 1213, the IC was not permitted to accept the referrals under either 5 USC 1213(c) or 1213(g)(2) because it does not have the authority to impose remedies at agencies and cannot stand in the place of the agency head. However, the IC did accept the allegations for review under its own authority, as described in section 11(d) of the IG Act. After thoroughly reviewing the allegations and supporting documentation under its authorities, the IC determined the allegations did not meet the IC's threshold standard for investigation. The IC determined no further action was required and closed the matter.² On July 21, 2017, the IC Vice Chairperson notified OSC of the IC's determination.³

It is important to note that the IC and OSC are separate and independent federal entities with distinct missions, whose legislative authority come from different statutes and whose authorities are not bound by, or otherwise subject to, the other's determinations. Until December 2016, the Special Counsel was a member of the IC.⁴ However, the Inspector General Empowerment Act of 2016 bolstered the IC's independent review of OSC cases by removing the

¹ These documents can be found at <https://www.ignet.gov/content/integrity-0>.

² To date, your allegations against Department of Defense Office of Inspector General employees have been reviewed by OSC, the Public Integrity Section of the Department of Justice (DOJ), the IC, and investigated by the DOJ Office of Inspector General. Each review determined there was no evidence to support the allegations.

³ The IC Chairperson, Scott Dahl, was recused from these matters and therefore did not participate in the IC's deliberations or decision.

⁴ The Special Counsel was recused from committee proceedings involving allegations against OSC leadership.

OSC official from IC membership and placing limitations on OSC's authority as a member of the IC's Allegation Review Group (ARG). The IC is now composed of four Inspectors General, and a designee from the Federal Bureau of Investigation and the U.S. Government Ethics Office.

By procedure, if the IC receives allegations of wrongdoing against the Special Counsel or the Deputy Special Counsel, then the OSC member of the ARG is recused. Similarly, if the IC receives allegations against a member of the IC, or if an IC member's impartiality is otherwise reasonably in question on a matter, then the IC member is recused. As with any matter before the IC, an ARG or IC member who is recused will not receive notice of, nor the ability to consider, those allegations, nor are they privy to the deliberations and voting decisions by non-recused members, thus alleviating any potential conflict of interest. Furthermore, while the Special Counsel is an ex officio member of CIGIE, he is not under the authority of the CIGIE Chairperson.

The IC is committed to effective policing of the Federal IG community and the Special Counsel and Deputy Special Counsel of OSC to maintain the public's trust, and continues to work closely with our stakeholders, including OSC, to ensure the appropriate coordination and resolution of whistleblower allegations. I trust that you will find this information helpful and I appreciate you bringing your concerns to my attention.

Sincerely,



Kevin H. Winters
Acting Chairperson
Integrity Committee

cc: Margaret Weichert
CIGIE Executive Chairperson

Michael E. Horowitz
CIGIE Chairperson

Honorable Ron Johnson
Chairman, Committee on Homeland
Security and Governmental Affairs

Honorable Elijah Cummings
Chairman, Committee on Oversight
and Reform

Honorable Chuck Grassley
Chairman, Senate Finance Committee

Gene L. Dodaro
Comptroller General

Honorable Gary Peters
Ranking Member, Committee on Homeland
Security and Governmental Affairs

Honorable Jim Jordan
Ranking Member, Committee on Oversight
and Reform

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:

Enclosure (3)

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.

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 22106

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): _____

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: tomdev@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 (☐)

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.

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
(*please specify*):

Date: ___ / ___ / ___

() Department of Justice

Date: ___ / ___ / ___

() Other Executive Branch / department / agency
(*please specify*):

Date: ___ / ___ / ___

() General Accounting Office (GAO)

Date: ___ / ___ / ___

(✓) Congress or congressional committee
(*please specify member or committee*):

Date: 09 / 13 / 12

Senator Grassley/Chairman Levin

() Press / media (newspaper, television, other)
(*please specify*):

Date: ___ / ___ / ___

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

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;

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.

Protected Disclosure to Congress

Zero Dark Thirty Investigation

Disclosure: On September 13, 2012, in accordance with Executive Order 12731, I contacted the office of Senator Grassley, and reported that Ms. Halbrooks, in an abuse of authority, was violating standard investigative policies, and procedures, and was manipulating the conduct of an investigation by not interviewing the subject of the investigation who was the Secretary of Defense. In addition, Ms. Halbrooks was delaying release of the report for self-serving political motivation in violation of EO 12731 that states: "Employees shall not use public office for private gain."

In an abuse of authority, Ms. Halbrooks had been attempting to help her prospects to be nominated as the Inspector General with the intent of not releasing the report until after the elections, and after the Secretary had left office. Mr. Charles Murphy, Investigator, Senator Grassley, and Mr. Dan Meyer, Director Whistleblowing and Transparency, were at the meeting. Mr. Charles Murphy provided me e-mail confirming my whistleblower status. (Exhibit 6)

Retaliation: I believe that Ms. Halbrooks, in an abuse of authority, acted to retaliate against me when she conducted investigations against me, and then served me a Notice of Proposed Removal in reprisal for my stated concerns that she was abusing her authority, and that she was attempting to use her office in pursuit of personal gain.

Ms. Halbrooks reprised against me because she considered me as the whistleblower who had provided information used by Marisa Taylor, McClatchy News, in a December 17, 2012, article entitled: "Bin Laden film leak was referred to Justice: leaker top Obama Official." Ms. Halbrooks considered me the whistleblower because the article contained information that was known by a limited number of IG employees, including myself. ([Link](#))

In addition, Ms. Halbrooks abused her authority by challenging me to identify the whistleblower(s) who were providing information to Senator Grassley, and to interfere with, and stop protected disclosures to Congress in violation of the Whistleblower Protection Act of 1989, as amended. Ms. Halbrooks stated that the whistleblowers were revealing information that was undermining Mr. Vickers who was the candidate that the Secretary was supporting to become the next Director of the CIA. Ms. Halbrooks stated that I was not a team player, since I did not provide whistleblower information to her, and that Mr. Brett Mansfield, the Deputy Chief of Staff, was available to replace me.

The abuse of authority by Ms. Halbrooks was an articulated direction to me, as the senior executive responsible for Whistleblowing and Transparency, to abuse my management prerogatives, and in violation of statute, to shut down the regular functioning of the whistleblower program. Ms. Halbrooks also abused her authority by threatening to remove me from my position if I did not violate Whistleblower statute.

In response to the newspaper article of December 17, 2012, Ms. Halbrooks met with the Secretary of Defense, and his Chief-of-Staff on December 18, 2012. The newspaper article related to the draft DoD IG report, subsequently released by POGO, in June 2013, in which the Secretary, and the Chief-of-Staff were both subjects of investigation.

Ms. Halbrooks informed me that Mr. Vickers was "their" choice (the Secretary of Defense) to become Director of the CIA, and that the report would not be issued while Mr. Panetta was Secretary. In addition, Ms. Halbrooks informed me that she, and Mr. Shelley had made the decision that information related to the CIA, and the actions of both the Secretary, and the Chief-of-Staff would be dropped from the draft report.

I expressed to Ms. Halbrooks that dropping information relating to two subjects of the report immediately after meeting with the subjects would be unprecedented, and would raise questions regarding the propriety of her actions, and the integrity of the investigative, and report writing process. Ms. Halbrooks again stated that I was not a team player.

Narrative:

Chairman King in his letter to the DoD/CIA IGs states that:

I write to express concern regarding ongoing leaks of classified information regarding sensitive military operations. As reported in a *New York Times* column on August 6, 2011, Administration officials may have provided filmmakers with details of the raid that successfully killed Usama bin Laden (UBL). According to that report, Sony Pictures Entertainment, Inc. and movie director Kathryn Bigelow received 'top-level access to the most classified mission in history' to produce a movie about the raid, due for release in October 2012. Reportedly, a Hollywood filmmaker also attended a CIA ceremony in honor of the team that carried out the raid. . . . Therefore, I request an investigation and classified briefing regarding this matter from the Defense Department's and CIA Inspectors General "to address five specific issues noted in the letter. ([Link](#))

As a result of the letter from Chairman King, a meeting was held between Ms. Halbrooks, and Mr. Buckley that resulted in the DoD IG assuming responsibility for most of the responses back to Chairman King in regard to the letter of August 9, 2011. A response was provided to Chairman King on December 23, 2011, that included an announcement memorandum by the DoD IG of December 10, 2011, that stated:

We plan to begin subject investigation immediately. The overall objective of this investigation is to address the congressionally requested action found in the letter of the Chairman of the House Committee on Homeland Security to the DoD Inspector General dated August 19, 2011.

The memorandum also states:

The investigation will be coordinated with affected agencies' Inspectors General when applicable and may be performed at selected elements of the Office of Secretary of Defense and other DoD organizations, as appropriate. ([Link](#))

Fieldwork by the DoD IG in regard to the investigation was initiated on January 27, 2012.

The Central Intelligence Agency responded to Chairman King on November 9, 2011, and stated:

The Office of Public Affairs is developing a written policy to create a single point of reference that will govern future interactions with the entertainment industry. The Office of Inspector will review the established guidelines once the policy is completed. ([Link](#))

With the departure of the then Inspector General on December 24, 2011, Ms. Halbrooks became Acting Inspector General, and immediately began both her efforts to be nominated as the next Inspector General, and started her unprecedented involvement in the crafting, and development of the report to respond back to Chairman King.

Ms. Halbrooks, and I candidly, and repeatedly discussed the sensitivity of the investigation in that the allegations touched directly upon the actions of Secretary Panetta, Jeremy Bash, Chief-of-Staff to Secretary Panetta, and George Little, the Assistant Secretary of Defense for Public Affairs. Both Mr. Bash, and Mr. Little had held equivalent positions with Secretary Panetta when he had been Director of the Central Intelligence Agency. I strongly urged that the intelligence analysts assigned to prepare the report be allowed to conduct their investigation with no influence from Ms. Halbrooks. Ms. Halbrooks stated that

she did not want the investigation to upset the Secretary nor his Chief-of-Staff because they had direct influence on selecting the nominee that would be sent to the White House for approval.

In addition, I stated that there should be no appearance of political motivation by Ms. Halbrooks in both the crafting of the report, and the release of the report. The issue of granting inappropriate access to Hollywood producers to release a movie regarding the killing of Usama bin Laden, that was timed for release before the general elections in November 2012, was simply explosive since the film could be seen as trying to influence the general election in support of President Obama. In that regard, I strongly urged Ms. Halbrooks to have a focused effort that would place the issuance of the DoD IG report outside any political considerations. Due to the national political conventions in August, I urged completion, and release of the report before the July 4th time period.

Ms. Halbrooks, however, stated that she did not want the report to be issued before the expected departure of Secretary Panetta after the start of either a new Administration, or the second term of the current Administration. Ms. Halbrooks stated that any early release of the report would involve interviews that could upset Secretary Panetta, and his senior aides at the exact time that she was trying to be nominated to be IG. She stated that she would need the support of Secretary Panetta. Ms. Halbrooks stated it was her intent not to interview Secretary Panetta. I strongly objected to that approach stating that the report was about the actions of Secretary Panetta, and so Secretary Panetta needed to have the opportunity to provide exculpatory information.

I also noted that DoD IG investigators had interviewed Secretaries of Defense in the past when the actions of the Secretaries were part of the scope of the investigation. I pointed to the interview of Secretary Rumsfeld during the investigation of the Boeing lease issue. In addition, I reminded Ms. Halbrooks that IG investigators had also interviewed Secretary Aspin during the course of an investigation. I stated that a decision not to interview Secretary Panetta was inappropriate, and ran counter to the investigative methodology of the DoD IG. Secretary Panetta as a subject of the investigation was required to be interviewed.

The tenor of the extended disclosures to Ms. Halbrooks in connection with decisions on the methodology, and release of the report were tightly intertwined with a series of events including Ms. Halbrooks being interviewed by White House Personnel and questioned on whether she had the military, and departmental experience to be Inspector General, and whether there had been former female Inspectors General. Ms. Halbrooks also shared information with me regarding her interview with the Deputy Secretary, and DoD General Counsel who were interviewing two candidates to be nominated to be Inspector General.

Ms. Halbrooks shared the fact that she had been told that Mr. Buckley, the CIA IG was the other candidate. Ms. Halbrooks shared that phone calls were being made to her references, and that she was hoping her nomination would be announced between Labor Day, and July 4th.

In a December 20, 2013, article entitled: “‘Zero Dark Thirty’ leak investigators now target of leak probe,” Marisa Taylor of McClatchy News, states:

Then-acting Pentagon Inspector General Lynne M. Halbrooks, meanwhile found herself smack in the middle of the controversy at an inopportune moment. **Halbrooks wanted to be considered for the post permanently, according to current and former officials. Her main competitor was Buckley. Neither got the permanent post.** (Emphasis added.) ([Link](#))

Because of the congressional, and media aspects of the report being prepared for Chairman King, Ms. Halbrooks asked me to attend briefing sessions with the intelligence analysts as they were crafting a methodology. It was astounding to me, because in almost 25 years as a part of the Front Office I had never witnessed an acting head of agency become so involved in developing the methodology of an investigation, or requesting reviews to ensure the analysts remained “on track.” In fact, Ms. Halbrooks was engaging in the very activities I had warned her against. The fieldwork for the report was initiated on January 27, 2012

Repeatedly, after a series of briefings during the summer with the intelligence analysts, I strongly advised Ms. Halbrooks not to delay the issuance of the report, and that the report would lack credibility if the Secretary was not interviewed. Ms. Halbrooks micromanaged the investigative process to the point that she demanded to be informed before any of Secretary Panetta’s chief aides were interviewed. Ms. Halbrooks was upset when Mr. Bash was interviewed by Mr. Matthew Bush, an intelligence analyst without her permission, and stated that unapproved briefings of witnesses would not be allowed. (This occurred in the same timeframe when Ms. Halbrooks would not allow the interview of COL Fassl to determine whether he had made a disclosure to the then Inspector General.)

During the summer, I urged Ms. Halbrooks to take quick action on the report, and to interview Secretary Panetta. After the intelligence analysts had concluded fieldwork on the report on August 16, 2012, I again expressed my concern that Secretary Panetta had not been interviewed. The draft of the report entitled: *Release of Department of Defense Information to the Media*, in response to the request by Chairman King, was sent to my office on September 13, 2012, for review. Ms. Halbrooks continued to state to me, however, that the report would not be issued until after the Secretary had left office, and certainly not

before the elections in November because the findings would embarrass both Secretary Panetta, and the White House. I told Ms. Halbrooks that after clearance from the classification authorities, and review by myself, and Mr. Shelley, that there would be no obstacles to release before the Secretary had left office.

I expressed to Ms. Halbrooks that it was the first time in my experience that political motivations had entered into the crafting of the methodology of an investigation, and it was the first time that political considerations had entered into the timing regarding the release of an investigation. I also noted that it was the first time that personal gain through the pursuit of the IG nomination had ever intruded into the proper, and lawful conduct of DoD IG activities. Ms. Halbrooks stated that I was not being a team player, and that the report would not be issued until she considered the timing to be right, and after the departure of the Secretary.

Accordingly, the same day, on September 13, 2012, in accordance with Executive Order 12731, I contacted the office of Senator Grassley, and reported that Ms. Halbrooks, in an abuse of authority, was directly influencing the conduct of an investigation, to include whether to interview the Secretary of Defense, and the timing of the release of the investigation. In an abuse of authority, Ms. Halbrooks was attempting to help her prospects to be nominated as the Inspector General with the intent of not releasing the report until after the elections, and after the Secretary had left office.

On October 24, 2012, the report was subsequently sent to the original classification authorities regarding the information contained in the report to identify information that could not be included in a publicly issued version of the report. The classification reviews were completed by November 9, 2012, after which a dialogue began between my Public Affairs officers, and the intelligence analysts on crafting Talking Points in anticipation of public release. The first draft of the Talking Points were started on November 1, 2012, and received by Ms. Margo Poser, and Matthew Bush on November 13, 2012. (Exhibit 38)

Thereafter, I received the formal coordination package regarding the report along with the extensively developed Talking Points that would be used both by my office, and the DoD Office of Public Affairs in responding to reporters when the report was issued. The package was in final form, and included a proposed memo from Ms. Halbrooks that would transmit the report to the Secretary, and my transmittal letter to Chairman King.

On December 6, 2012, after a series of earlier edits, to include my own, I received both the FOUO, and public release versions of the report via e-mail. ([Link](#))

Both prior to, and immediately after December 6, 2012, I met with Ms. Halbrooks to note some of my observations in regards to those points in the report that would have interest to both Chairman King, and the media.

I noted the following:

Release by Panetta of TOP SECRET Information -

During this awards ceremony, Director Panetta specifically recognized the unit that conduct the raid and identified the ground commander by name. Director Panetta also provided DoD information, identified by relevant Original Classification Authorities as TOP SECRET//SI//REL to USA, AUS, CAN, GBR, NZL, as well as, SECRET//ACCM. According to the DoD Office of Security Review, the individual's name is protected from public release under 5 U.S.C. Section 552a and 10 U.S.C. Section 130b. (Page 12)

Release by Vickers of FOUO, and Privacy Act Information -

At this point USD(I) Vickers had given Mr. Boal, and Ms. Bigelow the name of the Special Operations Planner. This individual's name as associated with the operation is "For Official Use Only, not for public release," protected under 5 U.S.C. Section 552a, the Privacy Act, and 10 U.S.C. Section 130b, Personnel in Overseas, Sensitive, or Routinely Deployable Units: Non-disclosure of Personally Identifiable Information. (Page 11)

Panetta Chief-of-Staff Challenged in Version of Events -

According to the DoD PAO, the day of the event, the CIA PAO contacted the DoD PAO to state that efforts failed and the "Chief of Staff" directed that the Hollywood executive be given access to the event. Prior to the ceremony, the DoD PAO was unable to communicate with any of the DoD personnel attending the ceremony. The CIA Chief of Staff, at that time, is now the Secretary of Defense's Chief of Staff. The Secretary of Defense's Chief of Staff told us that the attendance authorization of a Hollywood executive at the event was part of the discussions between Hollywood executives and the CIA PAO and that he [Mr. Bash] was not involved. (Page 12)

ADM McRaven Directs Purging of Records -

ADM McRaven also directed that the names and photographs associated with the raid not be released. This effort included purging the combatant command's systems of all records related to the operation and providing these records to another Government Agency. (Page 13)

I noted that the report would create a firestorm for Jeremy Bash, Chief-of-Staff, Secretary Panetta, and George Little, Assistant Secretary of Defense for Public Affairs, in their response to the media. I pointed out that in regards to the methodology of the report, the DoD IG would be criticized for not having interviewed Secretary Panetta, and for not allowing him the opportunity to provide exculpatory material such as whether Secretary Panetta was aware of the presence of a Hollywood executive at the CIA event.

I stated it was incomprehensible for the subject of a report not to be interviewed in regard to his actions, and that failure to interview Secretary Panetta was a violation of the normal procedures, and standards used by the DoD IG in conducting investigations. I told Ms. Halbrooks that it would be difficult to offer a cogent defense on why the Secretary had not been interviewed.

I also stated that there was a contradiction in the testimonies regarding the involvement of Mr. Bash in the CIA event. The report stated that:

According to the DoD PAO, the day of the event, the CIA PAO contacted the DoD PAO to state that efforts failed and the "Chief of Staff" directed that the Hollywood executive be given access to the event.

Yet, the report in the same paragraph stated that:

The CIA Chief of Staff, at that time, is now the Secretary of Defense's Chief of Staff. The Secretary of Defense's Chief of Staff told us that the attendance authorization of a Hollywood executive at the event was part of the discussions between Hollywood executives and the CIA PAO, and that he [Mr. Bash] was not involved.

I directly asked Ms. Halbrooks whether the contradiction in testimony between Mr. Bash, and the DoD Public Affairs Officer would result in a senior official investigation regarding the two accounts. I stated that failing to resolve the contradiction along with the failure to interview Secretary Panetta would be two instances that constituted a violation of the normal procedures, and standards used by the DoD IG in conducting investigations.

Ms. Halbrooks stated that there was no report to be issued because she had not read the report, and as a result a final report did not exist. Ms. Halbrooks stated that the report would not be issued as long as Mr. Panetta was Secretary. In addition, she stated that she would NOT read the report so there was nothing to issue. I stated that she was developing new criteria for release of a report that had never been used in the history of the agency. In fact, no agency head had ever read more than a small fraction of the reports issued, and her involvement in the report had been extraordinary.

I explained to Ms. Halbrooks that in any other circumstance the report would be final, and that the report was not final only because Ms. Halbrooks was intervening in an unprecedented manner. I stated to Ms. Halbrooks that she was creating an arbitrary, and ad hoc procedure grounded solely in her own authority to create a departure from normal process in regard to the way the *Zero Dark Thirty* report was being handled.

I noted that refusal to issue the report would be noted by the intelligence analysts because of the nature of the findings, and I expected one or more to make whistleblower disclosures to Congress if the report was not issued. Ms. Halbrooks challenged me whether I would again become a whistleblower, and who among the intelligence analysts could become whistleblowers. As the official responsible for Whistleblowing and Transparency, I refused to answer or speculate regarding the identities of the potential whistleblowers. I also did not deny that I had become a whistleblower.

The report was so close to being issued that the discussion within my office centered on what day the report would be issued rather than on whether the report would be issued. **(Exhibit 38)**

Subsequent to my above mentioned discussions with Ms. Halbrooks in early December, a whistleblower from within the DoD IG, in a December 14, 2012, e-mail to Mr. Charlie Murphy, staff of Senator Grassley, expressed their concern in regard to the report being prepared by the intelligence analysts:

That effort (D2012-DINT01-0079) has been controlled and manipulated since inception by the IG Front Office. Can't comment on reason why sitting on it but definitely controlling the entire effort. There is a version ready to hit the street, been long time ready to hit the street...but we will see if that happens anytime soon. Highly unusual tight controls and tactical involvement from senior leadership on this project.

The e-mail continues:

We know IG Schmitz used to sit on reports and efforts so it is plausible the same thing could be happening. In this new system, the oversight components have to get permission to start oversight, what the oversight is, content of the reports, and then approval to issue the reports. IGs are political appointees, now they have too much control over the actual oversight; and politicization of the IGs is a very real concern. **(Exhibit 39)**

The degree of the involvement of Ms. Halbrooks and Mr. Shelley is also demonstrated in the citation of a Team of the Year award given during the 24th Annual Inspector General Honorary Awards Ceremony, to the intelligence analysts who prepared the report. The citation states:

In an effort to maintain the highest level of awareness among the senior leadership of the OIG, the team organized monthly project updates and briefings to the PDIG [Ms. Halbrooks], OGC [Mr. Shelley], OCCL [Mr. Crane] and IPSA [Intelligence and Special Program Assessments] principals. **(Exhibit 40)**

On December 18, 2012, Ms. Halbrooks called me into her office to report that she had just returned from a meeting in the office of the Secretary that included Mr. Jeremy Bash, and that they had discussed the findings of the draft DoD IG report that had been identified in the December 17, 2012, McClatchy News article by Marisa Taylor, entitled: "Bin Laden film leak was referred to Justice; leaker top Obama official." ([Link](#))

The article stated:

Vickers as Candidate to be CIA Director -

Pentagon investigators concluded that a senior Defense Department official who's been mentioned as a possible candidate to be the next CIA director leaked restricted information to the makers of an acclaimed film about the hunt for Osama bin Laden, and referred the case to the Justice Department, according to knowledgeable U.S. officials.

The Justice Department received the case involving Undersecretary of Defense for Intelligence Michael Vickers in September, but so far it's declined to launch a criminal prosecution, said two senior officials who requested anonymity because of the sensitivity of the matter.

The case involved a determination by investigators of the Pentagon's inspector general's office that Vickers provided the maker of the film *Zero Dark Thirty* with the restricted name of a U.S. Special Operations

Command officer who helped plan the May 2, 2011, raid on bin Laden's hideout in Pakistan, one official said.

Politicizing Release Date of Report -

Even though the inquiry was launched at the request of Rep. Peter King, R-NY, the chairman of the House Homeland Security Committee, the Defense Department Inspector General's Office hadn't informed King or any other lawmakers of its findings by midday Monday, a politically risky decision that could ignite charges that officials were trying to protect President Barack Obama during his tough re-election battle.

Panetta Not Interviewed -

The investigators found no evidence that White House officials were involved in any leaks of classified materials to the filmmakers, according to U.S. officials familiar with the findings. They reached that conclusion, however, without interviewing any White House officials or Panetta, who was the CIA director at the time of the bin Laden raid. Panetta reassured Congress in June – before the investigators reached their findings – that no classified information had been released to the filmmakers.

Role of Chief of Staff -

Among its other conclusions, the Pentagon investigators determined that White House, and Pentagon officials discussed allowing the filmmakers to interview Vickers.

Ms. Halbrooks stated to me that the information in the article to include the referral to the Department of Justice was close-hold information of which only I, and a few others had knowledge. **I told Ms. Halbrooks that I had never spoken with Ms. Taylor about any aspect of the report, which was 100% true. Ms. Halbrooks stated if I was not the whistleblower who was the whistleblower(s), and I needed to identify them if she was to believe that I was not the whistleblower.** Ms. Halbrooks also informed me that Mr. Vickers was "their" choice (the Secretary of Defense) to become Director of the CIA, and that the report would not be issued while Mr. Panetta was Secretary.

I informed Ms. Halbrooks that it was inappropriate for her to have discussions with the Secretary, and Mr. Bash about the draft report, because the Secretary, and Mr. Bash were the subjects of the draft report. In addition, the draft report noted that the testimony of Mr. Bash was contradicted. If both the Secretary, and Mr. Bash were also the subjects of senior official investigations due to the draft report then it was doubly improper to engage in discussions.

I told Ms. Halbrooks that it was unprecedented for the head of the agency to be in contact with the subjects of an investigation, and to discuss the draft version of the report that discusses the actions of the subject. Ms. Halbrooks then informed me that she, and Mr. Shelley had decided that information related to the CIA, and the actions of both Secretary Panetta, and Mr. Bash would be dropped from the draft IG report.

I expressed to Ms. Halbrooks that dropping information relating to two subjects of the report immediately after meeting with the subjects would be unprecedented, and would raise questions regarding the propriety of her actions, and the integrity of the investigative, and report writing process. Ms. Halbrooks expressed that I was not a team player.

I had repeatedly expressed my belief to Ms. Halbrooks that she was violating standard investigative practice by NOT interviewing the Secretary who was the subject of an investigation, and that she need to address the fact that the testimony of Mr. Jeremy Bash, Chief-of-Staff to Secretary Panetta was contradicted in the draft report.

I also expressed my belief that she was attempting to manipulate the investigative process by attempting not to issue the report until Mr. Panetta had left office in order to avoid conflict with the Secretary. In addition, I expressed my belief that she was attempting to use her position in the pursuit of personnel gain to be nominated to be the DoD IG nominee. EO 12731 states: "Employees shall not use public office for private gain."

In regard to whistleblowers, I told Ms. Halbrooks that I could not provide to her the communications of a whistleblower to Charlie Murphy, Investigator, Senator Grassley, because she was the subject of the allegations. I was concerned about the appearance of possible retaliation if the identity of the whistleblower could be surmised from the content of the e-mail. Ms. Halbrooks stated that I was not a team player, since I did not provide whistleblower information to her, and that Mr. Brett Mansfield, the Deputy Chief of Staff, was available to replace me.

As the senior executive responsible for the Director of Whistleblowing and Transparency, I was in possession of the entire e-mail chain from the whistleblower within Intelligence to Charlie Murphy on the staff of Senator Grassley. The e-mail chain confirmed my own observations that the *Zero Dark Thirty* report had been ready for public release, but senior leadership had been delaying release, and that senior leadership was intimately involved in the crafting of the report. **(Exhibit 41)**

Ms. Halbrooks stated that leaks from the DoD IG had to stop, and as the official responsible for the Director of Whistleblowing and Transparency, who was viewed as a serial whistleblower, I needed to stop the leaks regarding both the *Zero Dark Thirty* report, and the leaks from whistleblowers in Audit. **(Senator Grassley had sent a letter, also on December 17, 2012, in which he stated that Mr. Blair in response to Senator Grassley “could have made false, and/or misleading statements to Congress.”)** I responded that the whistleblowers were engaging in protected communications, and that attempting to interfere with protected communications would be a violation of the Whistleblower Protection Act. **(Exhibit 43)**

Ms. Halbrooks, feeling a double threat from whistleblowers in both Intelligence, and Audit, stated that I was not a team player since I did not provide whistleblower information to her, and that Mr. Brett Mansfield, the Deputy Chief of Staff, was available to replace me. Ms. Halbrooks stated that accusations of her manipulating, and suppressing the report requested by Chairman King, and that she potentially allowed false/misleading statements to Congress was putting her reputation in danger, and could lead to additional intrusive oversight by Senator Grassley. Ms. Halbrooks was also concerned that Senator Grassley might make her eventual removal a condition for not blocking the nomination of the new IG on the Senate floor.

Ms. Halbrooks abused her authority when she in an articulated direction to me, as the senior executive responsible for Whistleblowing and Transparency, directed me to abuse my management prerogatives, and in violation of statute, to shut down the regular functioning of the whistleblower program. Ms. Halbrooks also abused her authority by threatening to remove me from my position if I did not violate the Whistleblower statute.

The issues regarding the identity of the whistleblowers, and the issuance of the report were contentious, and not resolved before my Notice of Proposed Removal less than one month later.

On June 4, 2013, the Project On Government Oversight (POGO) publicly posted the entirety of the report entitled: *Release of Department of Defense Information to the Media* that Ms. Halbrooks had refused to release. ([Link](#))

In posting the report, POGO wrote an article entitled: “Unreleased: Probe Finds CIA Honcho Disclosed Top Secret Info to Hollywood.” ([Link](#))

On June 12, 2013, the analysts who prepared the unreleased report received a “Team of the Year” award at the “24th Annual IG Awards.” Tony Capaccio, Bloomberg News, wrote a story on July 2, 2013, in regard to the team receiving an award entitled: “Zero Dark Thirty: ‘And the Award Goes to....’” ([Link](#))

On June 14, 2013, the DoD IG issued a revision of the report that had been publicly posted by POGO. The revised report removed most mention of Secretary Panetta, and all mention of Mr. Vickers, and the actions by ADM McRaven. ([Link](#))

On June 14, 2013, POGO releases an article entitled: "Final Inspector General's Report Cut References to Panetta's Disclosure of 'TOP SECRET' Info." ([Link](#))

On July 8, 2013, Richard Lardner, AP, wrote a story entitled: "Secret move keeps bin Laden records in the shadows". The article analyzed the impact, in regard to the FOIA process, of moving records. The article states:

But secretly moving the records allowed the Pentagon to tell the Associated Press that it couldn't find any documents inside the Defense Department that AP had requested more than two years ago, and would represent a new strategy for the U.S. government to shield even its most sensitive activities from public scrutiny. ([Link](#))


John R. Crane
14 October 2014



One Hundred Twelfth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

August 9, 2011

The Honorable Gordon S. Heddell
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202-4704

The Honorable David Buckley
Inspector General
Central Intelligence Agency
Washington, DC 20505

Dear Inspectors General Heddell and Buckley:

I write to express concern regarding ongoing leaks of classified information regarding sensitive military operations. As reported in a *New York Times* column on August 6, 2011, Administration officials may have provided filmmakers with details of the raid that successfully killed Usama bin Laden (UBL). According to that report, Sony Pictures Entertainment, Inc. and movie director Kathryn Bigelow received "top-level access to the most classified mission in history" to produce a movie about the raid, due for release in October 2012. Reportedly, a Hollywood filmmaker also attended a CIA ceremony in honor of the team that carried out the raid.

The Administration's first duty in declassifying material is to provide full reporting to Congress and the American people, in an effort to build public trust through transparency of government. In contrast, this alleged collaboration belies a desire of transparency in favor of a cinematographic view of history.

Special Operations Command's Admiral Eric Olson stated that the May 1st raid "was successful because nobody talked about it before, and if we want to preserve this capability nobody better talk about it after," and that his operators' "15 minutes of fame lasted about 14 minutes too long. They want to get back in the shadows." Joint Chiefs of Staff Chairman Admiral Michael Mullen stated that "It is time to stop talking," as "We have gotten to a point where we are close to jeopardizing the precision capability that we have, and we can't afford to do that. This fight isn't over." Former Defense Secretary Robert Gates stated that "Too many people in too many places are talking too much about this operation, and when so much detail is available it makes that both more difficult and riskier" for such missions in the future.

Enclosure (4)

Messrs. Heddell and Buckley
August 9, 2011
Page two

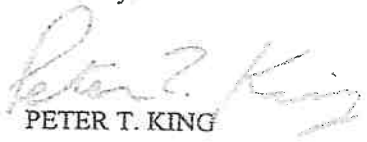
Leaks of classified information regarding the bin Laden raid have already resulted, according to a June 15, 2011 article in the *Washington Post*, in the arrests of Pakistanis who were believed by local authorities to have assisted the CIA with the May 1st raid. Further participation by JSOC and the Agency in making a film about the raid is bound to increase such leaks, and undermine these organizations' hard-won reputations as "quiet professionals" – reputations important for their continued operational success. And, the success of these organizations is vital to our continued homeland security.

Therefore, I request an investigation and classified briefing regarding this matter from the Defense Department's and CIA's Inspectors General, including but not limited to the following:

- What consultations, if any, occurred between members of the Executive Office of the President, and Department of Defense and/or CIA officials, regarding the advisability of providing Hollywood executives with access to covert military operators and clandestine CIA officers to discuss the UBL raid?
- Will a copy of this film be submitted to the military and CIA for pre-publication review, to determine if special operations tactics, techniques and procedures, or Agency intelligence sources and methods, would be revealed by its release?
- How was the attendance of filmmakers at a meeting with special operators and Agency officers at CIA Headquarters balanced against those officers' duties to maintain their covers? How will cover concerns be addressed going forward?
- What steps did the Administration take to ensure that no special operations tactics, techniques, and procedures were compromised during those meetings?
- To the extent possible to determine, how many human intelligence sources and how many Agency intelligence methods have been compromised due to leaks about the May 1st raid? What effects have these compromises had on the CIA's collection capabilities? Will Agency participation in a film about the bin Laden raid add to or exacerbate the effects of these compromises?

If you have any questions, please contact Mr. Matthew McCabe, Senior Counsel for the Committee on Homeland Security, at (202) 226-8417. Thank you for your time and consideration of this request.

Sincerely,


PETER T. KING
Chairman



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4300 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22304-1500

DEC 10 2011

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE
COMMANDER, SPECIAL OPERATIONS COMMAND
ASSISTANT SECRETARY OF DEFENSE FOR PUBLIC AFFAIRS
DIRECTOR, WASHINGTON HEADQUARTERS SERVICES

SUBJECT: Congressionally Requested Investigation of Released DoD Information
(Project No. D2012-DENI01-0079.000)

We plan to begin subject investigation immediately. The overall objective of this investigation is to address the congressionally requested action found in the letter of the Chairman of the House Committee on Homeland Security to the DoD Inspector General dated August 19, 2011. (Attached).

The investigation will be coordinated with affected agencies' Inspectors General when applicable and may be performed at selected elements of the Office of Secretary of Defense and other DoD organizations, as appropriate.

Please provide us a point of contact in writing, within 7 calendar days of the date of this letter. The point of contact must be a Government employee, either a GS-15 or the military equivalent. Send the contact's name, title, grade, phone number, and e-mail address by fax (571) 372-7453, or by email to Ms. Margaret Poon at Margaret.Poon@DoD-IG.mil. If you have any questions, please contact Ms. Poon at the e-mail above or by phone at (703) 692-4820, DSN 381-4820.

Patricia A. Brunia
Deputy Inspector General
for Intelligence and Special
Program Assessments

Attachments:
As stated

cc:
Inspector General, Intelligence Community
Inspector General, The Joint Staff
Inspector General, United States Special Operations Command

Enclosure (5)



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22304-1600

DEC 23 2011

The Honorable Peter T. King
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC, 20515

Dear Mr. Chairman:

This is in further response to your letter dated August 9, 2011, addressed to the Inspector General of the Department of Defense expressing "concern regarding ongoing leaks of classified information regarding sensitive military operations." Specifically, your letter expressed concern that making of a film about the operation leading to the death of Osama bin Laden received "top-level access to the most classified material in history."

After an initial review of information, the Office of the Deputy Inspector General for Intelligence and Special Program Assessments has announced a project (enclosed) to investigate the concerns raised in your August 9, 2011 letter. The project will address actions taken by Department of Defense personnel related to the release of information to the filmmakers.

Should you have any questions regarding this matter, please contact me at (703) 604-8324.

Sincerely,

Assistant Inspector General
Communications and Congressional Liaison

Enclosure:
As stated

cc:
The Honorable Ben Ray Lujan
Ranking Member
The Honorable David Bonior
IG CIA

Enclosure (6)

From: **Murphy, Charles (Grassley)** Charles_Murphy@grassley.senate.gov
Subject: Re: Whistleblower Status
Date: 13 September 2012 at 21:16
To: john.crane@crj.com
Cc: cmg@charliegrassley.com

Not to worry, either. There is nothing we can't handle.

----- Original Message -----

From: John Crane [[redacted john.crane@crj.com](mailto:john.crane@crj.com)]
Sent: Thursday, September 13, 2012 09:12 PM
To: Murphy, Charles (Grassley)
Cc: cmg@charliegrassley.com <cmg@charliegrassley.com>
Subject: Re: Whistleblower Status

Charlie,

In a normal environment I would not have a concern. Unfortunately, the times have changed.

John

Sent from my iPhone

On Sep 13, 2012, at 20:51, "Murphy, Charles (Grassley)" <Charles_Murphy@grassley.senate.gov> wrote:

Sorry I brushed off your concerns about it this morning. I just don't think of you that way. I will, of course, respect those guiding principles and treat all our communications as protected under applicable law.

Enclosure (7)

1-1



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

NOV 24 2014

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Senator Grassley,

Thank you for your letter dated November 17, 2014, transmitting your oversight review regarding Report No. DODIG 2013-093, "Release of Department of Defense (DoD) Information to the Media," also known as the Zero Dark Thirty (ZDT) report.

I have carefully reviewed your report and appreciate the time and effort you and your staff have invested in this matter. As both Principal Deputy Inspector General Halbrooks and I have acknowledged earlier, we agree with you that the review process for the ZDT report could have been better. To that end, earlier this year we began a broad process redesign effort in the Office of Inspector General (OIG) which I believe will improve the timeliness and efficiency of our work. This effort will include a reassessment of the process for determining how we address complaints that require multiple component or agency investigations. However, I respectfully disagree with the remaining assertions and conclusions in your report.

As noted in my previous communications with you, Ms. Halbrooks, Assistant Inspector General James Ives, and DoD OIG maintained our independence throughout the ZDT project, and I have not been provided any evidence to the contrary. Our office conducted a thorough and impartial review consistent with our authority and independence under the IG Act. No third parties influenced the content of the report or its release date. Significantly, as of August 2012 -- at the front end of the internal review process of the draft ZDT report -- Ms. Halbrooks was no longer a candidate for the position of DoD IG, and had no motive to suppress the report as you have suggested.

Moreover, DoD OIG briefed Chairman Peter King and his staff on answers to his questions in September 2012 and referred misconduct allegations against senior officials identified during the project to other government agencies and our Deputy Inspector General for Administrative Investigations for analysis and action. DoD OIG also published a final report and reported the results of the ZDT review and a related investigation to appropriate Congressional Committees and DoD officials.

Contrary to your assertion, DoD OIG has no policy to "remove sensitive information" from our reports. As explained previously, our standard practice is to protect from release information pertaining to open criminal or administrative referrals or investigations. We do that to maintain the integrity of an open referral or investigation and to provide due process to the individuals involved. Top officials accused of misconduct are indeed accountable to the public

Enclosure (8)

through information properly released consistent with the Privacy and Freedom of Information Acts.

To add perspective to OIG operations during the ZDT project timeframe, it is important to recognize that, during the period from December 2012 to June 2013, DoD IG leadership was also dealing with numerous critical organizational issues to include vacancies in key OIG senior leader positions, the potential furlough of OIG employees due to a problem with the apportionment given to the OIG by the Office of Management and Budget (OMB) and the potential impact of sequestration. In addition to the ZDT report, 66 other reports were issued by the DoD IG during this time frame.

I also note the concerns you expressed about some of the decisions OIG management made concerning the ZDT report. My office has twice referred to the CIGIE Integrity Committee (IC) allegations of DoD OIG senior management misconduct related to the ZDT report, once in June 2013 after the POGO article and again in November 2013. The IC declined action and closed the complaint in the first referral and we await a final IC determination in the second case.

In closing, I want to stress two points. First, we share your view that whistleblowers serve a critical role in government oversight and must be protected from retaliation. Second, Ms. Halbrooks and Mr. Ives have my full confidence and support as DoD OIG leaders and managers and have, during the period of the ZDT report and throughout their tenures with DoD OIG, both acted appropriately and in the best interest of the OIG and the public.

If you have any questions on this matter, please contact me or Mr. William P. Goehring, Acting Assistant Inspector General for Communications and Congressional Liaison, at (703) 604-8324.

Sincerely,



Jon T. Rymer

Enclosures: As stated

cc: The Honorable Patrick Leahy
Chairman



U.S. OFFICE OF SPECIAL COUNSEL

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

March 18, 2016

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 information you referred to the Disclosure Unit. You disclosed that employees at the U.S. Department of Defense (DoD), Office of Inspector General (OIG) destroyed audit records, in violation of DoD OIG document retention requirements.

We have concluded that there is a substantial likelihood that the information that you provided to OSC discloses possible violations of laws, rules, or regulations. With your consent, we have transmitted these allegations to the Department of Justice (DOJ) Office of Inspector General for investigation and reporting under 5 U.S.C. § 1213(c).

The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations 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 and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c). In this case, the Special Counsel determined that because the allegations concerned an independent Office of Inspector General, referral to the agency head would not be appropriate. As you know, OSC reached agreement with the DoD OIG to refer the allegations to the DOJ OIG.

Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

Mr. John Crane
Page 2

With your consent, we identified you as the source of the information, so that a representative of the DOJ OIG's office may speak with you directly. We have requested that the agency interview you. As the originator of the complaint, you can provide additional information and an explanation of your allegations, thereby streamlining the agency investigation.

By agreement with the Special Counsel, the DOJ OIG will initiate the investigation by June 1, 2016, and will submit a report to OSC by June 1, 2017, unless additional time is agreed to in writing. DOJ OIG will provide status updates on the investigation on September 1, 2016; December 1, 2016; and March 1, 2017.

After we have reviewed the report, unless it is classified or otherwise not releasable by law, we will send you a copy and give you an opportunity to comment. The report and your comments will be transmitted to the President and the appropriate congressional oversight committees, and will be maintained by OSC in a public file available at our website, www.osc.gov. We emphasize that until the agency's final report is forwarded to the President and Congress, this remains an open matter under investigation. We will notify you when the report is available for public release.

You also made multiple allegations of improprieties in DoD OIG investigations and reprisal programs. Those disclosures remain under review by OSC.

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

Sincerely,



Karen Gorman
Attorney
Retaliation and Disclosure Team

U.S. OFFICE OF SPECIAL COUNSEL

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



April 19, 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. With your consent, we forwarded those allegations to the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

We identified you as the source of the information, so that you may provide relevant information to investigators. As the originator of the complaint, you can provide additional information and an explanation of your allegations.

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".

Karen Gorman
Chief, Retaliation and Disclosure Unit