

30 August 2020

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Honorable Charles E. Grassley
President pro tempore
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SUBJECT: IMPROPER DELEGATION OF STATUTORY AUTHORITY BY EXECUTIVE CHAIRPERSON, COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (CIGIE) ENABLING CIGIE INTEGRITY COMMITTEE (IC) TO OBSTRUCT/AVOID FEDERAL INVESTIGATION INTO ALLEGATIONS OF CRIMINAL MISCONDUCT BY CIGIE MEMBERS INCLUDING U.S. DEPARTMENT OF JUSTICE (DOJ)/FEDERAL BUREAU OF INVESTIGATION (FBI) [18 U.S.C. § 1505/18 U.S.C § 242].

Senator Grassley,

1. This is my third letter disclosing to you the failure of the membership of the Council of Inspectors General on Integrity and Efficiency (CIGIE) and the Integrity Committee (IC) to safeguard the Merit System and protect federal whistleblowers.
2. As you know, on **15 May 2020**, I notified Michael J. Regis, in his capacity as the Executive Chairperson, CIGIE, that the membership of the IC, established by Congress to receive, review, and refer for investigation allegations of wrongdoing leveled against members of the CIGIE, duly appointed by CIGIE Chairperson **Michael E. Horowitz**, had refused to refer allegations of criminal misconduct leveled against senior leaders of the CIGIE and the CIGIE (IC). [See: enclosure (1).]
3. On **30 August 2020**, I have again written to Michael J. Regis to demand that he fulfill his statutory responsibility, in accordance with the Inspector General Act, as amended, and immediately refer my disclosures of **15 May 2020** to Attorney General, **William P. Barr**, for independent and objective investigation into a collaborative inter-agency effort by Inspectors General to obstruct multiple reported allegations of Inspector General wrongdoing (18 U.S.C. § 1505/18 U.S.C. § 242). [See: enclosure (2).]
4. Instead of an independent and objective investigation, on **22 July 2020**, I received a response to my disclosure from **Kevin H. Winters**, Chairperson CIGIE IC, who notified me that the CIGIE IC "*will take to further action on this matter at this time*," CIGIE IC Case #20-054, claiming independent entity authority [5 U.S.C. App. ("IG Act") § 11(a)(1)] allowing the Chairperson of the CIGIE Integrity Committee (IC) to avoid referral of criminal

misconduct by members of the CIGIE to the U.S. Attorney General in accordance with federal statute [5 U.S.C. App. ("IG Act") Section 4(d)]. [See: enclosure (3).]

(5) Incredibly, **Kevin H. Winters**, as Chairperson of the CIGIE IG, invokes authority to "*take no further action on this matter at this time*" under the rubric of a locally generated *Integrity Committee Policies & Procedures 2018 Manual* (2018/13 April 2018) as a vehicle to shield CIGIE Integrity Committee (IC) members from legitimate criminal investigation in direct violation of the statutory requirements of the IG Act and 18 U.S.C. § 1505.

(6) **Kevin H. Winters** has taken this action despite the fact that he has a direct interest in ensuring that legitimate investigation into the criminal activity of the membership of the CIGIE (IC), to include himself, does not receive independent and objective federal investigation.

(7) I again request that you sponsor immediate oversight hearings to address fatal legislative and administrative infirmities that threaten the independent federal investigative process (Administrative/ Criminal] that undermines: (1.) the Inspector General Act (IG Act) of 1978, as amended; (2.) Whistleblower Protection Act (WPA), as amended, and are a violation of 18 U.S.C. § 1505/18 U.S.C. 242.

(8) 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 the membership of the CIGIE and the IC.

Very Respectfully,



John R. Crane

Enclosures:

- (1) J.R. Crane to M.J. Regis letter dated 15 May 2020
- (2) J.R. Crane to M.J. Regis letter dated 30 August 2020
- (3) K.H. Winters to J.R. Crane letter dated 22 July 2020

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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) IN
ORDER TO DEGRADE THE EVIDENTIARY BASE (WITNESS STATEMENTS &
DOCUMENTATION) REQUIRED TO PROPERLY SUBSTANTIATE OR NON-
SUBSTANTIATE INDIVIDUAL ALLEGATIONS AND DISCLOSURES OF
WRONGDOING MADE AGAINST SENIOR INSPECTOR GENERAL OFFICIALS
OPERATING UNDER COLOR OF OFFICE (18 U.S.C. §1505)**

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

- federal civilian employees also know the U.S. Congress leveled a statutory obligation upon every employee for reporting waste, fraud, and corruption to appropriate authorities [5 C.F.R. §2635.101(b)(11)].¹
- a. Recognizing the fact that numerous agency Responsible Management Officials (RMOs) continue to subject fellow employees who report waste, fraud, and corruption to appropriate authorities to employment retaliation, the U.S. Congress passed the **Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017** to establish clear disciplinary standards to:
- remove RMOs who engage in employee retaliation against employees fulfilling their statutory duty to report waste, fraud, and corruption to appropriate authorities [P.L. 115-73; 5 U.S.C. §7515(b)(1)(A)/(b)(1)(B)].^{2, 3}
- 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 while subverting the federal investigative process (administrative/criminal) intentionally delaying/ignoring statutory investigative timelines required to preserve time-sensitive evidentiary base required to substantiate/non-substantiate allegations and disclosures of wrongdoing leveled against senior agency officials operating under Color of Office:⁴ (wrongdoing defined)
- Violation of law, rule, and regulation, Gross Waste of Funds⁵, Gross Mismanagement⁶, Abuse of Authority⁷, Substantial and Specific Danger to Public Health or Safety⁸

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 not conducting comprehensive oversight planning?) & **when** the harm may occur

TAKAWAY: The special trust and confidence afforded to the Inspector General 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 on 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 community are subject to the same laws, rules, and regulations that govern the rest of the more than 2.1 million federal employees under the merit system
- Members of the Federal Inspector General (IG) 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 that properly report wrongdoing (occurring within the OIG) (5 U.S.C. §1213/5 U.S.C. §1214)

c. Confident in the knowledge that the Council of the Inspectors General on Integrity and Efficiency (CIGIE) has usurped exclusive merit system oversight authority statutorily granted to the U.S. Special Counsel (OSC)⁹ which safeguards the merit

(e.g., conducting whole of government operations in Afghanistan/Iraq- the number of U.S. service members killed in Afghanistan rose during FY17 (<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 U.S. Special Counsel (OSC), 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>

system and protects the individual legal rights of all federal whistleblowers subjected to retaliation by members of the Inspectors General (IG) community:

- 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 investigation (criminal/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/administrative) at the expense of the due process rights of all whistleblowers he swore to protect.

2. The CIGIE Integrity Committee (IC) run by **Scott S. Dahl/Deborah J. Jeffrey** have 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

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%202015.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>

when 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 Inspector General Community utilized the IG Act to subordinate the U.S. Special Counsel **Henry J. Kerner**/ (OSC)/Principle Deputy U.S. Special Counsel **Ellen Chubin Epstein** to the adjudicative authority of the Counsel of the Inspectors General on Integrity and Effectiveness (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 all 2 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 Inspectors General (FIG) class, is the fact that the U.S. Counsel/Principal Deputy U.S. 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 Integrity Committee (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 enclosure 1, 2.
- c. The orchestrated subversion of the federal investigative process (criminal & administrative) coupled w/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

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

fact while 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/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) is the fact that we have ignored 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 (IG) "watch themselves" while actively investigating everyone else.

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, Section 3 made changes to the federal investigative process removing the FBI and installing federal inspectors general in the oversight process over other 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.vale.edu/18th_century/fed51.asp

3. On 26 October 2017,²⁰ the U.S. Congress passed the **Dr Chris Kirkpatrick** Whistleblower Protection Act of 2017 to establish measures to ultimately remove 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 that 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, Sect. 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.**

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>

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, Dr. Kirkpatrick 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 (20 March 2020) 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.

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 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 loss of a federal employee whistleblower involved in administering the federal investigation (administrative) process is the fact that **Glenn A. Fine** also elected to not inform his agency head (Secretary of Defense) 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 [5 U.S.C. Appendix (IG Act) § 5(d)]²⁶

c. Despite the individual mandate for all senior Inspector General Responsible Management Officials to properly report wrongdoing,²⁷ no member of **Glenn A. Fine's** leadership team took the personal initiative to report a threat to investigative independence (loss of life of a federal investigator under undetermined circumstances) and 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

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>

²⁷ **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>

- **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
- **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 (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 enclosure 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**

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).

- Deputy Assistant Inspector General for Intelligence and Special Program Assessment (ISPA) **Patricia A. Brannin**
- CIA Inspector General **David B. Buckley**
- CIA Deputy Inspector General **Christopher R. Sharpley**
- 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 that 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, see enclosure 7.^{30, 31}

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).

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 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 interviewed 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, reference 8)

What is clear from the failure of the Inspector General 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

³² Senator **Charles E. Grassley** Report on Actions Taken by Former Acting Inspector General (IG) & Principal Deputy Inspector General (PDIG) **Lynne H. Halbrooks**
<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. Retrieved at: <https://media.defense.gov/2013/Jun/14/2001712842/-1/-1/1/DODIG-2013-092.pdf>

³⁴ Senator **Charles E. Grassley** Report on Actions Taken by Former Acting Inspector General (IG) & Principal Deputy Inspector General (PDIG). 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

'remove sensitive information' from investigative reports and that there was a collaborative interagency effort to obstruct the federal investigative process by the inspector general community:

- Acting Inspector General **Lynne M. Halbrooks** provided false information to Senator **Charles E. Grassley** in the proper performance of his oversight duties (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: (see, enclosure **9**)

- Make agency head notification (Secretary of Defense) in direct violation of 5 U.S.C. §1213(c)
- Did not 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. §1505³⁶

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**/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

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

the DoD IG by inspector general personnel "covered" by the CIGIE (see, enclosure 1 and 2)^{37, 38}

TAKEAWAY: There is a substantiated breakdown in the independence and objectivity of the Inspector General (IG) community clearly evidenced by the inability/reluctance to hold "covered" members of the Counsel of the Inspectors General for Integrity and Efficiency (CIGIE) accountable to the same standards vigorously enforced by the Inspector General (IG) community on the rest of the 2 million lay abiding members of the merit system.³⁹

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

(1) Immediate acknowledgment on 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**; Executive Director, **Alan F. Boehm**; and 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 inspector general community: 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**

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).

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." Retrieved at: <https://www.govinfo.gov/content/pkg/USCODE-2011-title5/html/USCODE-2011-title5-app-inspector.htm>

(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 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** dtd 11 Oct 2017
- (2) CIGIE Integrity Committee (IC) **Kevin H. Winter** Notification of CIGIE IC Refusal to Investigate Letter to **John R. Crane** dtd 06 Sept 2019
- (3) **John R. Crane** Disclosure of Investigative Wrongdoing Occurring within DoD IG Reported to U.S. Special Counsel (OSC) dtd 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 dtd 09 Aug 2011
- (5) Deputy Inspector General (DIG) **Patricia A. Brannin** Memorandum to Undersecretary of Defense for Intelligence (USD-I) **Michael G. Vickers** dtd 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 dtd 23 Dec 2011
- (7) E-Mail Whistleblower Status **John R. Crane** to **Charlie Murphy** (Senator Grassley) dtd 13 Sept 2012/0912PM (EST)
- (8) DoD Inspector General **Jon T. Rymer** Letter to Senator **Charles E. Grassley** dtd 24 Nov 2014

(9) U.S. Special Counsel **Carolyn N. Lerner** 45-Day Substantial Likelihood Finding Letter (**DI-15-2333**) to **John R. Crane** dtd 18 Mar 2016
(10) U.S. Special Counsel **Carolyn N. Lerner** 45-Day Substantial Likelihood Finding Letter (**DI-15-2333**) to **John R. Crane** dtd 19 Apr 2017

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U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
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202-254-3600



October 11, 2017

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

Re: OSC File No. DI-15-2333

Dear Mr. Crane:

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

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

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

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

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.

Enclosure (2)

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

Gene L. Dodaro
Comptroller General

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

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

Honorable Elijah Cummings
Chairman, Committee on Oversight
and Reform

Honorable Jim Jordan
Ranking Member, Committee on Oversight
and Reform

Honorable Chuck Grassley
Chairman, Senate Finance Committee

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 released 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 Fassi 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 Eleventh 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

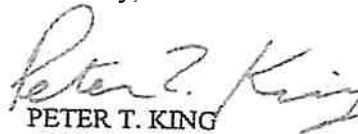
Leaks of classified information regarding the bin Laden raid have already resulted, according to a June 15, 2011 article in the *Washington Post*, in the arrests of Pakistanis who were believed by local authorities to have assisted the CIA with the May 1st raid. Further participation by JSOC and the 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
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22304-1500

DEC 13 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-DINT01-0072.0000)

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) 372-7451, or by email to Ms. Margaret Posa at Margaret.Posa@dodig.mil. If you have any questions, please contact Ms. Posa at the e-mail above or by phone at (703) 682-4820, DSN 381-4820.

Patricia A. Brannin
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 22304-1500

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 makers 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 Bennie G. Thompson
Ranking Member
The Honorable David Buckley
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@john.crane.com
Cc: cmegha@churwell.com

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

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

From: John Crane [\[mailto:john@john.crane.com\]](mailto:john@john.crane.com)
Sent: Thursday, September 13, 2012 09:12 PM
To: Murphy, Charles (Grassley)
Cc: cmegha@churwell.com <cmegha@churwell.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)



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

John R. Crane
P.O. Box 7185
McLean, VA 22106-7185
E-mail: johncrane@me.com
1-202-372-5321

30 August 2020

Michael J. Rigas

U.S. Office of Management and Budget (**OMB**)
Acting Deputy Director of Management (DDM)
New Executive Office Building
725 17th Street, NW
Washington, DC 20503
Michael.j.rigas@omb.eop.gov

Michael J. Rigas

Acting Director U.S. Office of Personnel Management (**OPM**)
Theodore Roosevelt Federal Building
1900 E. Street, NW
Washington, DC 20415-0001
Michael.rigas@opm.gov

Michael J. Rigas

Council of Inspectors General for Integrity and Efficiency (**CIGIE**)
Executive Chairperson Integrity Committee (**IC**)
1717 H Street, NW
Suite 825
Washington, DC 20006
Michael.rigas@cigie.gov

SUBJECT: IMPROPER DELEGATION OF STATUTORY AUTHORITY BY EXECUTIVE CHAIRPERSON, COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (CIGIE) ENABLING CIGIE INTEGRITY COMMITTEE (IC) TO OBSTRUCT/AVOID FEDERAL INVESTIGATION INTO ALLEGATIONS OF CRIMINAL MISCONDUCT BY CIGIE MEMBERS INCLUDING U.S. DEPARTMENT OF JUSTICE (DOJ)/FEDERAL BUREAU OF INVESTIGATION (FBI) [18 U.S.C. § 1505/18 U.S.C § 242].

1. On **15 May 2020**, I notified you in your capacity as the Executive Chairperson, Council of the Inspectors General on Integrity and Efficiency (CIGIE), that the membership of the Integrity Committee (IC), established by Congress to receive, review, and refer for investigation allegations of wrongdoing leveled against members of the CIGIE, duly

appointed by CIGIE Chairperson **Michael E. Horowitz**, refused to refer allegations of criminal misconduct leveled against senior leaders of the CIGIE and the CIGIE (IC).

The Inspector General Act, as amended [5 U.S.C. App. ("IG Act")] § 4(d) requires:

- Each Inspector General (IG) [CIGIE membership] shall report expeditiously to the Attorney General [**William P. Barr**] whenever [an] Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law."
- CIGIE IC Membership [IG Act § 11(d) Integrity Committee]:
 - Designated by Director, Federal Bureau of Investigation (FBI), **Christopher A. Wray**; Deputy Director for Compliance, **Catherine S. Bruno**;
 - Inspectors General: Former Department of Labor (DOL) IG, **Scott S. Dahl**; Corporation for National and Community Service (CNCS), IG **Deborah J. Jeffrey**; Amtrak IG, **Kevin H. Winters**; Federal Trade Commission (FTC) IG, **Andrew Katsaros**;
 - Chairpersons: **Scott S. Dahl**; **Deborah J. Jeffrey** (acting); **Kevin H. Winters**;
 - U.S. Office of Government Ethics (OGE), Director; **Emory A. Rounds III/Dale A. Christopher**;
 - Department of Justice (DOJ), Legal Counsel; Criminal Division, Chief Public Integrity Section (PIN) - **Corey R. Amundson/AnnaLou T. Tirol** [IC Policies and Procedures];
 - CIGIE General Counsel: **Atticus J. Reaser** [IC Policies and Procedures]
- CIGIE IC Allegation Review Group (**ARG**):
 - Designated by Attorney General (DoJ), **William P. Barr**: Criminal Division, Chief Public Integrity Section (PIN) - **Corey R. Amundson/AnnaLou T. Tirol**;
 - Designated by Special Counsel (OSC): **Henry J. Kerner/Ellen Chubin Epstein/Adam J. Miles/Tristan L. Leavitt/Carolyn N. Lerner/Mark P. Cohen**
 - IC Chairperson: **Scott S. Dahl/Kevin H. Winters/Deborah J. Jeffrey**;
 - CIGIE General Counsel: **Atticus J. Reaser** [IC Policies and Procedures].

TAKEAWAY: I properly disclosed to you detailed information, as Executive Chairperson CIGIE, that clearly documents an interagency effort to obstruct the federal investigative process to avoid legitimate criminal investigation into the membership of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). [See: enclosure (1).]

2. On 22 July 2020, I received a response to my disclosure to you on serious criminal misconduct occurring within your CIGIE membership from the Chairperson of the CIGIE Integrity Committee (IC) **Kevin H. Winters**. [See: enclosure (2).]

Kevin H. Winters notified me that the CIGIE (IC) "*will take to further action on this matter at this time*," CIGIE IC Case #20-054, claiming independent entity authority [5 U.S.C. App. ("IG Act") § 11(a)(1)] allowing the Chairperson of the CIGIE Integrity Committee (IC) to avoid referral of criminal misconduct by members of the CIGIE to the U.S. Attorney General in accordance with federal statute [5 U.S.C. App. ("IG Act") Section 4(d)].

TAKEAWAY: Incredibly, **Kevin H. Winters** invokes authority to “*take no further action on this matter at this time*” under the rubric of a locally generated *Integrity Committee Policies & Procedures 2018 Manual* (2018/13 April 2018) as a vehicle to shield CIGIE Integrity Committee (IC) members from legitimate criminal investigation in direct violation of the statutory requirements of the IG Act and 18 U.S.C. § 1505.

I made disclosures of criminal wrongdoing against the entire membership of the CIGIE (IC)/(ARG) and their designated representatives to include:

- **Catherine S. Bruno**, FBI Assistant Director, Office of Integrity & Compliance;
- **Corey R. Amundson/AnnaLou T. Tirol**, (DOJ), Criminal Division, Chief Public Integrity Section (PIN);
- **Scott S. Dahl/Kevin H. Winters**: Chairperson, (IC); Chairperson, (ARG);
- **Deborah J. Jeffrey**, (IC) Vice-Chairperson; Acting Chairperson (ARG);
- **Henry J. Kerner**, U.S. Special Counsel.

TAKEAWAY: **Kevin H. Winters** has a direct interest in ensuring that legitimate investigation into the criminal activity of the membership of the CIGIE (IC), to include himself, does not receive independent and objective federal investigation.

3. As Executive Chairperson (CIGIE), you have primary responsibility to protect the mission of IG Act to protect federal whistleblowers and ensure the integrity of the Federal Merit System.

TAKEAWAY: I demand you fulfill your statutory responsibility, in accordance with the IG Act, and immediately refer my disclosures to you in my **15 May 2020** letter to Attorney General, **William P. Barr**, for independent and objective investigation into a collaborative inter-agency effort by Inspectors General to obstruct multiple reported allegations of Inspector General wrongdoing (18 U.S.C. § 1505/18 U.S.C. § 242).

I also demand you make immediate Chief Executive/Congressional Oversight Committee notification on the criminal loss of CIGIE investigative independence and objectivity occurring under the leadership of: **Michael E. Horowitz**, CIGIE, Chairperson; **Allison C. Lerner**, CIGIE Vice-Chairperson; **Kevin H. Winters**, Chairperson (IC); **Deborah J. Jeffrey**, Vice-Chairperson (IC); **Alan F. Boehm**, CIGIE Executive Director; and **Atticus J. Reaser**, CIGIE General Counsel.

Very Respectfully,


John R. Crane

Enclosures:

- (1) J.R. Crane to M.J. Regis letter dated 15 May 2020
- (2) K.H. Winters to J.R. Crane letter dated 22 Jul 2020

Cc:

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Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

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July 22, 2020

Via Email

John Crane

johncrane@me.com

Closure of Integrity Committee Case 20-054

Dear Mr. Crane:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency reviewed allegations you submitted on May 15, 2020, involving Special Counsel Henry Kerner of the Office of Special Counsel, former Acting Inspector General Glenn Fine of the U.S. Department of Defense, former Inspector General Scott Dahl of the U.S. Department of Labor, and Inspector General Deborah Jeffrey of the Corporation for National and Community Service.

The IC is charged with receiving, reviewing, and investigating, where appropriate, allegations of misconduct made against Inspectors General (IG) and designated members of an IG's staff. The IC takes action on allegations of wrongdoing that involve abuse of authority in the exercise of official duties or while acting under color of office; substantial misconduct, such as gross mismanagement, gross waste of funds, or a substantial violation of law, rule, or regulation; or conduct that undermines the independence or integrity reasonably expected of such persons.

The IC thoroughly reviewed the allegations and supporting information provided and determined, pursuant to Integrity Committee Policies and Procedures – 2018, paragraph 7.C., that it will take no further action on this matter at this time. This determination is made solely pursuant to the IC's authorities and is not binding on any collateral or other proceeding. Ms. Jeffrey was recused from this matter and did not participate in the IC's deliberations. Thank you for submitting this matter to the IC.

Sincerely,

Kevin H. Winters
Chairperson
Integrity Committee