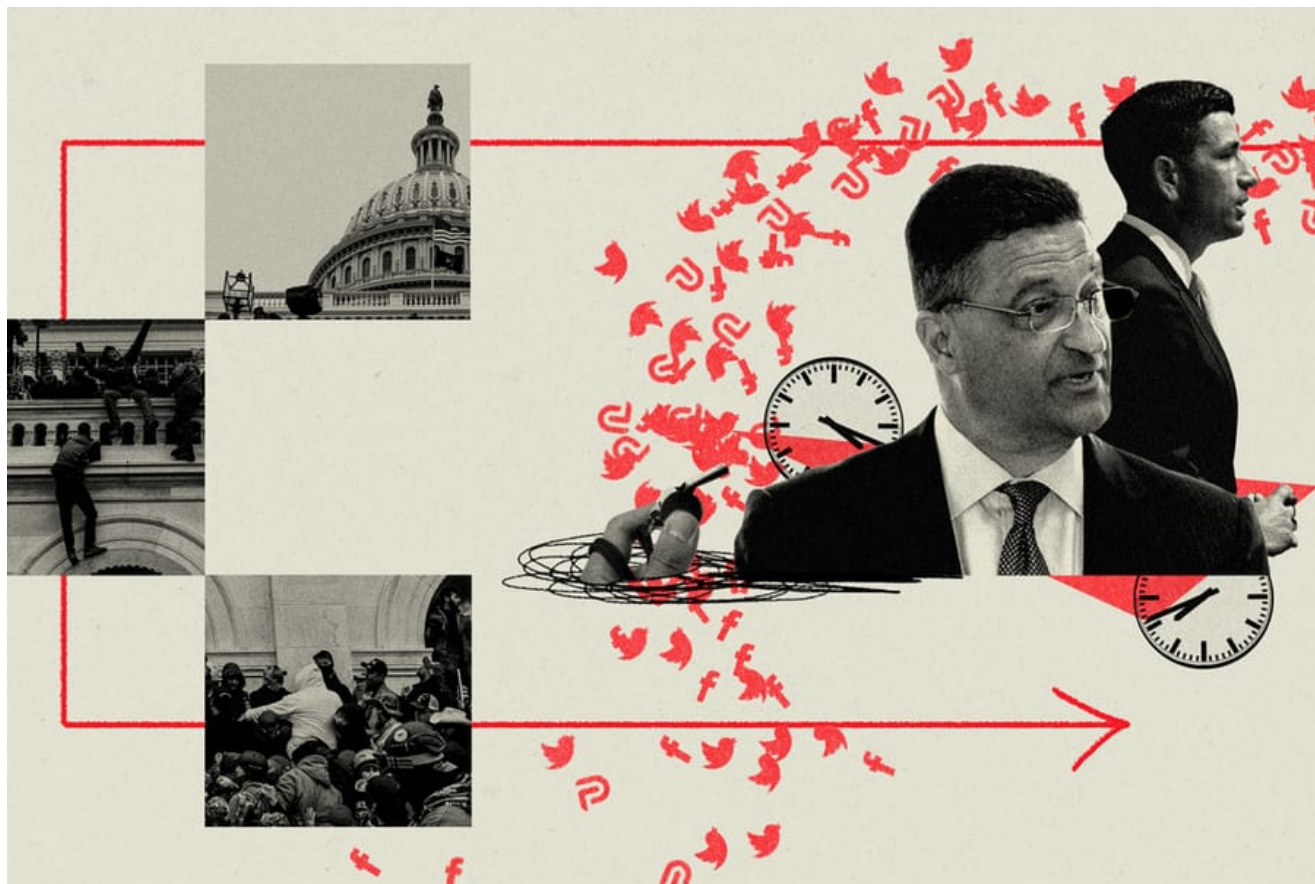


Did Whistleblower Reprisal Help Set the Stage for a January 6...

www.pogo.org/investigations/did-whistleblower-reprisal-help-set-the-stage-for-a-january-6-intelligence-failure



(Photos: [USMEPCOM](https://www.usmeecom.com); Lev Radin / Shutterstock; Getty Images; Illustration: Leslie Garvey / POGO)

The top watchdog at the Department of Homeland Security (DHS), Joseph Cuffari, has repeatedly impeded and delayed two ongoing investigations into alleged intelligence manipulation and whistleblower retaliation, according to previously unreported records and interviews with federal insiders by the Project On Government Oversight (POGO).

What the investigations find—or don't find—could affect assessments of a key intelligence failure in the run-up to the January 6 attack on the U.S. Capitol.

The actions of Cuffari, who has been DHS inspector general since July 2019, disturbed career staff within his office. In a [previously unreported memo](#) by Brian Volsky, the former head of Cuffari's whistleblower protection unit, Volsky wrote that Cuffari and his top aides engaged in "gross mismanagement and conduct that undermines the independence or integrity reasonably expected of" an inspector general office.

The memo, filed on April 27 with a government panel that investigates misconduct by inspectors general, does not precisely detail the allegedly mismanaged matters at issue or name the complainant at the center of the case. But sources and records confirm that it addresses Cuffari's handling of allegations made by a high-level DHS whistleblower named Brian Murphy, DHS's former top intelligence official.

Beyond the accusations against Cuffari from Volsky, POGO separately obtained internal government documents that support Volsky's account. Volsky, who no longer works in the inspector general office, declined to comment and did not provide POGO with his memo or the other records.



Alerts & Updates

Volsky's complaint is significant, however, because career investigators in Cuffari's Office of Inspector General are currently scrutinizing the [headline-grabbing](#) charges made by Murphy in a [formal complaint](#) filed last September. That complaint to Cuffari's office said that DHS political appointees, including then-acting Secretary Chad Wolf and then-acting Deputy Secretary Ken Cuccinelli, had demanded politically motivated changes to intelligence on hot-button issues. The matters, all of interest to the White House and then-President Donald Trump, included Russia's attempts to influence the 2020 election, the growing threat of white supremacist violence, and border security.

Wolf and others have repeatedly denied the accusations. In an interview, Wolf described them as "outlandish" and "false." Cuccinelli called the allegations "outrageously false."

A spokesperson for Cuffari's DHS inspector general office did not address specific allegations, but told POGO that it "protects the identity of whistleblowers and shares information only with those who have a need to know. We do not publicly discuss whether, or what, whistleblower retaliation investigations are pending."

The spokesperson added that when Cuffari took office in 2019, he reorganized the Whistleblower Protection Unit, placing it under his legal department to give it "appropriate supervision and leadership," and also assigned subject matter experts "to oversee the unit and ensure it applies appropriate legal standards."

“Never Produced an Intelligence Product...”



Knowledgeable federal insiders say, however, that a number of Murphy’s key allegations are accurate. “Brian Murphy was 100% correct about the politically motivated effort to downplay the domestic terrorism threat from white supremacists and the effort to amp up the threat of antifa,” said Olivia Troye, a former Homeland Security intelligence staffer who was detailed to Vice President Mike Pence until resigning last August, in an interview with POGO.

Troye, who interacted extensively with Wolf and Murphy in her White House role, said, “There was an effort to make the intelligence fit with what they wanted,” referring to Wolf and other Trump appointees.

For objecting to such distortions, Murphy said he was removed from his job leading DHS’s Office of Intelligence and Analysis, an action which he and his lawyers have described as illegal retaliation.

Many others—including Troye, a U.S. senator, independent intelligence experts, and a DHS insider—have asserted that Murphy’s removal and his allegations merit further scrutiny or are directly relevant to understanding DHS’s January 6 intelligence failures.

DHS did not respond to POGO’s questions about the matter.

“How does the leadup to January 6 happen? Those months beforehand are critically important.”

Olivia Troye, former Trump White House official and I&A staffer

Those DHS failures occurred following Murphy’s ouster at the end of July 2020, when I&A, as the office is known, was placed under new leadership. The office, according to multiple reports, failed to sound the alarm in the run-up to January 6, when the Capitol fell victim to precisely the kind of white supremacist violence Murphy says Wolf and others downplayed.

Experts studying the January 6 assault have specifically [identified white supremacists](#) as part of an [increasingly emboldened constellation](#) of domestic terrorism threats coming from the far right. The acting chief of the Capitol Police [has said](#) white supremacist groups were present that day. Yet a [bipartisan Senate report](#) released last month found that “DHS I&A never produced an intelligence product, bulletin, or warning specific to the January 6 Joint Session of Congress.”

A senior federal source told POGO that under Murphy, the office had been monitoring threats of violence over social media—an approach that would have spotted some of the many warning signals ahead of the January 6 attack. But, the source said, “After Murphy was removed, the focus changed to more general, so-called ‘strategic intelligence issues’ instead.” Similarly, Mitchell D. Silber, the author of a recent Atlantic Council report on January 6 intelligence failures, told POGO, “Once they fired Murphy, the message went out to analysts working in I&A that you shouldn’t speak truth to power. And that message would have lasted right up to and including January 6.”

After Senate Republicans refused to approve a bipartisan commission to investigate the attack, House Speaker Nancy Pelosi announced a select committee to investigate the matter. Still, the IG office reviews of Murphy’s claims, and their relationship to January 6, are significant given that the select committee may end up relying on the IG’s findings.

“How does the leadup to January 6 happen? Those months beforehand are critically important,” said Troye, now director of the Republican Accountability Project, which [has advocated](#) for an independent commission to examine January 6.

But the public and Congress may never get a full picture of the pre-January 6 intelligence debacle or why it occurred—at least not one informed by the investigations under Cuffari’s supervision.

“Each of these issues keeps coming back to the question, or the perception, of independence.”

Gordon Heddell, former inspector general at the Defense and Labor Departments

Documents and interviews show that Cuffari constrained his own staff's reviews of Murphy's retaliation claim and his allegations of political pressure to manipulate intelligence.

At the same time, it's not clear whether Cuffari's office will examine the underlying accuracy of some of Murphy's most serious allegations—like DHS giving distorted intelligence to Congress, or DHS downplaying evidence of threats of white supremacist violence—even after they featured widely in press reports.

The pattern of actions by Cuffari and his top aides appears to have delayed the probes on multiple occasions, potentially restricted or even compromised interviews with key witnesses, and limited investigators' time to get answers from Wolf and Cuccinelli before they left government.

“In totality, when you put all of this together it would be hard to give any IG a pass on these matters without some further explanation by the IG,” Gordon Heddell, who served as a Republican and Democratic appointee for 12 years as inspector general at the Labor and Defense departments, told POGO. “Each of these issues keeps coming back to the question, or the perception, of independence.”

“The IG has a meeting with the Secretary today”



An inspector general's role often requires work that may be uncomfortable for senior agency leaders. "Any IG who tells me that they are seeking to achieve a balance between independence and keeping the department happy is not going to succeed," Heddell told POGO. "It doesn't work that way."

The allegations against Cuffari are even more troubling in light of documents that appear to show a broader pattern of undue deference by Cuffari toward Wolf and top Homeland Security political appointees and a potential lack of candor with Congress.

In one example, [notes from an August 19, 2020, meeting show](#) that Cuffari wanted to consult Wolf to determine who should be the top official in charge of DHS, a dispute in which Wolf had a vested personal interest. The Government Accountability Office (GAO) [had just ruled](#) that Wolf was serving unlawfully as acting head of the agency and referred the matter to Cuffari.

According to the notes, "The IG has a meeting with the Secretary today to discuss this [the GAO referral], as well as other matters. IG will make a decision later this week on next steps."

Asked about the notes during a recent House Homeland Security Committee hearing, [Cuffari testified](#), "I don't believe I actually had a meeting with the secretary." He added, "It was probably regarding other ongoing investigations."

Asked again about the notes by POGO, neither Cuffari nor the DHS inspector general office offered any response.

Wolf said that, as acting Secretary, he typically met with Cuffari on a quarterly basis, when the two would go through a range of issues. Now working in the private sector, Wolf said he currently lacks access to his previous DHS calendars or staff notes of meetings, if they occurred, and could not determine if he discussed the matter with Cuffari at that time.

Weeks after the August 19, 2020, planned meeting that staff were told about, Cuffari [sent a letter](#) to Congress disagreeing with the Government Accountability Office's ruling on Wolf, declining to take up the matter. "It would be pointless for DHS OIG to add its voice to what has become a bitter inter-branch disagreement," Cuffari wrote.

[Multiple federal courts](#) subsequently upheld the Government Accountability Office's view, holding that Wolf was serving as head of DHS illegally. At stake was the lawfulness of a number of controversial decisions [pushed by the White House](#) and ordered by Wolf [regarding immigration and asylum policies](#) that only a legally installed head of DHS was empowered to make.

The year before, Cuffari's seemingly kid-glove approach to top political appointees appeared in an October 25, 2019, email to his staff. Still relatively new to the job after being confirmed by the Senate in July 2019, Cuffari was addressing a then-ongoing probe into what senior DHS officials knew about [a scandalous Border Patrol Facebook group](#).

As first reported by *ProPublica*, the group included some 9,500 current and former Border Patrol agents across the country who exchanged sexist and racist comments, replete with personal attacks on Latino members of Congress and other lawmakers.

Even though the basis of the review was to learn what senior officials knew about the group, in [his email](#), Cuffari said he wanted "to minimize the burden on high level officials" when interviewing top appointees on the matter. Cuffari suggested his staff consider alternatives to interviews, such as sending written queries. His email addressed a proposal from career investigators to interview then-acting Secretary Kevin McAleenan, whose previous position was head of Customs and Border Protection, which includes the Border Patrol.

Cuffari wrote that if his investigators felt obliged to interview McAleenan, "I need to review the questions that are proposed to be asked."

Two former inspectors general told POGO that written questions should be a last resort, not the go-to solution Cuffari suggested.

“When you send over written questions, you’re showing your hand.”

Gordon Heddell, former inspector general at the Defense and Labor Departments

“If career staff believes in-person interviews are a necessary part of the investigation, that should outweigh concerns about the burden placed on the political appointee,” Michael Bromwich, a former Justice Department inspector general, told POGO. “As the IG, you should not get in the way of that.”

“Written questions are a vastly inferior way to gather information and they are lawyered,” Bromwich added. “You don’t get the honest, candid answers you would get from in-person interviews, and you have no opportunity for follow-up.”

Similarly, Heddell said, “when you send over written questions, you’re showing your hand.”

During a House Homeland Security Committee hearing in April, Representative Ritchie Torres (D-NY) asked Cuffari about this email. “The email claims that you were concerned about demands that an interview would impose on senior DHS leadership,” [Torres said](#). “Is that whistleblower claim true? Yes or no?”

“The answer is no,” Cuffari responded, at odds with the text of his own email. He also told the congressional panel that it was “incorrect” that his email instructed subordinates to avoid asking questions of McAleenan on topics about which McAleenan had already commented publicly.

Yet in his email, Cuffari instructed staff to review “prior statements giving testimony (before Congress, etc.)” because he wanted “to ensure that this is not duplicative of other inquiries and that we are using the least burdensome method of obtaining this information.”

While Cuffari ultimately approved the interview requests, McAleenan never faced questioning from inspector general staff about the issue because he soon left DHS, before investigators could speak with him.

According [to a final IG office report](#), published in May, McAleenan “left DHS without responding to us” and months later, “we asked CBP [Customs and Border Protection] to contact him on our behalf again, but he did not respond.” Instead, the report paraphrased McAleenan’s congressional testimony, stating that “he said the posts published by media sources were unacceptable and did not reflect the character of most CBP employees.”

Without anyone from the watchdog office having questioned McAleenan, the report said investigators “found no evidence” that senior leaders were aware of the offensive social media posts until *ProPublica* reported on the matter in July 2019.

Neither Cuffari nor the DHS inspector general office offered any comment.

POGO has [previously reported](#) on Cuffari's decisions to overrule his career staff's proposals when matters with implications for the White House were at stake. POGO documented how Cuffari refused to allow his office to investigate the Secret Service's use of force last summer in Washington's Lafayette Square against protestors speaking out against racism and aggressive police tactics. (A recent Interior Department inspector general report on events that day did not review the role of the Secret Service. "The unfortunate thing is not everything is in our jurisdiction," Interior Department Inspector General Mark Greenblatt [explained to the New York Times](#). The Secret Service is part of DHS and within Cuffari's jurisdiction.)

POGO also recounted how Cuffari nixed a staff-proposed probe of what the Secret Service was doing to prevent the rampant spread of COVID-19 [in its own ranks](#) and among those it protects, including the president.

A June [Government Accountability Office report](#) noted that officials working under Cuffari "told us that they are often unsure why the Inspector General chooses to pursue certain work and declines to pursue other work and that this confusion led to frustration among staff."

Earlier in his tenure, others had questioned Cuffari's approach to politically sensitive investigations. In a [letter last year](#), Representative Bennie Thompson (D-MS), chair of the House Homeland Security Committee, told Cuffari that the "many critical shortcomings in the work of the OIG" made him concerned about "the willingness of the office to conduct in-depth examinations of sensitive topics."

Neither Cuffari nor the DHS inspector general office offered any comment.

"He's a big piece of our puzzle"



Wolf [removed Murphy](#) from his intelligence role at the end of July 2020. The day before, the *Washington Post* had [reported](#) on the Office of Intelligence and Analysis's compilation of tweets by journalists who published leaked I&A documents on DHS activities concerning racial justice protests in Portland. As first reported by the *Post*, the office also produced a report detailing [electronic correspondence](#) between Portland, Oregon, protestors.

Then, in September, Murphy [filed his complaint](#) alleging his removal was not due to the Portland incidents, but was reprisal for earlier whistleblowing to Wolf, Cuccinelli, and other senior officials in the intelligence community, as well as his previous anonymous complaints made to the inspector general.

Wolf has denied the allegations. Cuccinelli told POGO that “Murphy never made any whistleblowing complaints to me. None. His allegations or intimations to the contrary are false.”

Murphy's complaint also alleged that “Mr. Wolf stated to Mr. Murphy that although he knew there was no merit to the press allegations [that I&A had abused its authority], the removal and reassignment of Mr. Murphy would be politically good for Mr. Wolf, who wanted to be officially nominated as the DHS Secretary.”

In an interview, Wolf called Murphy's version of events “patently false.”

Murphy's complaint also stated that "any intelligence information gathered regarding the protests that were ongoing at the time in places like Portland was done in strict compliance with existing legal guidance" and was carried out only if there was evidence that individual protestors posed a violent threat.

Rival explanations are typical in reprisal cases. Investigators often must try to glean the real reason for the action taken against the employee. It's not unusual to find there may be no single, clear answer, and it can be a challenge to compile conclusive evidence.

Especially challenging in the Murphy case is the fact that only a small number of people at the top echelons of government would have firsthand knowledge of, for instance, his claim of Wolf's privately stated reason for removing him, because it was allegedly communicated verbally, rather than in writing.

Yet for career staff at the inspector general office, even advancing an investigation beyond preliminary interviews with Murphy and his attorneys proved to be a struggle. Behind the scenes, Cuffari initially attempted to avoid conducting a probe of Murphy's retaliation claims altogether, [according to Volsky](#), the former head of whistleblower protection in the inspector general office.

Indeed, for well over a month after Murphy's complaint was filed on September 8, Cuffari held off on launching that investigation, citing his concern about a supposed conflict of interest. Volsky, whose whistleblower protection unit was to lead the probe, learned of Cuffari's concern on September 25.

That was two days after Wolf, in [testimony](#) before the Senate, denied Murphy's allegations of manipulated intelligence, calling the claims "patently false" and a "fabrication."

The nature of the conflict Cuffari thought existed is redacted from Volsky's memo. But Volsky writes that the idea that there could be any conflict at all "appears pretextual, as this 'conflict' is not found in any policy." Volsky added there were "no procedures in place to identify and prevent such a 'conflict' in other cases, and no effort was taken to modify OIG policy or procedures to address the IG's [Cuffari's] newfound concerns."

Soon after Joe Biden's election win in November, Cuffari abandoned his concern about the conflict without any explanation to his staff, and permitted the retaliation probe to move haltingly forward.

But by that point, Volsky wrote, his whistleblower protection unit "had lost several weeks of investigation time and had roughly two months before it would lose the ability to compel many of the key witnesses in the investigation."

“I’m most concerned he’ll resign before January 20th and that we won’t get to talk to him at all.”

Internal inspector general office email discussing Chad Wolf

Neither Cuffari nor the DHS inspector general office offered any comment.

With Trump slated to leave office on January 20, 2021, time was of the essence for both investigations stemming from Murphy’s allegations. Cuffari’s staff would have to quickly interview top Homeland Security political appointees, including Wolf, about Murphy’s charges before Inauguration Day. After that date, and perhaps even before it, Wolf and other appointees would leave government and fall outside the watchdog’s jurisdiction.

A December 7 email obtained by POGO underscores the worries of Cuffari’s staff about ever getting to interview Wolf. “I’m most concerned he’ll resign before January 20th and that we won’t get to talk to him at all,” the email from a career inspector general official stated. “He’s a big piece of our puzzle.”

The belated start of the reprisal investigation also meant delays in the issuance of requests for DHS records that could shed light on Murphy’s claims, truncating investigators’ time to prepare for interviews. There were also other delays that were not due to Cuffari. For example, it took months for Murphy’s lawyers to obtain security clearances that would allow them necessary access to classified information.

Murphy’s attorney Mark Zaid told POGO that, in his experience, inspector general investigations of whistleblower reprisal routinely take far too long. But the Murphy case involved urgent, high-profile matters, he said, warranting timely actions by DHS’s watchdog office to review the full scope of Murphy’s troubling allegations as well as faster DHS processing of security clearances for himself and the other members of Murphy’s legal team (who routinely receive them in the course of representing intelligence community employees). Zaid said he would continue to work with Cuffari’s office.

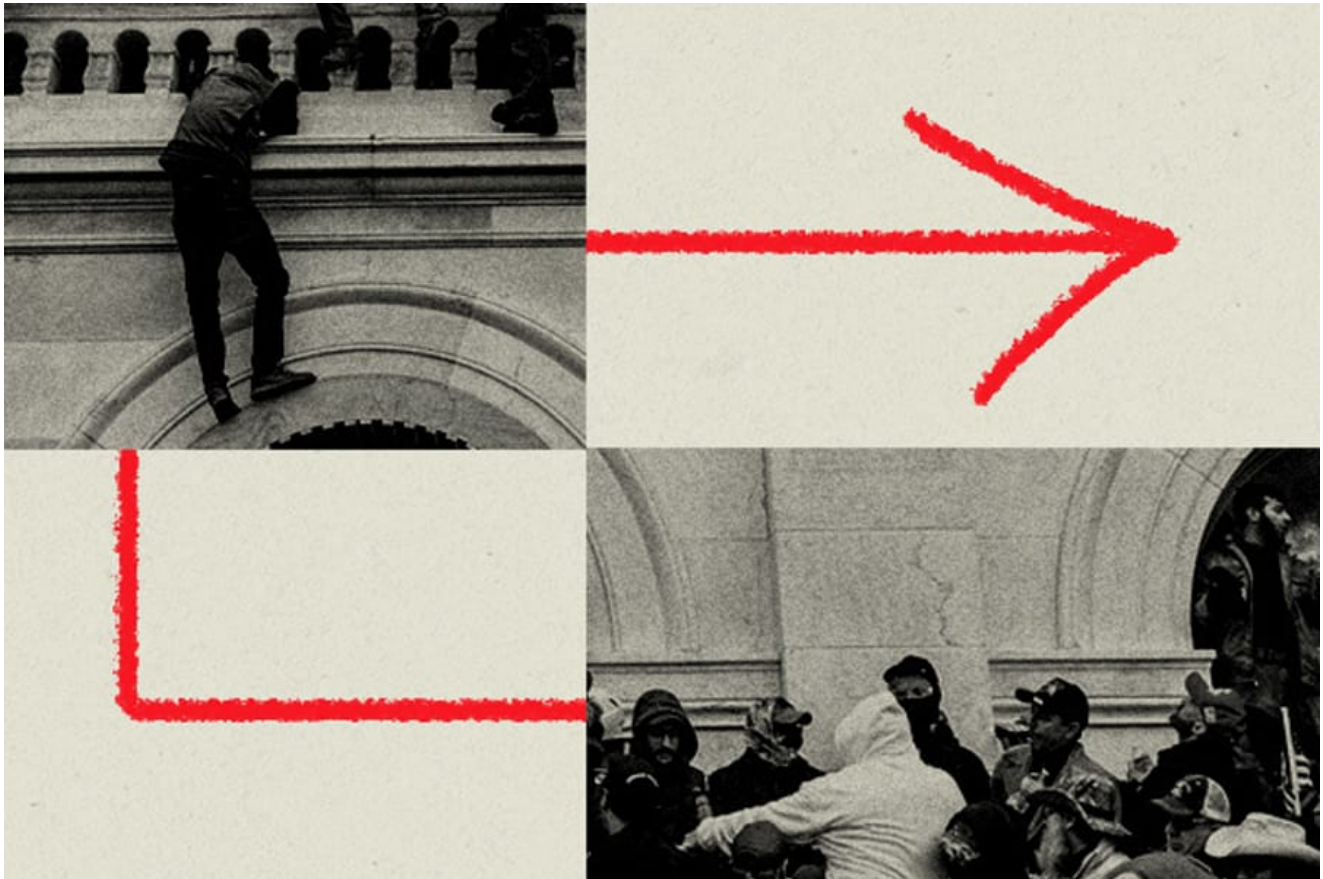
“Timing is always critical,” Heddell, the former Defense and Labor Department inspector general, told POGO. “Delayed interviews potentially compromise clarity and accuracy of information.”

According to records, Cuffari continued to interfere in his staff’s investigative work.

This interference shielded Wolf and Cuccinelli from robust questioning about their alleged attempts to manipulate intelligence products.

Indeed, in the aftermath of multiple intelligence failures marked by allegations of improper political influence, the consignment of Murphy's charges to an investigative process that Cuffari appears to have limited or even compromised suggests the public may never find out what really took place.

“Nothing Significant to Report”



In April, President Joe Biden [told a joint session of Congress](#) that white supremacist terrorism—one of the intelligence issues Murphy said was distorted and suppressed prior to his removal last summer—is now the greatest national security threat facing the U.S.

The Department of Homeland Security is [reviewing](#) how it handles domestic extremism and is reestablishing a unit within the Office of Intelligence and Analysis focused on that threat. During the Trump administration, David Glawe, Murphy's former boss, who left government in May 2020, [dismantled the unit](#), noted Olivia Troye. “That was a big mistake” that has been unfairly pinned on Murphy, said Troye, who worked for Glawe at I&A and briefly with him in the private sector.

(A spokesperson for Glawe told POGO he is only giving interviews related to his current, private sector job combatting insurance fraud.)

DHS itself did not respond to POGO's queries about the matter.

The Office of Intelligence and Analysis was “told to stay in line” after “Murphy was reassigned to the basement with his red stapler,” said Troye. Murphy “wasn’t perfect, but he was pushing them to get ahead of the threats and think about everything happening on social media,” she added. If that’s verified, it could help shape assessments of intelligence breakdowns related to the January 6 assault on the Capitol.

According to [ABC News](#), chaos and inattention in the Office of Intelligence and Analysis in the months right after Murphy’s removal may have made it oblivious to threats building ahead of January 6. Indeed, the *Wall Street Journal* [reported](#) that a national intelligence summary from the office dated January 5 stated, “Nothing significant to report.”

But outside of I&A, at least one government office was sharing signals that an assault on Congress on January 6 might be imminent. On January 5, an FBI field office in Norfolk, Virginia, issued an intelligence report which, according to [the Washington Post](#), quoted an online thread discussing specific calls for violence, including these words: “Be ready to fight. Congress needs to hear glass breaking, doors being kicked in ... Get violent. Stop calling this a march, or rally, or a protest. Go there ready for war.”

Knowledgeable federal sources told POGO that after Murphy’s removal, his former office de-emphasized analyzing social media for indications of threats of violence until mid-afternoon on January 6, as people around the world watched mobs storm the Capitol on live video.

If Murphy had still been at the helm of the Office of Intelligence and Analysis, a senior federal source told POGO, “It’s 100% that the focus would have been on threats to life.” The official added, “Those threats were all over social media on and before January 6, and would have been picked up on because I&A had been collecting [social media information] against known violent actors.”

A recent [Atlantic Council report](#) concluded that after Murphy’s ouster at the Office of Intelligence and Analysis, “the number of analysts scrutinizing social media was cut, rules for what could be culled from social media were tightened, and I&A’s issuance of reports on domestic extremists to law-enforcement partners was diminished.”

Citing private conversations with former Homeland Security officials, the report, authored by Mitchell D. Silber, former head of the New York City Police Department’s intelligence unit, concluded that “I&A analysts in the highly politicized environment after the November 3, 2020, election didn’t issue a warning about January 6 because they had been intimidated and were reluctant to make waves that would upset political appointees higher up in DHS.”

Silber wrote that this created “a perfect storm within DHS I&A, hobbling the organization and its ability to function as a viable intelligence-analysis unit at a crucial moment in the runup to January 6.”

Silber found that warnings were flowing into the Office of Intelligence and Analysis from so-called fusion centers staffed by federal, local, and state officials, yet the unit did not issue a threat warning. Silber deemed this an “analytic intelligence failure by DHS I&A.”

Melissa Smislova, now in charge of I&A and the second-in-command on January 6, [told a Senate committee](#) in March that, prior to January 6, the office’s leadership thought more general warnings about the domestic terrorism threat to federal buildings should have sufficed. “We thought we had provided that warning,” she testified, but admitted, “we did not have anything specific about an attack on the Capitol to occur on January 6, so we did not issue a separate report. In hindsight, we probably should have.”

In that hearing in March, Senator Jeff Merkley (D-OR) asked Smislova about Murphy’s allegations of pressure to manipulate intelligence. “I did not personally have that influence pushed on me,” she said.

Merkley also asked Smislova if the office produced detailed intelligence assessments during the Portland protests but not in the run-up to January 6 “because of this pressure to downplay to some degree the threat posed by white extremists.” Smislova responded, “it’s impossible to compare the two” because in Portland there was ongoing violence and DHS was requesting information from I&A.

Neither Smislova nor DHS offered any comment.

The Office of Intelligence and Analysis has long been seen as a backwater in the intelligence community, charged with analyzing, compiling, and sharing information with DHS and other government partners, down to the local level.

Nearly since its creation, the office has been plagued by bureaucratic turf battles and chronically low morale, and has faced intense criticism from Congress, according to a recent Center for a New American Security [report](#) by former Senate homeland security staffer Christian Beckner. Morale remains [among the lowest](#) in the federal government, even after a bump in 2019, according to the Partnership for Public Service.

That increase in scores came after Murphy’s first year at DHS, where he arrived in March 2018 after two decades with the FBI.

From the start, he began seeing improper actions. During his first month at DHS, according to Murphy’s complaint, he began raising concerns about “attempted censorship of intelligence analysis and improper administration of an intelligence program related to Russian efforts to influence and undermine United States interests.”

Murphy’s complaint “highlights the greater vulnerability of DHS I&A to political pressure, compared with agencies such as the FBI, due to its weaker stature and institutional norms,” according to Beckner’s report.

“It seems insane to me”



By the time Murphy’s allegations of attempts to manipulate intelligence began generating headlines last September, DHS had already begun what looked like a campaign to cast doubt on his claims.

Less than a week after Murphy’s filing with Cuffari’s office, the department sent the House intelligence committee a letter quoting a July 25, 2020, email from Murphy that DHS said is in “direct contradiction to Mr. Murphy’s claims.” The letter quoted Murphy’s purported email as saying, “The acting secretary has never given me any direction on what to do Regarding [sic] threats. The same applies to the acting deputy secretary,” *CBS News* correspondent Catherine Herridge [reported via Twitter](#).

Murphy’s attorney Mark Zaid [fired back](#): “The selective disclosure of heavily redacted documents by DHS neither contradicts what is contained in Mr. Murphy’s whistleblower complaint, nor even supports the character assassination attempt by the Department.”

And Troye, the former Trump White House aide, told POGO that Murphy had informed her about pressure from Wolf and others long preceding this email, which was dated around the time Murphy became the target of [congressional ire](#) regarding DHS’s actions in Portland. “They had been clashing for a long time before Portland,” Troye said of Wolf and Murphy.

(Others who served in the last administration have told of [similar clashes](#) causing a [months-long delay](#) in the release of a threat assessment on domestic extremism that is a key focus of Murphy's complaint.)

Late July 2020 marked a final turning point in Murphy's relationship with Wolf. Wolf appeared to seize on allegations of improper Office of Intelligence and Analysis activities connected to Portland to get rid of Murphy by the end of that month.

An internal record obtained by POGO said that, while the inspector general's investigative unit confirmed that Murphy's office compiled open source intelligence reports on journalists, the investigative unit found no criminal intent.

Loose guidance may have meant I&A did not break any rules, although there is [some debate](#) about that. While the office is barred from intelligence gathering for the "sole purpose of monitoring activities protected by the First Amendment," according to [agency guidelines](#), a knowledgeable federal source says the office was keeping track of public media posts in response to a possible security concern stemming from the leak of I&A records.

In addition to removing Murphy from his job, Wolf set in motion a DHS-run review of Murphy and his unit.

Career staff at the inspector general office probing Murphy's allegations remained in the dark about the DHS probe, a number of them said, until early December when Murphy's attorney told them about it. Yet, as it turned out, Cuffari had known about the department's probe for several months, according to an internal email.

"It's hard to imagine a valid reason for holding back this information from career staff," Bromwich, the former Justice Department inspector general, told POGO. "You rely on your staff to be straight with you. They have the right to expect the same thing in return." Bromwich added, "If they conclude that you are playing footsie with the political appointees who head the Department, that can be devastating to morale."

"It's hard to imagine a valid reason for holding back this information from career staff."

Michael Bromwich, former Justice Department inspector general

When career staff in the watchdog office found out about the department's review, it sparked serious concerns. A staffer reacting to the revelation wrote in a December 4 email that "it seems insane to me that we would be comfortable with the department doing a concurrent review of issues overlapping [with our] work."

While the department's review was focused on the Office of Intelligence and Analysis's activities connected to the Portland protests, aspects of it appear to have been much broader, suggests a March 2021 [letter](#) from Senate intelligence committee Democrats. The lawmakers also called for the review's public release.

If not managed appropriately, parallel agency and inspector general reviews can create problems and affect the outcome of similar investigations already underway.

"If agency personnel conduct an investigation examining similar issues as the OIG, the IG should tell the agency to suspend what it's doing unless there is a compelling reason for the agency to conduct a review of its own," Bromwich told POGO. "Parallel reviews are a very bad idea—they undermine the role of the IG."

Indeed, documents obtained by POGO show that in 2017, a previous DHS inspector general told the department to "stand down," citing the [department's rules](#) when he learned of a parallel department-led investigation involving the Office of Intelligence and Analysis. The watchdog also cited the risk that the department's investigation could be seen as "retaliatory."

The department's investigation involving Murphy moved rapidly and was nearly complete by December 4, when career staff in the inspector general office first learned of it. According to Zaid, Murphy's lawyer, a DHS attorney leading the agency's parallel probe told him that investigators had interviewed over 70 employees by the time they interviewed Murphy, the main focus of the probe, on December 9.

One person interviewed in the department's investigation told POGO they were asked "a string of negative questions" about Murphy. The person said that they and others got the impression that the process "was designed to get him" since the interviewers had no interest in positive things Murphy had done to reform the office.

"One person interviewed in the department's investigation told POGO they were asked a string of negative questions about Murphy."

Zaid commented that "this so-called internal review ... was a set-up from the beginning in order for Chad Wolf to cover his own failures and retaliate against Mr. Murphy, who is the highest-ranking lawful whistleblower in decades."

Wolf did not respond directly to Zaid's allegation, but said that the DHS probe of Murphy and his office was largely complete by the time the inspector general's review of Murphy's complaints got fully underway. In any case, he said, the separate investigations involved

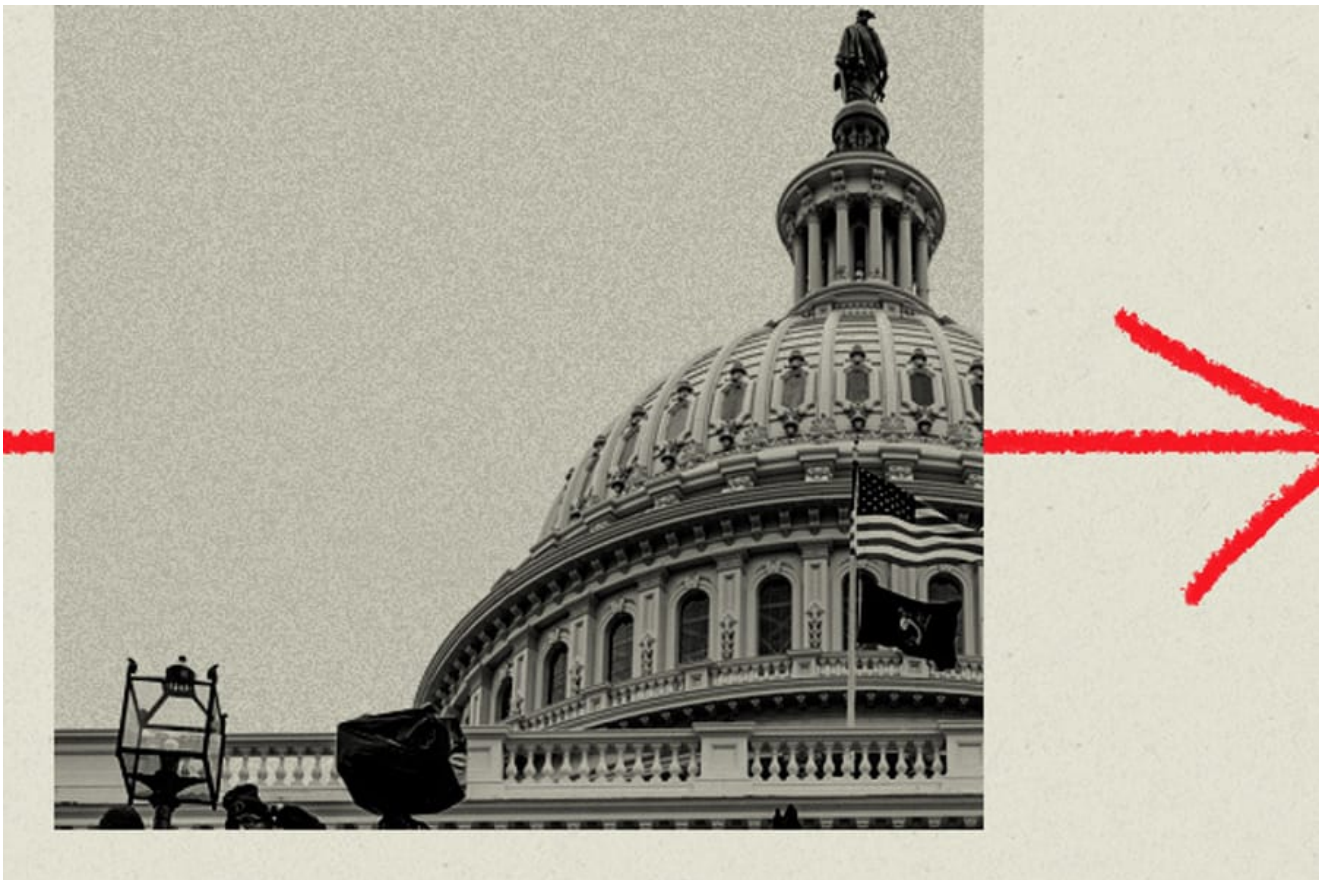
different aspects of Murphy's conduct and management and did not interfere with each other.

DHS completed its report, with largely unfavorable conclusions about Murphy, on January 6, the day of the attack on the Capitol and days before Wolf left office. The report's findings were soon leaked to Catherine Herridge, the *CBS News* reporter.

Citing an unnamed source, Herridge [tweeted](#) that Wolf had written a memo, dated January 11, saying that the just-concluded DHS review had "strongly encouraged DHS leadership to refrain from allowing Mr. Murphy to return to I&A." Murphy's whistleblower complaint had requested that he be allowed to return to the office.

Wolf wrote the memo as one of his final actions as DHS acting secretary before he relinquished the job [that same day](#). (He stayed on as undersecretary for strategy, policy and plans until January 20.)

"An Expedited Timeline"?



Last fall, career staffers in the inspector general office were also conducting a separate review of the purportedly politicized intelligence. They soon encountered roadblocks of their own.

In September, soon after Murphy's complaint was filed, Cuffari wanted to explore incorporating an investigation of allegedly politicized intelligence into the ongoing Portland probe, according to records and sources. But sources told POGO that this idea could and should have been quickly rejected, given the substantial difference between the disparate allegations.

Instead, the issue delayed the review of allegedly suppressed and politicized intelligence until late October, nearly a month later.

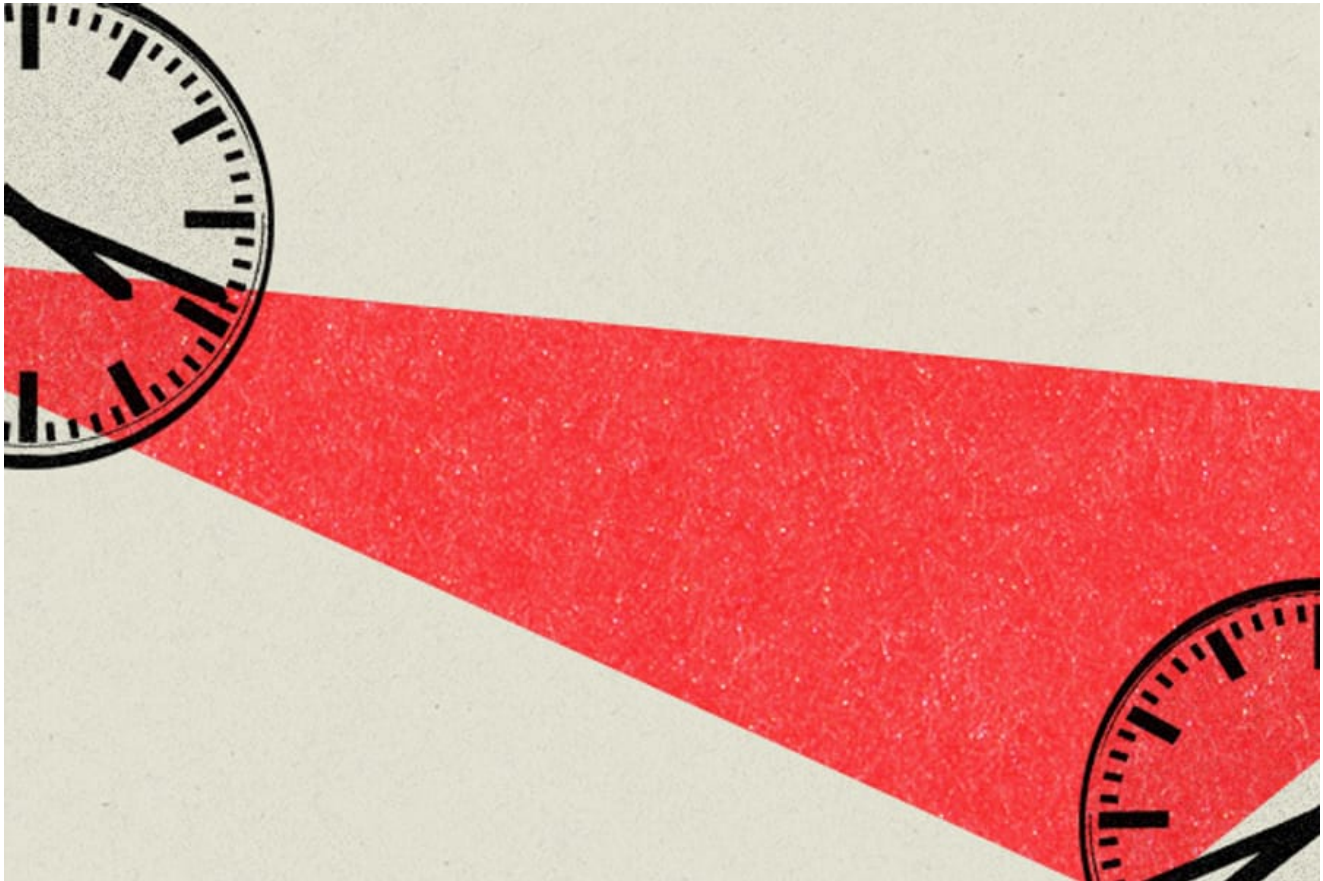
Even after Cuffari approved the review, the IG office did not put DHS on notice until November 30. This step is required before the watchdog office can begin obtaining records from the department or conducting interviews.

The approved review would focus only on the creation and handling of an intelligence notification from Murphy's office earlier in 2020, on Russia's disinformation campaign. A [July 7, 2020, DHS email](#) leaked to [ABC News](#) partially corroborated Murphy's claim that Wolf had blocked the dissemination of that intelligence assessment. (Wolf has admitted to blocking the assessment, but says he did so because it failed to meet DHS's standards.)

Career staff repeatedly flagged timeliness as a concern in the fall of 2020. "There is significant public and congressional interest in a prompt answer to whether this allegation is true or false," internal inspector general records state, citing "urgency" and the need for "an expedited timeline."

Yet further delays and barriers confounded that goal.

Running Out the Clock



With the clock still ticking in December, Cuffari and his senior aides constrained his office's two investigative teams' ability to interview Wolf, Cuccinelli, and another political appointee. Inspector general "leadership was preemptively and without explanation narrowing the terms of the interviews to the detriment of" the office, Volsky wrote in his complaint.

Career staff initially sought Cuffari's approval for two hours of interview time each with Wolf, Cuccinelli, and a third appointee, according to internal records examined by POGO. The time would be split, with one hour for the team investigating the retaliation claims and another for the team examining those of political pressure on intelligence.

Even before approaching the department with requests for interviews, Cuffari and his deputies sought to cut that in half. They wanted to limit the interviews with the appointees to 30 minutes, according to records. In contrast, Murphy sat for a daylong interview on December 18. (This was followed by another hourlong interview on December 23.)

Internal emails show career staff's frustration and their sense that Cuffari was acting in a way that was inconsistent with the independence of the office he leads by giving staff so little time to conduct interviews.

One federal source not authorized to speak to the press said it's not unusual for an agency secretary's office to push back interview requests from an inspector general. What was unusual in this case was that the pushback was coming from the inspector general himself,

in an attempt to limit the time available to his own investigators.

Bromwich, the former Justice Department inspector general, told POGO that the two teams examining Murphy's claims should each have received at least two hours of interview time with each official. And Bromwich said interviews with officials alleged to be responsible for political pressure on intelligence products could easily require more time than the reprisal investigation given the complexity of those issues.

Eventually, Volsky persuaded Cuffari's deputies to allow more time—90 minutes per interview—by arguing that might help Wolf, Cuccinelli, and another political appointee to bolster their own defense, according to sources.

But there was another problem. Cuffari's "Chief of Staff [Kristen] Fredricks agreed to permit agency counsel to attend all three interviews against" the policy of the whistleblower protection unit and the recommendations of career staff, Volsky wrote. Then, she failed to inform the career employees "that she had agreed to permit agency counsel, resulting in a last minute scramble for investigative staff, and never provided an explanation for her decision."

Regarding the inclusion of agency lawyers in investigative interviews, "we took a hard line on that," said Bromwich of his time running the Justice Department Office of Inspector General. He said he opposed allowing agency counsel to participate in interviews, echoing the practices of [numerous other inspectors general](#), because these lawyers have an "obligation to prepare witnesses" and to protect the agency.

"The concern is agency counsel will share what happened during the interview with" other witnesses or accused parties, Bromwich told POGO. "The risk is you get answers tailored to what the other witnesses have already said."

Cuffari's deputies also directed the team looking into alleged intelligence manipulation to ask questions of Wolf and other Trump appointees only in writing. Yet the investigative team had sought in-person interviews. A federal source informed about the matter told POGO that career investigators wanted to interview Wolf in-person so they could ask follow-up questions.

"You can't do credible investigations using just written questions or brief in-person interviews," Bromwich said. "That just doesn't work."

In early January, investigators sent their written questions to Wolf and Cuccinelli.

In mid-January, Wolf's staff sent his written responses to Cuffari's chief of staff, Kristen Fredricks. But she did not forward those answers to investigators until early February—more than two weeks later. By then, Wolf had left government service and could no longer be compelled to answer any follow-up queries.

Cuffari promoted Fredricks two months later to deputy inspector general.

Neither Cuffari, Fredricks, nor the DHS inspector general office offered any comment.

Nearly six months after DHS's parallel probe of Murphy was complete and parts of it leaked, Cuffari's office is still working on both Murphy's retaliation charges and a review of allegedly manipulated intelligence.

It remains to be seen whether the ongoing inspector general inquiries will confirm there was retaliation against Murphy and will validate his other charges. There's also the possibility of a mixed result: that Murphy's claims related to intelligence will be vindicated, but not his reprisal claim, or vice versa. Such outcomes are not uncommon in whistleblower cases.

Senators Chuck Grassley (R-IA) and Maggie Hassan (D-NH) have recently introduced legislation that would empower "inspectors general to compel testimony from former employees so bad actors in government can't simply run from accountability by exiting government," as Grassley said [in a statement](#). Such legislation would give watchdog offices a key tool to uncover the truth. If the legislation or a [broader House bill](#) becomes law, political appointees and other government officials won't be able to just run out the clock.

But for now, Cuffari's actions have put at risk a complete accounting of Murphy's weighty allegations, and their implications for the later intelligence breakdowns at DHS. His actions have also raised more troubling questions about a watchdog office that oversees one of the most important Cabinet departments.

The stakes are high. "After January 6, the threat of domestic extremist violence is still out there," Silber told POGO. "So to safeguard the future we need to understand it and fix what went wrong at DHS and elsewhere in the government after the storming of the Capitol."

At the time of publication, co-author Nick Schwellenbach was on a leave of absence from POGO.