



November 8, 2019

The Honorable Gerald E. Connolly
Subcommittee on Government Operations
Committee on Oversight and Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Connolly:

I write in response to your October 21, 2019, letter regarding the hearing that was held on Wednesday, September 18, 2019, titled "*Overseeing the Overseers: The Council of the Inspectors General @ 10 Years.*"

I have enclosed my written responses to your post-hearing questions so they can be included as part of the record for the hearing. Please feel free to contact me at (202) 693-5100, if you have any questions. Alternatively, your staff may contact Luiz Santos, Assistant Inspector General for Congressional and Public Relations, at (202) 693-7100.

Sincerely,

Scott S. Dahl
Inspector General, U.S. Department of Labor
Chair, Integrity Committee, Council of the Inspectors General on Integrity and Efficiency

Enclosure

cc: The Honorable Mark Meadows
Ranking Member

1. Please list any changes to structure or operations that the Integrity Committee (IC) has made since enactment of the Inspector General Empowerment Act (IGEA) of 2016 to increase and improve the transparent operations of the Integrity Committee.

Since the IGEA amendments transferred IC responsibilities from the FBI to CIGIE, the IC built a structure and operation to manage these responsibilities and improve transparency and timeliness, including the following:

- stood up a new case and records management system
- hired staff support
- revised CIGIE's Privacy Act and Freedom of Information Act regulations
- published a new System of Records Notice
- issued a new Federal records schedule
- promulgated substantial revisions to the IC Policies and Procedures to improve timeliness, transparency, and accountability

As a further step to increase transparency, the IC now maintains its meeting minutes in a form that can be released upon request, with modest redactions to protect confidentiality and privacy. The Committee staff has also made a concerted effort to promptly respond to numerous Freedom of Information Act requests from the public, including the media, and has made significant improvements to reduce the backlog that CIGIE inherited.

In addition, the IC has increased its outreach to various stakeholders and presented at multiple meetings throughout the year, including the annual IG conference, to inform the IG community of the IC's processes and the changes implemented pursuant to the IGEA. We met with a Member of Congress on an oversight committee and had multiple conversations with congressional staff concerning IC operations.

We also completed a major update to our public webpage to better inform our stakeholders of IC activities, including the public, and to provide guidance to those participating in our processes (e.g., complainants, respondents, assisting OIGs). In addition, the IC is working to address several policy issues, including complaints made to OSC pursuant to 5 U.S.C. 1213 concerning OIG officials and whistleblower complaints made against intelligence community OIG officials pursuant to the Presidential Policy Directive-19 framework.

2. Please provide the process that the Integrity Committee follows when evaluating whether to refer an allegation of wrongdoing for further investigation.

The IC members thoroughly review the hundreds of pages of material supporting the allegations and the IC staff's analyses prior to our meetings, which are held every three weeks. The members collectively discuss each matter in detail, referencing the supporting material. The IC then decides for each matter whether further information is needed from the complainant and whether a response from the subject would assist in our deliberations, while at the same time weighing the need to protect the identity of a confidential complainant. If a response or additional information is requested, then the members review that information and again deliberate on the matter to determine if an investigation of each allegation is warranted based on the IC's threshold standard for wrongdoing. In some cases, the IC may refer a matter for investigation without requesting a response from the subject because the allegations clearly

warrant an investigation and a response would not serve a useful purpose or would result in unnecessary delay. When a complaint is not referred for investigation, the IC will still act, if appropriate, by obtaining the complainant's consent to refer the matter to another agency of jurisdiction or suggesting another avenue to resolve it.

3. What factors might help the Integrity Committee determine whether to refer an allegation of wrongdoing for further investigation?

One of the major factors the IC considers in making its determination to refer an allegation for investigation is the sufficiency of supporting evidence of the alleged wrongdoing. To assist complainants in preparing complaints that will help the IC to make informed decisions, the IC recently updated its webpage with guidance and examples of information to include in the complaints and in support of them, if available. Another factor the IC considers is how detailed and supported the response is from the subject, if one was requested. The IC webpage also provides guidance to subjects on preparing responses that will better inform the IC's decisions.

Another important factor is the severity or seriousness of the alleged wrongdoing. For example, specific allegations of abuse of office or conduct that undermines the integrity or independence expected of a senior official would likely trigger an investigation. The IC also considers the level of seniority of the subjects and how involved they are alleged to have been in the wrongdoing.

4. What additional improvements could be made to the Integrity Committee's operations to improve transparency?

The IC recommends amending section 11d(10) of the IG Act to allow the IC, upon request from any Member of Congress, to provide more detailed information about specific allegations that have been closed for at least 90 days, rather than exclusively those that have been reported in our annual report or through a report of investigation. This information would still need to protect identities of confidential complainants and whistleblowers, as well as the integrity of the IC's deliberations.

In addition to the briefings to the oversight committees, the IC plans to expand its outreach efforts by offering all interested Members informational sessions on the role, functions, and operations of the Integrity Committee.

5. Would providing Members of Congress a briefing on why a particular allegation was or was not referred for further investigation prompt concerns? Why or why not?

The IC appreciates the oversight equities of the Committee on Oversight and Reform and the Committee on Homeland Security and Governmental Affairs relating to governance of the IG community and believes that it can brief these oversight committees on closed matters concerning the reasons for decisions on whether to refer matters for investigation, while protecting the confidentiality of witnesses and the integrity of the IC's deliberations, which these

committees have a vested interest in preserving. Offering such briefings to individual Members of Congress beyond the oversight committees poses certain risks and other difficulties. For example, the Privacy Act limits the IC's ability to share certain information to individual Members. In addition, discussing with individual Members the reasons for IC decisions may create opportunities for IG officials to obtain information from Congress that they could not obtain from the IC directly, which may pose whistleblower protection risks and also could intrude upon the integrity of the IC's deliberations.

6. Would it be helpful to you or to CIGIE leadership to track the number of allegations at each Inspector General over time to determine any trends in the volume or pattern of allegations of wrongdoing?

The IC currently tracks this information as helpful to determine trends in the volume or pattern of allegations. We have and will continue to provide to the CIGIE Chairperson any trends or patterns of allegations that concern the IC. The IC crafted a mechanism in the IC Policies and Procedures that allows the committee to report such matters to the CIGIE Chairperson.

7. What investigatory body examines allegations of wrongdoing against OIG employees who do not qualify as a "staff member" pursuant to the IG Act?

For those complaints that allege wrongdoing by an OIG employee who does not qualify as a covered person under the IC's jurisdiction, the IC staff asks for the complainant's consent to forward the complaint and their contact information to the IG or other agency with jurisdiction.

8. What steps is the Integrity Committee taking to clarify how and to whom a person can make allegations of wrongdoing against those OIG employees who do not qualify as a "staff member" pursuant to the IG Act?

The IC's website and the complaint form provides specific guidance concerning the IC's statutory jurisdiction extends only to covered persons. As noted above, if a complaint is made against an OIG employee who is not a covered person within the IC's purview, the IC staff notifies the complainant that their allegation is outside of the IC's authority and asks for consent to forward the complaint directly to the IG or other agency of jurisdiction for consideration. The IC staff also provides complainants with links to federal OIGs (for complaints against federal officials who are not OIG employees) and FBI regional offices (for complaints alleging criminal misconduct that are not within the IC's purview).