



Council of the
INSPECTORS GENERAL
on INTEGRITY and EFFICIENCY

February 28, 2020

The Honorable Gerald E. Connolly
Chairman
Subcommittee on Government Operations
Committee on Oversight and Reform
U.S. House of Representatives

Dear Chairman Connolly,

I am writing in response to your letter dated October 21, 2019, in which you forwarded questions for the record following the September 18, 2019 hearing before the Subcommittee on Government Operations concerning "Overseeing the Overseers: Council of the Inspectors General on Integrity and Efficiency @ 10 Years." Enclosed, please find responses to your questions.

If you have any questions, please feel free to contact me or Adam Miles, Counselor to the Inspector General, at (202) 514-3435.

Sincerely,

Michael E. Horowitz
Chair

Council of the Inspectors General on
Integrity and Efficiency

Enclosure

Cc: The Honorable Mark Meadows
Ranking Member
Subcommittee on Government Operations
Committee on Oversight and Reform
U.S. House of Representatives

Questions for Mr. Horowitz
Inspector General
Department of Justice
Chairman, Council of the Inspectors General on Integrity and Efficiency (CIGIE)

Questions from Chairman Gerald E. Connolly

September 18, 2019, Hearing: "Overseeing the Overseers: The Council of the Inspectors General @ 10 Years"

1. You testified at the hearing that CIGIE hopes to implement an open recommendations database on its Oversight.gov platform. What is the timeline for the release of that database?

Response: The Council of the Inspectors General on Integrity and Efficiency (CIGIE) has created a working group comprised of representatives from nine Offices of Inspector General (OIG) to develop a pilot of the open recommendations database for Oversight.gov. We plan to launch the pilot project in fiscal year 2020 and will use the lessons learned in that pilot to migrate other OIGs onto the platform.

2. What can Congress do to help facilitate the release of that database?

Response: The lack of an ongoing and predictable funding stream for Oversight.gov presents a significant risk to this project. Congress's continued support through stable funding for Oversight.gov would ensure the development, implementation, and most importantly, the sustainability of this project.

3. How important is the peer review system to the integrity of the Inspector General (IG) community?

Response: The peer review process is crucial to evaluating the quality, thoroughness, and proper execution of an OIG's work. In 2017, CIGIE decided to add to its already robust peer review process for its audits and investigations by adopting standards for peer reviews of Inspection and Evaluation organizations in the IG community and, in 2018, we began conducting Inspection and Evaluation peer reviews for the first time. CIGIE now ensures that member OIG offices have regular peer reviews of their Audit, Investigations, and Inspection and Evaluation organizations. Additionally, earlier this year, CIGIE adopted updated Quality Standards for Digital Forensics. This is a critical area of OIGs' investigative work, and our updated standards recognize the need to take into account the fast changing nature of this work.

4. In June, reports emerged that the acting IG at the Department of Homeland Security failed to follow accepted auditing standards that led to removal of 13 IG reports. It's important for Congress and the public to know which IGs are meeting or exceeding standards and which ones need help or new leadership. Could CIGIE assist in this area by posting to Oversight.gov the results of current IG peer reviews and also list when IG offices are scheduled for their next peer review?

Response: Under the Inspector General Act of 1978, as amended, OIGs are required to

include in their semiannual reports to Congress the results of any peer review conducted by another OIG, a list of any outstanding recommendations from any peer review conducted by another OIG that have not been fully implemented, and a list of peer reviews conducted by the OIG of another OIG within the relevant reporting period. All OIGs that publicly release their semiannual reports also have agreed to post them to Oversight.gov, thereby allowing Congress and the public to access these reports in a centralized location. In addition, CIGIE posts the peer review schedules of OIGs' Audit, Investigations, and Inspections and Evaluations divisions on its website, IGnet.gov.

5. Would codifying Oversight.gov be helpful to the IG community?

Response: I believe that codifying Oversight.gov would demonstrate Congressional support for the web site and be a positive development. However, any effort to codify the existing web site or any of the contemplated enhancements should also recognize the need for a sustainable funding source for this good government platform.

6. Would it be helpful to you in your capacity as the Chairman of CIGIE to know trends in allegations of wrongdoing against specific offices of inspectors general?

Response: Yes. Currently, the CIGIE Integrity Committee tracks the number of allegations against OIG personnel to determine trends in the volume or pattern of allegations. In addition, the Integrity Committee established a mechanism in its policies and procedures through which it can report concerning trends or patterns to me in my capacity as CIGIE Chair.

7. Has CIGIE worked to incentivize or facilitate collaboration across the IG community around information technology, human resources, procurement, financial services, legal services, or any other potential opportunities beyond Oversight.gov?

Response: Yes. CIGIE facilitates information sharing in these areas by bringing together OIG personnel from across the IG community through its many committees, subcommittees, and working groups. For instance, CIGIE's Technology Committee includes a data analytics working group and emerging technology subcommittee which focus on information technology concerns and solutions applicable broadly to OIGs. Also, the Assistant Inspectors General for Management group and Professional Development Committee focus on common issues and best practices in human resources, procurement, and financial services. For example, in October, CIGIE issued an Enterprise Risk Management (ERM) Practitioner's Guide to help identify and manage potential risk events that may affect mission goals and objectives, as well as how to develop a basic governance and management structure to oversee and implement risk management activities. Members from ten OIG organizations with expertise in ERM volunteered to share their good practices. With respect to legal services, the Council of Counsels to the Inspectors General is comprised of personnel from OIGs' Offices of General Counsel who discuss legal concerns relevant to the IG community.

8. What are the biggest hurdles to establishing these types of collaborative solutions and how can Congress help CIGIE foster and grow such opportunities?

Response: One of the biggest obstacles to developing a more robust infrastructure at CIGIE and enhancing its ability to provide shared services to the IG community is the lack of a

direct appropriation for CIGIE so it could plan for future operations and hire permanent staff. CIGIE is funded through the voluntary contributions of its 74 OIG members. As a result, CIGIE cannot be certain of its annual funding until the funding situation of each of its 74 OIG members is resolved. Further complicating matters, because IG contributions to CIGIE are based on the size of each IG's budget, CIGIE's funding each year is heavily reliant on the appropriations received by a small number of the largest IG offices. As a result of this funding mechanism, roughly half of CIGIE's staff is made up of temporary, reimbursable detailees from member OIGs.

9. We see CIGIE as being a hub of IT solutions and best practices for the IG community. In fact, you have a very capable Technology Committee within CIGIE. Does it concern you when IGs host their information on the servers of their affiliated agency?

Response: Agency hosted websites can raise IG independence issues and concerns. CIGIE is seeking to address this issue by expanding Oversight.gov to allow it to host OIG websites. Hosting individual OIG websites on Oversight.gov would provide IGs with greater control over the distribution of information about their offices and oversight work, and bolster their independence. In addition, an OIG's independence can be enhanced when it hosts its information technology (IT) network outside of agency servers. However, hosting IT networks may be cost prohibitive for OIGs, especially smaller OIGs, because of the required equipment and experienced technical staff necessary to support such networks.

10. What can Congress do to help CIGIE serve as a best practices technology hub and a champion of finding ways to work across the community to find solutions, particularly in this area?

Response: Continued support from Congress through an appropriation for the expansion and maintenance of Oversight.gov and for future shared service opportunities would be very beneficial as we support and share the best technology practices within our community. As those best practices are shared and implemented, efficiencies in these areas will be realized. However, inadequate or unpredictable funding streams may present significant risks to these initiatives.

Questions for the Record - Submitted by Ranking Member Mark Meadows

Subcommittee on Government Operations

Hearing: "Overseeing the Overseers: Council of the Inspectors General on Integrity and Efficiency @ 10 Years"

Hearing Date: September 18, 2019

Questions for Inspector General Michael Horowitz:

1. When an OIG issues a report, what are the CIGIE best practices for supporting public reports with sources?

Response: Please refer to the responses of subparts below.

- a. Are OIGs required to footnote or otherwise cite sources in a public report?

Response: While all OIG facts and findings should be properly sourced, there is no requirement to footnote or otherwise provide formal citations for sources in a public report. CIGIE posts the quality standards for audits, digital forensics, investigations, and inspections and evaluations on its website (<https://www.ignet.gov/content/quality-standards>).

- b. Are OIGs required to keep a log of all source materials used in their reports?

Response: Pursuant to the CIGIE standards noted above, OIGs should maintain relevant documentation that provides the support for information and findings contained in OIG reports. However, there is no requirement that OIGs also must keep a log of all source materials used in reports under the CIGIE quality standards referenced above.

- c. Would it be unusual for an OIG to not cite sources in a public report?

Response: OIGs are required to comply with the quality standards applicable to the work product at issue, but they have discretion in determining how to implement those quality standards. As noted above, OIGs should retain relevant documentation that supports the factual assertions included in reports, but there is no specific requirement to cite sources in a public report.

- d. Would it be unusual for an OIG not to keep a readily available source log supporting a public report?

Response: As noted above, while OIGs should retain relevant documentation, there is no specific requirement that an OIG keep a source log.

- e. What action would CIGIE take if an OIG did not keep source logs?

Response: As noted, there is no specific requirement to keep a source log.

- f. What action would CIGIE take if OIG was unable to identify supporting documents or evidence relied upon in a public report?

Response: CIGIE ensures that member OIG offices have regular peer reviews of their Audit, Investigations, and Inspection and Evaluation organizations. Each peer review

assesses the OIG's compliance with guidelines established as standards for the community, such as the Generally Accepted Government Auditing Standards (GAGAS) for federal audits. Among the standards that are reviewed is maintenance of supporting documentation for evidence relied upon in reports. A material failure of an OIG to do so would be included in the peer review findings.

- g. What action would CIGIE take if an OIG could not swiftly produce a source log for a public report to a Congressional committee upon request?

Response: As noted above, there is no requirement that OIGs maintain source logs. CIGIE is available to engage with the specific OIG and the Congressional committee to facilitate a timely and effective resolution of the concern underlying any request for a source log.

- h. If sources for OIG reports cannot be readily found, would CIGIE require an OIG to retract a public report?

Response: CIGIE does not have the authority to compel an OIG to retract or edit the OIG's report.

- i. If the report is not retracted, what other actions would CIGIE take to ensure the accuracy and integrity of OIG reports?

Response: Depending upon the circumstances, the CIGIE Chair or the Chair of the relevant CIGIE Committee (e.g., Audit Committee) would consult with the OIG to discuss the circumstances and situation and seek to resolve it. Additionally, if sources for a particular OIG report could not be readily found, that would be noted in a peer review conducted in accordance with CIGIE standards.

- 2. What is the CIGIE recommended best practice for internal review of reports before public release?

Response: While CIGIE does not have a recommended best practice for this purpose, its standards provide that OIGs should have documentation to support factual assertions in reports and appropriate internal quality controls for its work. Additionally, CIGIE provides training concerning CIGIE standards and report writing.

- a. Does CIGIE have recommendations for specific processes to ensure integrity of OIG public reports?

Response: CIGIE ensures that member OIG offices have regular peer reviews of their Audit, Investigations, and Inspection and Evaluation organizations. Each peer review assesses the OIG's compliance with guidelines established as standards for the community, such as the Generally Accepted Government Auditing Standards (GAGAS) for federal audits.

- 3. What is the role of Congressional oversight to OIGs, including OIGs public reports?

Response: Under the Inspector General Act, OIGs are required to keep Congress fully and currently informed about problems and deficiencies regarding the programs and operations of the agency under its jurisdiction. To promote transparency and accountability, and consistent with Congressional oversight of OIGs and the agencies we oversee, OIGs make their reports available to Congress even in circumstances when they cannot be released publicly (e.g., when

information in a report is classified), provide information and briefings to Congressional committees and Members of Congress, and provide testimony when requested.

- a. Are there any OIG investigative materials you believe should be withheld from a Congressional request to support an OIG's public report?

Response: There are several areas where it would be inappropriate for an OIG to release such information, even in response to a Congressional request. For example, the law prohibits OIGs from releasing certain investigative information, such as grand jury information and evidence that has been sealed by court order (such as wiretap evidence). Additionally, the agencies that OIGs oversee can invoke certain legal privileges, such as the attorney-client privilege, that would result in an OIG being unable to release certain information outside the agency (although OIGs would still have the statutory right to obtain such information because disclosure of such material to an OIG is not a waiver of the privilege). Further, the Inspector General Act restricts OIGs from releasing information about whistleblowers, and OIGs take seriously their responsibility to protect the identity of any witness who provides information to an OIG and requests anonymity. Finally, there could be other situations where disclosure of sensitive investigative information might impair an OIG's ability to conduct future investigations, compromise its independence, or adversely impact ongoing investigations of other federal law enforcement agencies. In those circumstances, it would be appropriate for the OIG to engage with the Congressional requestor to discuss the request and the potential negative impact on the future work of the OIG that would result from compliance with the request, and seek to arrive at an accommodation with the Congressional requestor.

4. Do you believe OIGs, outside the Department of Justice or other law enforcement OIGs, should be conducting constitutional analysis of an unsettled area of law?

Response: An OIG with a need to do legal or constitutional analysis in the course of its oversight work may do so. In 2008, Congress passed the Inspector General Reform Act, which directed Inspectors General to obtain legal advice from a legal counsel reporting to the IG or another IG (codified in the Inspector General Act of 1978, as amended, at 5 U.S.C. App. 3, § 3(g)). Therefore, Inspectors General are empowered to obtain such legal advice if they determine it is necessary to conduct their oversight work.

5. Would it be appropriate for an OIG to make a recommendation to an agency when a legal case is pending before a court on the same issue?

Response: An Inspector General should use his or her own judgment to determine whether an audit, investigation or evaluation, and any resulting recommendations, would adversely impact a pending legal proceeding and, if so, how that should affect the OIG's ongoing work. In general, the existence of a legal proceeding involving or adjacent to an agency program under consideration for an OIG audit or evaluation does not necessarily preclude the OIG from reviewing that program and making a programmatic recommendation. For example, the Department of Justice (DOJ) OIG recently initiated a review of gender equity in the Federal Bureau of Investigation's (FBI) training and selection process for new Special Agents and Intelligence Analysts at the FBI Academy in Quantico, Virginia, in response to a bipartisan request from Members of Congress. While determining the scope of the review, the OIG considered, among other things, the specific allegations of the FBI trainees, who are parties to ongoing litigation, to inform its focus on the systemic policies and practices, trends and patterns for male and female trainees, and perceptions of gender equity at the FBI Academy.

- a. Do you believe an agency could effectively address an OIG recommendation if active litigation is pending on the same issue?

Response: It would depend on the nature of the recommendation and the focus of the pending litigation. In assessing the status of such a recommendation, an Inspector General should use his or her own judgment in considering the impact of the pending litigation on the agency's ability to address the recommendation.

- b. Is it appropriate for an OIG to make a recommendation to an agency which is outside the agency's core competency and mission?

Response: If the recommendation is related to the personnel or programs of the agency under the jurisdiction of the OIG, then the OIG would have the authority to make such a recommendation. Whether it would be appropriate to do so is a matter that the Inspector General would determine based on his or her own judgment after considering all of the relevant circumstances.

6. What is the best practice for OIGs to solicit and evaluate input from outside experts?

Response: CIGIE has not identified a best practice for this purpose, as the considerations vary significantly depending on, among other things, the size and staff expertise of the particular OIG, the nature of the OIG's oversight work, and the type of expertise sought. Each OIG must assess and decide whether there is a need for, and how best to obtain, any outside expertise to inform its work.

- a. What is an OIG's responsibility if an outside expert provides evidence which directly contradicts a factual assertion in an OIG public report?

Response: If the DOJ OIG obtained evidence from an outside expert that contradicted information within a DOJ OIG report, we would review the evidence and determine whether a modification to the report was required.

- b. How would CIGIE respond if an outside expert provided evidence that an OIG's assertions in a public report are wrong?

Response: CIGIE would refer the material to that OIG for its review and would be available to provide advice to the OIG regarding the matter and to assist the OIG, as necessary, in obtaining the help of other OIGs that may have relevant subject matter expertise to help resolve any conflict regarding the evidence.

- i. Would CIGIE consider disciplinary action for the OIG or OIG staff?

The authority of CIGIE to consider disciplinary action against members of the Inspector General community is governed by Section 11 of the IG Act, which vests such authority exclusively in CIGIE's Integrity Committee.

- ii. Would CIGIE direct the OIG to retract the report?

Response: CIGIE does not have the authority to require an OIG to modify or retract a report. However, CIGIE leadership can engage with an OIG's leadership if a serious allegation arises regarding an OIG's publicly issued

report.

Questions for the Record - Submitted by Representative Thomas Massie

Subcommittee on Government Operations

Hearing: "Overseeing the Overseers: Council of the Inspectors General on Integrity and Efficiency @ 10 Years"

Hearing Date: September 18, 2019

Questions for Inspector General Michael Horowitz:

1. For the most recent five years that you have the available data, please provide the following:
 - a. The number of initial denials of the National Instant Criminal Background Check System (NICS), including the race and gender of those denied.
 - b. Please provide the number of denied cases which were:
 - i. not referred to field, including data on race and gender of those denied;
 - ii. overturned, including data on race and gender of those denied; or
 - iii. canceled, including data on race and gender of those denied.
 - c. Regarding NICS denial cases declined by ATF field offices, please provide data broken down by race and gender:
 - i. No prosecutive merit;
 - ii. Federal or state guidelines not met;
 - iii. Not a prohibited person.

Response: The OIG does not have the requested data, and we refer you to the FBI for further information. The most recent DOJ OIG audit on the National Instant Criminal Background Check System (NICS) was completed in 2016, which reviewed FBI NICS firearms checks made from FY 2008 through FY 2012 and related Bureau of Alcohol, Tobacco, Firearms and Explosives' investigations from FY 2008 through FY 2013.

2. For the last five years, please provide a list of the cases where a NICS background check was denied which resulted in prosecution.
 - a. For those cases prosecuted, please provide available data on:
 - i. Prosecutions which resulted in a guilty plea;
 - ii. Prosecutions which resulted in conviction means other than a guilty plea;
 - iii. Prosecutions which resulted in an outcome of not guilty.

Response: The OIG does not have the requested data, and we refer you to the FBI for further information. The most recent audit referenced above reviewed relevant prosecutions from FY 2008 through FY 2015.

3. To the greatest extent possible, please supply the Committee with as much detail as possible about the cases involving denied firearm purchases including:
 - a. Crime committed which resulted in a denial;
 - b. Type of conviction which resulted in a denial;
 - c. Any anomalies which resulted in a denial.

Response: The OIG does not have the requested data, and we refer you to the FBI for further information.