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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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August 27, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Michael E. Horowitz
Chair of Council of the Inspectors General on Integrity and Efficiency (CIGIE)
1717 H Street, N.W., Suite 825
Washington, D.C. 20006

The Honorable John F. Kerry
Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Chair Horowitz and Secretary Kerry:

Inspectors General (IGs) are critical to public confidence in the rule of law, because they are uniquely positioned within the executive branch to ensure transparency and accountability. Congress and the public rely on IGs to root out waste, fraud, mismanagement, and abuse of authority, but IGs cannot carry out this duty unless they are truly independent. One of the greatest threats to such independence is IG vacancies. Yet, the State Department operated for more than *five years* from 2008 to 2013 without a permanent, Senate-confirmed IG.

Although that extended vacancy was roundly criticized at the time, it has taken on a new significance in light of the controversies related to the former Secretary's use of a non-government email server for her official communications. Secretary Clinton is the only Secretary of State to have served every single day of her tenure without a permanent IG overseeing the Department since that watchdog position was created in 1957.¹ Accordingly, the timing, circumstances, and reasons for that extended vacancy deserve renewed scrutiny.

Rather than nominating a candidate for Senate confirmation, the President opted instead to allow the position to be "temporarily" filled by an individual with demonstrated close ties to the officials he was charged with overseeing.² The law prohibits career foreign service officers

¹ Compare U.S. Department of State, Archive, *Inspectors General of the Department of State and the Foreign Service, with U.S. Department of State, Former Secretaries of State*; see also Byron Tau and Peter Nichols, "State Department Lacked Top Watchdog During Hillary Clinton Tenure," Mar. 24, 2015, *The Wall Street Journal*.

² Project on Government Oversight, *Testimony of POGO's Danielle Brian on "Watchdogs needed: Top Government Investigator Positions Unfilled for Years*, June 3, 2015 ("Geisel had once recused himself from an investigation involving [Under Secretary of Management Patrick] Kennedy because of a perceived conflict of interest. POGO

from becoming permanent IGs because of the inherent conflict of interest.³ However, the Department's Acting IG during this period was a former ambassador with decades in the Foreign Service.⁴ The work of the subsequent, Senate-confirmed IG provides insight into some of the problems that arose from the previous unusual arrangement.

In October 2014, for example, the State Department's most recent, Senate-confirmed Inspector General reported that aides to former Secretary Clinton contributed to an "appearance of undue influence and favoritism" in departmental investigations of three allegations:

- (1) that the U.S. Ambassador to Belgium allegedly solicited a prostitute;
- (2) that a Department manager allegedly engaged in sexual misconduct and harassment; and
- (3) that Cheryl Mills, then Chief of Staff and Counselor to Secretary Clinton, allegedly unduly influenced an investigation of an unauthorized release of communications concerning a nominee for a U.S. ambassadorship.⁵

On March 18, 2015, seventeen of my colleagues and I sent Secretary Kerry a letter concerning whistleblowers' allegations that the former U.S. Consul General in Naples, Italy engaged in similar sexual misconduct from 2010 to 2013 and that whistleblowers suffered retaliation as a result of reporting this misconduct.⁶ Significantly, that letter also referenced allegations that in 2011, the State Department's Office of Inspector General—then headed by an Acting IG—mishandled whistleblowers' protected disclosures by forwarding those disclosures to officials in Rome who were the subjects of the whistleblower complaints. The whistleblowers also suggested that the then Ambassador to Italy, who has extensive personal ties to Secretary Kerry, may have had an undue influence in the investigation of their allegations.

Additionally, of course, the permanent Inspector General for the State Department and the permanent Inspector General for the Intelligence Community have recently uncovered problems in the way former Secretary Clinton handled emails containing classified information.

As these examples demonstrate, an inspector general must be independent, because agencies cannot be trusted to investigate themselves. Congress needs a better understanding of how and why the State Department lacked a permanent IG who could serve as an independent watchdog for 2,071 straight days. Accordingly, please respond to the following by September 11, 2015:

also published an email from 2008 in which Geisel sought direction from Kennedy on the OIG's work in Iraq. "Shall I just call off the inspection or shall I call off the audit?").

³ See 22 U.S.C. § 4861(d).

⁴ U.S. Department of State, Archive, Biography, *Harold W. Geisel*.

⁵ U.S. Department of State, Office of Inspector General, *Review of Selected Internal Investigations Conducted by the Bureau of Diplomatic Security* (ESP-15-01) (Oct. 2014); see also Zeke J. Miller, "Clinton Aides Faulted for Strong-Arming State Investigations," *TIME*, Oct. 17, 2014.

⁶ Letter from Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, et al., to the Hon. John F. Kerry, Secretary of State, and the Hon. Steve A. Linick, Inspector General, U.S. Department of State (Mar. 18, 2015).

1. **CIGIE Chair Horowitz**: Assuming that CIGIE prepared a list of recommended candidates to fill the IG vacancy at the State Department created upon the departure of former IG Howard Krongard in 2008:
 - a. Who were the candidates?
 - b. When were they recommended?
 - c. Who sent the slate of recommendations from CIGIE to the White House?
 - d. Who received the slate of recommendations at the White House from CIGIE?
 - e. What was the response, if any, from the White House regarding the slate of candidates?
 - f. Who, if anyone, at CIGIE received the White House's response?
 - g. When and how was any such response from the White House received?
 - h. Please provide all records from any CIGIE official at the time relating to communications with the White House about the IG vacancy or potential candidates to fill the vacancy.
 - i. Did CIGIE provide candidate names to the State Department? If so, please provide the Committee with all records from any CIGIE official at the time relating to communications with the State Department about the IG vacancy or potential candidates to fill the vacancy.

2. **Secretary Kerry**: Please provide the Committee with all State Department records related to the IG vacancy or potential candidates to fill the vacancy, including communications between and among former Secretary Clinton, her senior staff, or any State Department personnel, any CIGIE official, or any White House official.

These requests are limited to those records created before Secretary Clinton left the Department. Should you have any questions, please contact Jay Lim of my Committee staff at (202) 224-5225. Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Chairman

cc:

The Honorable Steve A. Linick
Inspector General
U.S. Department of State