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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

April 26, 2022

The Honorable Joseph V. Cuffari
Inspector General
U.S. Department of Homeland Security
245 Murray Lane, SW
Washington, D.C. 20528

Dear Inspector General Cuffari:

We write to express our concern regarding recent reports that you and senior officials in your office have diminished and delayed reports of sexual harassment and other misconduct at the Department of Homeland Security (DHS). These reports raise serious questions about DHS Office of Inspector General's (OIG) commitment to independent oversight and to defending the rights and safety of the tens of thousands of employees at DHS.

Documents recently released by the Project on Government Oversight (POGO) suggest intolerable levels of sexual harassment and sexual misconduct at DHS, as well as DHS OIG's efforts to delay the release of an unpublished report containing troubling findings about apparent widespread sexual harassment and misconduct within the agency.¹ The unpublished report reveals that a DHS OIG survey completed in 2018 found that more than 10,000 of 28,000 responding employees at DHS law enforcement components say that they have experienced sexual harassment or misconduct. The majority of respondents also said that they did not report the incidents, and of those who did, about 41 percent reported that doing so "negatively affected their careers."²

Such findings demand an urgent agency-wide response. However, delays and revisions in publishing the report appear to have downplayed the severity of the crisis. It's also not clear that the OIG considered whether these findings triggered its statutory obligation to notify agency leadership and Congress "whenever the Inspector General becomes aware of serious or flagrant problems, abuses, or deficiencies."³

¹ Chris Cameron, Homeland Security Watchdog Omitted Damaging Findings From Reports, THE NEW YORK TIMES (Apr. 7, 2022), <https://www.nytimes.com/2022/04/07/us/politics/homeland-security-inspector-general.html>.

² Adam Zagorin and Nick Schwellenbach, Protecting the Predators at DHS, PROJECT ON GOVERNMENT OVERSIGHT (Apr. 7, 2022), <https://www.pogo.org/investigation/2022/04/protecting-the-predators-at-dhs/>.

³ 5 U.S.C. App. 3 § 5(d); Memorandum from Alejandro N. Mayorkas to DHS Component and Office Leaders (Apr. 7, 2022) ("Yesterday, I became aware of draft unpublished reports from the Office of the Inspector General that underscore the need for immediate action.").

The documents released by POGO also indicate that the scope of a prior report related to domestic violence was substantially restricted, with the final version omitting findings and recommendations concerning DHS’s failure to adequately investigate or discipline personnel alleged to have committed domestic violence.⁴ In a July 9, 2020 email, you make several recommendations to the report, including removing language that would, in your words, risk DHS OIG “appearing biased” and put DHS OIG in a position to “second guess DHS disciplinary decisions” without having “full facts” and “potentially in violation of applicable rules.” It is not clear what rules you are referencing, why you believed the information that was removed would make the OIG appear “biased,” or why you believed that DHS OIG did not possess adequate evidence to make substantive claims and recommendations about these cases.

Sexual harassment and misconduct in agency ranks always demand immediate action. Any efforts by an OIG to obscure or downplay the seriousness or pervasiveness of the issue, or to improperly delay releasing evidence of misconduct, are inappropriate. To that end, please respond to the following questions as soon as possible, but no later than May 17, 2022:

1. When does DHS OIG plan to release the unpublished report on sexual harassment and misconduct?
2. Why was the report delayed? By whom?
3. Why did DHS OIG remove findings and recommendations regarding DHS’s failure to investigate and/or discipline personnel alleged to have committed domestic violence from the November 13, 2020 report titled *DHS Components Have Not Fully Complied with the Department’s Guidelines for Implementing the Lautenberg Amendment*?
 - a. You made several recommendations to remove content from and narrow the scope of the draft report. Please explain the recommendations you made in your July 9, 2020 email, as well as your decision to omit certain language that you characterized as going beyond the Lautenberg amendment.
 - b. Please explain, in your view, how these editorial decisions comply with CIGIE standards.
4. Has DHS OIG removed similar findings from the unpublished report regarding sexual harassment and sexual misconduct at DHS?
 - a. Did you personally direct or approve the removal of this language, and if not, were you aware of its removal?

⁴ U.S. Dep’t of Homeland Security, Office of Inspector General, OIG-21-09, DHS Components Have Not Fully Complied with the Department’s Guidelines for Implementing the Lautenberg Amendment (Nov. 13, 2020), <https://www.oig.dhs.gov/sites/default/files/assets/2020-11/OIG-21-09-Nov20.pdf>.

- b. Please explain, in your view, how these editorial decisions comply with CIGIE standards.
5. Please provide a copy of the DHS OIG survey that sought information regarding sexual harassment and misconduct at DHS components, as well as the results. When was the survey conducted, and why? How was it administered? Did you report the survey results to DHS leadership or to Congress? If so, when? If not, why not?

Thank you for your prompt attention to this important request.

Sincerely,



Richard J. Durbin
Chair



Charles E. Grassley
Ranking Member

cc: The Honorable Alejandro Mayorkas
Secretary of the Department of Homeland Security