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WASHINGTON, DC 20510-6275

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July 15, 2016

**VIA ELECTRONIC MAIL**

John Roth  
Inspector General  
Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0305,  
Washington, DC 20528

Dear Inspector General Roth:

In October 2014, the Government Accountability Office (GAO) issued a report that raised serious concerns about the use of paid administrative leave among 24 federal agencies from Fiscal Years 2011 to 2013.<sup>1</sup> In that report, GAO found that the Department of Homeland Security (DHS) had placed 71 employees on paid administrative leave for one year or more. Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, Chairman Issa and I wrote to DHS on October 21, 2014, and asked several questions regarding the Department's administrative leave policy. We also requested data, such as the number of DHS employees on paid administrative leave, the cost to the agency, and how many employees were on administrative leave for a year or more, among other things.<sup>2</sup>

The Department provided a response on January 17, 2015, and a further follow-up response on February 22, 2016. Included in DHS's responses was information on administrative leave for DHS Office of Inspector General (OIG) employees; however, because the OIG operates independently from the Department, the Department was unable to provide requested details regarding OIG's use of extended administrative leave. Given OIG's extensive use of

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<sup>1</sup> U.S. Gov't Accountability Office, GAO-15-79, *Federal Paid Administrative Leave: Additional Guidance Needed to Improve OPM Data* (2015).

<sup>2</sup> Letter from Charles E. Grassley, Ranking Member, U.S. Senate Comm. on the Judiciary, Darrell Issa, Chairman, House Comm. on Oversight and Gov't Reform, to Jeh Johnson, Sec'y, U.S. Dep't. of Homeland Sec. (Oct. 21, 2014).

administrative leave, including employees who have been on administrative leave for significantly longer *than any other agency*, it is imperative that OIG justify the use of such leave and provide information to the Committee on its policies regarding the use of such leave.

As of February 2016, according to data provided by DHS, OIG had nine employees on administrative leave for more than one year since fiscal year 2014. The cost to the agency for this almost 42,000 hours of leave was more than \$2.1 million. Two of these employees have been on administrative leave for more than 7,000 hours, which is approximately *three-and-a-half years*. This is both an unacceptable waste of taxpayers' dollars and unfair to these employees whose careers have been left in limbo without any recourse.

These circumstances confirm the need for the Administrative Leave Act of 2016, bipartisan legislation that I introduced along with Senators Tester, Johnson, and Carper. The legislation was approved by unanimous voice vote by the Senate Homeland Security and Governmental Affairs Committee. Consistent with the pressing need to apply these reforms to DHS, the bill was also introduced as an amendment to the DHS Accountability Act of 2016 by Senators Tester and Lankford, and again, unanimously approved. The legislation will enhance internal controls at the Department that are needed to systematically address administrative leave across the agency.

In October 2014, I had asked "for each employee a detailed narrative of the circumstances surrounding the extended paid leave," including, among other things:

- reason for being placed on administrative leave,
- a full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave, and
- a full explanation of why the employee was not placed on some form of unpaid leave.

Unfortunately, the explanations of the reasons for such extended periods of paid leave that were provided were too broad and vague to assess whether other actions might have been more appropriate. In addition, it was not clear how the employees at issue, who were on leave for more than a year, met applicable OPM authority to use administrative leave "for those rare circumstances" in which the employee "may pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests," or how the agency's actions were consistent with the numerous GAO decisions cited in my letter limiting administrative leave to brief duration.

Accordingly, please provide written responses and a briefing to staff detailing the use of extended administrative leave by the OIG. Specifically, for each employee who was included in the Department's response of February 22, 2016, and any additional OIG employees on administrative leave for more than one year since the time the response, please provide the information originally requested in 2014, including a full account of the circumstances

surrounding each employee's use of administrative leave. In particular, please provide, as was requested in October 2014, for each employee:

1. Position title and GS level.
2. Employee division/office/component.
3. Total compensation received while on administrative leave.
4. Reason for being placed on administrative leave.
5. Exact length of time on administrative leave.
6. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.)
7. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.
8. A full explanation of why the employee was not placed on some form of unpaid leave

The reason for being placed on administrative leave and the full explanations requested should include the following:

9. The specific misconduct alleged and/or under investigation.
10. Whether the employee posed an immediate threat to safety, the agency mission, or to government property, and a full explanation of who determined that the employee posed such a threat and on the basis of what evidence was the determination made.
11. A full and detailed explanation of why the seriousness of the issues necessitated administrative leave for more than one year, but were insufficient to support an indefinite suspension action or other form of unpaid leave.
12. A full and detailed explanation justifying the length of administrative leave, including all relevant dates and entities involved: when incidents took place; when determinations to place the employee on administrative leave were made and by whom; when investigations began, who conducted them, and the findings; and when adverse actions were proposed and taken. Your responses to this question should fully account for the duration of the administrative leave, noting gaps in investigative or other activity where they occur.
13. Other specific positions or duties that were considered for temporary reassignment, including, where applicable, in other departmental components.

In addition, please provide the following information regarding OIG's policies and procedures for the use of administrative leave:

- The current policies and procedures that OIG follows with respect to the use of administrative leave.
- Current record-keeping requirements and procedures with respect to the use of administrative leave.

Thank you in advance for your cooperation with this request. Please contact Jason Foster of my Committee staff at (202) 224-5225 to schedule a briefing as soon as possible.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley  
Chairman  
Committee on the Judiciary

cc: The Honorable Patrick Leahy  
Ranking Member  
Senate Judiciary Committee