

United States Senate

WASHINGTON, DC 20510

October 2, 2019

The Honorable Michael K. Atkinson
Inspector General of the Intelligence Community
1500 Tysons McLean Drive
McLean, VA 22102

Dear Inspector General Atkinson:

We appreciate the press release that you issued on Monday, September 30, 2019.¹ Although it answers some of the questions regarding the “Disclosure of Urgent Concern” form that we raised in our letter to you that day,² it leaves many of those questions unanswered or partially answered, and also raises new questions. Due to the extraordinary nature of the House impeachment inquiry, which is based almost entirely on the complaint filed with your office, and the events it has set into motion, we respectfully request that you answer our September 30, 2019, letter and these follow-up questions by no later than October 7, 2019:

1. Your press release acknowledged that the ICIG changed the “Disclosure of Urgent Concern” form,³ which is now marked “Rev: August 2019,” but offers no information on the specific date or substance of any changes. The press release also stated that the complainant submitted “the same form the ICIG has had in place since May 24, 2018.”⁴ In addition to responding to our first (requesting all versions of the form) and fifth (asking when ICIG began using the August 2019 version of the form) questions, please also explain the standard of review applied by the ICIG to determine whether a complaint qualifies as an “urgent concern,” and whether that standard of review changed over time, either along with changes to the form or independently. Please also describe the specific investigative steps the ICIG takes to evaluate complaints as potential “urgent concerns,” from initial intake to the determination of whether to refer the allegations to the ODNI.
2. Your press release stated, “[i]n 2018, the ICIG formed a new Center for Protected Disclosures, which has as one of its primary functions to process complaints from whistleblowers under the ICWPA. In early 2019, the ICIG hired a new Hotline Program Manager as part of the Center for Protected Disclosures to oversee the ICIG’s Hotline. In June 2019, the newly hired Director for the Center for Protected Disclosures entered on duty.” Please provide the exact dates for each year referenced.

¹ News Release, *Office of the Inspector General of the Intelligence Community’s Statement on Processing Whistleblower Complaints* (Sept. 30, 2019), <https://www.dni.gov/files/ICIG/Documents/News/ICIG%20News/2019/September%2030%20-%20Statement%20on%20Processing%20of%20Whistleblower%20Complaints/ICIG%20Statement%20on%20Processing%20of%20Whistleblower%20Complaints.pdf>.

² Letter from Senators Ron Johnson, Charles E. Grassley, and Mike Lee, to Inspector General of the Intelligence Community Michael K. Atkinson (Sept. 30, 2019).

³ News Release at 3 (“The ICIG’s Center for Protected Disclosures has developed [] new forms entitled ... ‘Disclosure of Urgent Concern Form-Unclassified’[.]”).

⁴ *Id.* at 2.

3. In your press release, the ICIG acknowledged it is “routine practice” to provide complainants with “Background Information on ICWPA Process.” The ICIG also stated that, when the complainant filed on August 12, 2019, he/she received the “Background Information” that included the “First-Hand Information Required” statement.⁵ Since the “Rev: August 2019” form was publicly released, does the ICIG still send the complainants the “Background Information on ICWPA Process?” If so, does that document still contain the “First-Hand Information Required” statement?
4. Your press release states, “Since Inspector General Atkinson entered on duty as the Inspector General of the Intelligence Community, the ICIG has not rejected the filing of an alleged urgent concern due to a whistleblower’s lack of first-hand knowledge of the allegations.”⁶ We appreciate that information, in light of our fourth question in the September 30 letter (asking how many whistleblower complaints the IC IG has dismissed or prevented from following the ICWPA process because they did not contain first-hand knowledge). Nevertheless, although (as you stated) the law makes no distinction between first and second-hand information, varying form versions have made that distinction. Accordingly, to gain a better understanding of how different forms may have impacted IC whistleblower complaints over time, in the past 5 years how many “urgent concern” disclosures has the ICIG deemed credible based on “first-hand” and “second-hand” knowledge? How many were rejected? How does or did this distinction factor into the steps the IC IG takes to evaluate whistleblower complaints under the ICWPA, as described in question 1 here?
5. Your press release stated that the complainant checked two boxes on the disclosure form, indicating both “I have personal and/or direct knowledge of events or records involved” and “Other employees have told me about events or records involved.”⁷ You determined “there were reasonable grounds to believe the urgent concern appeared credible”⁸ and you “did not find that the Complainant could ‘provide nothing more than second-hand or unsubstantiated assertions’.”⁹ You further stated that, “although the complainant’s letter acknowledged that the complainant was not a direct witness to the President’s July 25, 2019, telephone call with the Ukrainian President, the ICIG determined that other information obtained during the ICIG’s preliminary review supported the complainant’s allegations.”¹⁰ What information did you review or consider to make that determination?

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”¹¹ Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to examine “the efficiency and

⁵ *Id.* at 1.

⁶ *Id.* at 2.

⁷ *Id.*

⁸ *Id.* at 1.

⁹ *Id.* at 2.

¹⁰ *Id.*

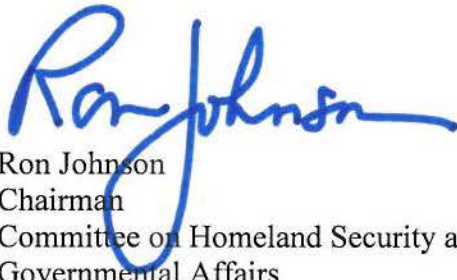
¹¹ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

economy of operations of all branches and functions of the Government with particular reference to ... the effectiveness of present national security methods, staffing, and processes[.]”¹²

We anticipate that your written reply and most responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committees, and provide a classified addendum to the Office of Senate Security. Although the Committees comply with all laws and regulations governing the handling of classified information, they are not bound, absent their prior agreement, by any handling restrictions.

Should you have any questions, please contact Brian Downey and Scott Wittmann of Chairman Johnson’s staff at (202) 224-4751, DeLisa Ragsdale and Joshua Flynn-Brown of Chairman Grassley’s staff at (202) 224-4515, or Wendy Baig of Senator Lee’s staff at (202) 224-5444.

Sincerely,



Ron Johnson
Chairman
Committee on Homeland Security and
Governmental Affairs



Charles E. Grassley
Chairman
Committee on Finance



Mike Lee
Member
Committee on the Judiciary

¹² S. Res. 70, 116th Cong. § 12(e)(1)(E) (2019).