

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
MINORITY (202) 225-5074  
<http://oversight.house.gov>

March 26, 2020

The Honorable Joseph V. Cuffari  
Inspector General  
Department of Homeland Security  
245 Murray Lane, S.W., Building 410  
Washington, D.C. 20528

Dear Inspector General Cuffari:

I am writing to express serious concerns about your leadership of the Department of Homeland Security (DHS) Office of Inspector General (IG). The DHS IG is a critical federal watchdog, but according to a recent report, during your tenure, the IG is “failing to provide basic oversight” of DHS.<sup>1</sup> I am particularly concerned about your refusal to testify personally before Congress, your decision to hire multiple detailees from other agencies to perform work that appears to overlap with the duties of senior IG officials, your actions to delay or distance yourself from crucial reports, and your unwillingness to provide updates on ongoing work.

Since your confirmation as Inspector General last summer, you have not personally testified before Congress. Instead, you have sent subordinates to every Committee hearing to which you have been invited. Your predecessors during both the Trump Administration and Obama Administration testified personally before this Committee and other Committees of jurisdiction.<sup>2</sup>

Under your leadership, the DHS IG has released only 20 reports in Fiscal Year (FY) 2020 as of March 26, 2020, compared to 32 reports at that point during FY 2019 and 58 reports by that point in FY 2018. Your office is on pace to release approximately 40 reports this fiscal year, compared with nearly 70 reports in FY 2019 and nearly 90 reports in FY 2018. In fact, you have released reports at a slower pace than your predecessors for every year since 2003—the first year your office began issuing reports.<sup>3</sup>

---

<sup>1</sup> *DHS Inspector General’s Office Nearly Dormant Under Trump as Reports and Audits Plummet*, Washington Post (Mar. 17, 2020) (online at [www.washingtonpost.com/national/homeland-security-inspector-general-weakened/2020/03/17/c3269ea6-6309-11ea-912d-d98032ec8e25\\_story.html](http://www.washingtonpost.com/national/homeland-security-inspector-general-weakened/2020/03/17/c3269ea6-6309-11ea-912d-d98032ec8e25_story.html)).

<sup>2</sup> See Department of Homeland Security, Office of Inspector General, *Congressional Testimony* (accessed Mar. 26, 2020) (online at [www.oig.dhs.gov/news/testimony](http://www.oig.dhs.gov/news/testimony)).

<sup>3</sup> See Department of Homeland Security, Office of Inspector General, *Audits, Inspections, and Evaluations* (accessed Mar. 26, 2020) (online at [www.oig.dhs.gov/reports/audits-inspections-and-evaluations](http://www.oig.dhs.gov/reports/audits-inspections-and-evaluations)).

On November 27, 2019, one day before Thanksgiving, your office publicly released an audit report identifying serious problems with the Department's tracking and reunification of immigrant families separated by the Trump Administration.<sup>4</sup> However, as explained below, you released this report two months behind schedule, and you included a footnote to distance yourself from the report's findings.

Your predecessor and IG staff stated previously that the family separation report would be released by September 30, 2019.<sup>5</sup> On November 12, 2019, I wrote to you requesting an update on the delayed report.<sup>6</sup> You responded on November 19, 2019, that the report "is currently undergoing further editing, review, and evaluation" and "additional work is needed before it can be published."<sup>7</sup> One day later, you sent a second letter stating that you planned to "delegate authority to Deputy Inspector General Jennifer Costello" to sign and issue the report.<sup>8</sup>

On November 25, 2019, you told Committee staff that you planned to issue the audit report under your own authority with a footnote stating that you did not take part in the investigation or review.<sup>9</sup> However, the final report contained the following note: "The IG signed this report to ensure its timely completion and submission to Congress and the public, but did not participate in the investigative phases of the project."<sup>10</sup>

You have signed at least nine other reports that were begun before you became Inspector General, but none of these other reports contains a footnote about your involvement.<sup>11</sup>

---

<sup>4</sup> Department of Homeland Security, Office of Inspector General, *DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families* (Nov. 25, 2019) (OIG-20-06) (online at [www.oig.dhs.gov/sites/default/files/assets/2019-11/OIG-20-06-Nov19.pdf](http://www.oig.dhs.gov/sites/default/files/assets/2019-11/OIG-20-06-Nov19.pdf)).

<sup>5</sup> Letter from Acting Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Inspector General Joseph V. Cuffari, Department of Homeland Security (Nov. 12, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-11-12.CBM%20to%20Cuffari-%20DHS%20IG%20re%20Child%20Separations%20Report.pdf>).

<sup>6</sup> *Id.*

<sup>7</sup> Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Acting Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Nov. 19, 2019) (online at [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Maloney%20-%20DHS%20Tracking%20Reunification.FINAL\\_.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Maloney%20-%20DHS%20Tracking%20Reunification.FINAL_.pdf)).

<sup>8</sup> Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Acting Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Nov. 20, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20DHS%20IG%20-%20Family%20Separations%2011.20.19.pdf>).

<sup>9</sup> Meeting with Staff, Committee on Oversight and Reform, and Inspector General Joseph V. Cuffari, Department of Homeland Security (Nov. 25, 2019).

<sup>10</sup> Department of Homeland Security, Office of Inspector General, *DHS Lacked Technology Needed to Successfully Account for Separated Migrant Families* (Nov. 25, 2019) (OIG-20-06) (online at [www.oig.dhs.gov/sites/default/files/assets/2019-11/OIG-20-06-Nov19.pdf](http://www.oig.dhs.gov/sites/default/files/assets/2019-11/OIG-20-06-Nov19.pdf)).

<sup>11</sup> See Department of Homeland Security, Office of Inspector General, *Audits, Inspections, and Evaluations* (accessed Mar. 26, 2020) (online at [www.oig.dhs.gov/reports/audits-inspections-and-evaluations](http://www.oig.dhs.gov/reports/audits-inspections-and-evaluations)).

During the November 2019 meeting with Committee staff, you refused to provide updates on forthcoming DHS IG reports. These reports include several that are of particular interest to the Committee, including:

- “CBP’s Processing of Asylum Seekers,” a review to “determine whether CBP Office of Field Operations is turning away those who present themselves for asylum at ports of entry”;
- “Update on Family Separations,” a review to “determine whether CBP was separating families seeking asylum at ports of entry during and after the Zero Tolerance Policy and documenting those separations appropriately”;
- “Review of Removal of Separated Families,” a review to “determine whether ICE removed any parents without first offering them the opportunity to bring their separated children with them”;
- “CBP’s Holding of Detainees Beyond 72 Hours,” a review to “determine the root causes leading to CBP’s inability to comply with the general requirement to only hold detainees in its custody for up to 72 hours”; and
- Reports based on unannounced inspections of Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) facilities.<sup>12</sup>

The Committee is also awaiting the results of other work your office is conducting, including reviews regarding secret CBP Facebook groups with offensive posts and the Coast Guard Academy’s handling of allegations of race or ethnicity-based discrimination.<sup>13</sup>

I am also concerned about personnel decisions that may disrupt the functioning of the IG’s office. During your November 25, 2019, meeting with Committee staff, you stated that you were hiring multiple detailees from other federal agencies to take on senior roles in the IG’s office. The duties of these detailees, including reviewing draft reports and assisting with “special projects” such as assessing the DHS IG budget and spending, appear to overlap with the duties of senior career IG officials.

Your actions and your failure to issue reports in a timely manner have raised concerns of other congressional Committees, including the concerns set forth in a separate letter today from Committee on Homeland Security Chairman Bennie G. Thompson.<sup>14</sup>

---

<sup>12</sup> Committee on Oversight and Reform, Testimony of Acting Inspector General Jennifer L. Costello, Department of Homeland Security, *Hearing on the Trump Administration’s Child Separation Policy: Substantiated Allegations of Mistreatment* (July 12, 2019) (online at <https://docs.house.gov/meetings/GO/GO00/20190712/109772/HHRG-116-GO00-Wstate-CostelloJ-20190712.pdf>).

<sup>13</sup> Department of Homeland Security, Office of Inspector General, *Ongoing Projects* (accessed Mar. 26, 2020) (online at [www.oig.dhs.gov/reports/ongoing-projects](http://www.oig.dhs.gov/reports/ongoing-projects)).

<sup>14</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Inspector General Joseph V. Cuffari, Department of Homeland Security (Mar. 26, 2020).

For these reasons, the Committee requests that you produce the following documents and information by April 9, 2020:

1. Documents sufficient to show all DHS IG audits, inspections, investigations, evaluations, reviews, or other engagements that were ongoing as of July 25, 2019, including a brief description of the subject matter, whether or not the review would result in a public report, the date DHS IG initiated the review, and what phase the review was in as of July 25, 2019;
2. Documents sufficient to show all ongoing DHS IG audits, inspections, investigations, evaluations, reviews, or other engagements, including a brief description of the subject matter, whether the review will result in a public report, the date DHS IG initiated the review, the current status of the work, and the expected timeframe for completion;
3. All memoranda, guidance documents, emails, or other documents regarding any changes in policies or procedures since July 25, 2019, including written descriptions of any policy changes communicated orally, related to:
  - a. Initiating DHS IG audits, inspections, investigations, evaluations, reviews, or other engagements;
  - b. Conducting DHS IG investigations; and
  - c. Reviewing, approving, issuing, and releasing publicly DHS IG reports;
4. All memoranda, guidance documents, emails, or other documents regarding any changes in personnel policies or procedures since July 25, 2019, including written descriptions of any policy changes communicated orally;
5. Documents sufficient to show any changes in employment status or job responsibilities of individuals employed with DHS IG at the GS-15 level or higher since July 25, 2019, including the change in status or responsibilities, date of the change, and justification for the change; and
6. Documents sufficient to show all detailees or consultants detailed to or hired by DHS IG since July 25, 2019, who report directly to you, including their rate of pay, job responsibilities, and reason for their hiring or detail.

I also request that you schedule a briefing on these topics with the Committee by April 9, 2020.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

The Honorable Joseph V. Cuffari  
Page 5

An attachment to this letter provides additional instructions for responding to this request. If you have any questions, please contact Committee staff at (202) 225-5051. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Carolyn B. Maloney". The signature is written in a cursive style.

---

Carolyn B. Maloney  
Chairwoman

Enclosure

cc: The Honorable Mark Meadows, Ranking Member

## Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.