

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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WASHINGTON, DC 20515-6143

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

June 12, 2023

The Honorable Dr. Colleen Shogan  
Archivist of the United States  
National Archives and Records Administration  
700 Pennsylvania Avenue, N.W.  
Washington, D.C. 20408

Dear Dr. Shogan:

We write regarding alarming new information that Joseph V. Cuffari, Inspector General, Department of Homeland Security (DHS), may have violated federal law by willfully destroying federal records and not reporting the destruction to the National Archives and Records Administration (NARA) as required by law.<sup>1</sup> We are deeply troubled by Mr. Cuffari's flagrant disregard for the Federal Records Act, and we ask that you immediately conduct an investigation into his potential unlawful destruction of federal records and report your findings to our Committee.

Inspector General Joseph V. Cuffari testified to the House Committee on Oversight and Accountability that it is his "normal practice to delete text messages" on an ongoing basis.<sup>2</sup> Inspector General Cuffari's testimony confirmed that he was unaware if deleted messages were backed up for record keeping purposes, raising further concerns about his intent to comply with the Federal Records Act.<sup>3</sup> Federal agencies are required to "notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency" including the accidental deletion of electronic records.<sup>4</sup> NARA lists cases of unauthorized records disposal on its website, however, NARA did not identify any cases of deleted records at the DHS Office of Inspector General (DHS OIG).<sup>5</sup>

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<sup>1</sup> 44 U.S.C. § 310; 18 U.S.C. § 2071.

<sup>2</sup> Committee on Oversight and Accountability, Subcommittee on National Security, the Border, and Foreign Affairs, *Hearing on Help Wanted: Law Enforcement Staffing Challenges at the Border* (June 6, 2023) (online at <https://oversight.house.gov/hearing/help-wanted-law-enforcement-staffing-challenges-at-the-border/>).

<sup>3</sup> 44 U.S.C. § 3101.

<sup>4</sup> 36 CFR Part 1230.

<sup>5</sup> National Archives and Records Administration, *Unauthorized Disposition of Federal Records – Homeland Security* (online at [www.archives.gov/records-mgmt/resources/unauthorizeddispositionoffederalrecords#Homeland%20Security](http://www.archives.gov/records-mgmt/resources/unauthorizeddispositionoffederalrecords#Homeland%20Security)) (accessed June 7, 2023).

Inspector General Cuffari also provided a highly unusual and convoluted response to questions on his use of his government issued cell phone. Inspector General Cuffari said that he “[does not] use [his] government cell phone to conduct official business.”<sup>6</sup> However, when pressed about how he uses his government issued phone, Inspector General Cuffari testified “to conduct business.”<sup>7</sup> In a follow-up response, Inspector General Cuffari stated, “Not federal business considering that they are records.”<sup>8</sup> It is concerning that Inspector General Cuffari is unable to clearly articulate how, if at all, he uses his government issued cell phone to conduct business.

Federal records law prohibits executive branch employees from using non-official electronic messaging accounts to conduct business unless a complete copy of the electronic messages is copied or forwarded to an official account within 20 days.<sup>9</sup> It is also a violation of federal law to willfully remove or destroy federal records.<sup>10</sup> It is unclear if Inspector General Cuffari followed federal law by copying or forwarding electronic messages to official accounts prior to deletion. However, Inspector General Cuffari stated he made the decision to delete messages unilaterally based on his own personal consideration of the messages.<sup>11</sup>

We are also aware of a complaint made to the NARA Office of Inspector General on March 13, 2023, regarding Inspector General Cuffari’s deletion of federal records.<sup>12</sup> Recent reporting from the Project On Government Oversight (POGO) revealed that on December 22, 2022, an email was circulated within the DHS OIG stating that “a custodian indicated the text messages were deleted, in their entirety, from their government issued iPhone, and that the relevant policy for capturing such messages was not followed.”<sup>13</sup> According to POGO’s reporting, the “custodian” referenced was confirmed to be Inspector General Cuffari.<sup>14</sup> We, therefore, request that NARA undertake a review to determine what, if any, federal records were destroyed by Inspector General Cuffari and whether any other senior officials at the DHS OIG also destroyed federal records. NARA should also consult with the Department of Justice, as appropriate, if evidence confirms that Inspector General Cuffari or other senior officials failed to notify NARA about their unlawful destruction of federal records, in violation of the law. We

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<sup>6</sup> Committee on Oversight and Accountability, Subcommittee on National Security, the Border, and Foreign Affairs, *Hearing on Help Wanted: Law Enforcement Staffing Challenges at the Border* (June 6, 2023) (online at <https://oversight.house.gov/hearing/help-wanted-law-enforcement-staffing-challenges-at-the-border/>).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> 44 U.S.C. § 2911.

<sup>10</sup> 18 U.S.C. § 2071.

<sup>11</sup> Committee on Oversight and Accountability, Subcommittee on National Security, the Border, and Foreign Affairs, *Hearing on Help Wanted: Law Enforcement Staffing Challenges at the Border* (June 6, 2023) (online at <https://oversight.house.gov/hearing/help-wanted-law-enforcement-staffing-challenges-at-the-border/>).

<sup>12</sup> Email from Staff, National Archives and Records Administration Office of Inspector General, to Minority Staff, Committee on Oversight and Accountability and Committee on Homeland Security (June 5, 2023).

<sup>13</sup> *DHS Watchdog Regularly Purges Texts on Gov’t Phone Despite Ongoing Investigation*, Project On Government Oversight (June 6, 2023) (online at [www.pogo.org/investigation/2023/06/dhs-watchdog-regularly-purges-texts-on-govt-phone-despite-ongoing-investigation](http://www.pogo.org/investigation/2023/06/dhs-watchdog-regularly-purges-texts-on-govt-phone-despite-ongoing-investigation)).

<sup>14</sup> *Id.*

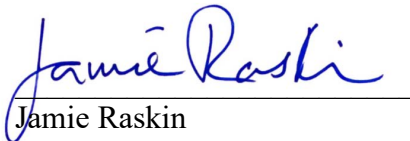
The Honorable Dr. Colleen Shogan

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request that you provide a briefing to our Committee on the findings of your review no later than 30 days after its conclusion.

The Committee on Oversight and Accountability 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. If you have any questions regarding this request, please contact Oversight Committee staff at (202) 225-5051. Thank you for your prompt attention to this matter.

Sincerely,



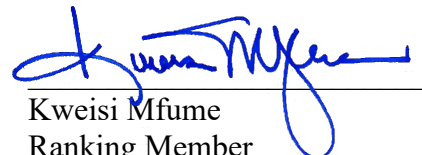
Jamie Raskin  
Ranking Member  
Committee on Oversight and Accountability



Robert Garcia  
Ranking Member  
Subcommittee on National Security,  
the Border, and Foreign Affairs



Gerry E. Connolly  
Ranking Member  
Subcommittee on Cybersecurity,  
Information Technology, and  
Government Innovation



Kweisi Mfume  
Ranking Member  
Subcommittee on Government  
Operations and the Federal  
Workforce

cc: The Honorable James Comer, Chairman  
Committee on Oversight and Accountability

The Honorable Glenn Grothman, Chairman  
Subcommittee on National Security, the Border, and Foreign Affairs

The Honorable Nancy Mace, Chairwoman  
Subcommittee on Cybersecurity, Information Technology, and Government Innovation

The Honorable Pete Sessions, Chairman  
Subcommittee on Government Operations and the Federal Workforce

The Honorable Merrick B. Garland, Attorney General  
U.S. Department of Justice

The Honorable Joseph V. Cuffari, Inspector General  
U.S. Department of Homeland Security