

Congress of the United States
Washington, DC 20515

July 26, 2022

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

The Honorable Allison C. Lerner
Chair
Council of the Inspectors General on Integrity and Efficiency
1717 H Street, N.W., Suite 825
Washington, D.C. 20006

Dear Inspectors General Cuffari and Lerner:

As Chairwoman of the Committee on Oversight and Reform, which has jurisdiction over Inspectors General, and Chairman of the Committee on Homeland Security, which has jurisdiction over the Department of Homeland Security (DHS), we rely on the DHS Inspector General (IG) to provide rigorous and effective oversight. We are writing to express our grave concerns with Inspector General Cuffari’s failure to promptly notify Congress of crucial information while conducting an investigation of the Secret Service’s preparation for and response to the January 6, 2021, insurrection at the U.S. Capitol. Inspector General Cuffari is required by law to “immediately” report problems or abuses that are “particularly serious or flagrant.”¹ Yet, Inspector General Cuffari failed to provide adequate or timely notice that the Secret Service had refused for months to comply with DHS Office of Inspector General (OIG) requests for information related to the January 6 attack and failed to notify Congress after DHS OIG learned that the Secret Service had erased text messages related to this matter.

These omissions left Congress in the dark about key developments in this investigation and may have cost investigators precious time to capture relevant evidence. Inspector General Cuffari’s actions in this matter, which follow other troubling reports about his conduct as Inspector General, cast serious doubt on his independence and his ability to effectively conduct such an important investigation. In light of these serious failures, we request that Inspector General Cuffari step aside from the ongoing investigation into the Secret Service’s erasure of text messages and whether Secret Service personnel complied with federal recordkeeping requirements, and that the Council of the Inspectors General on Integrity and Efficiency (CIGIE) appoint a different Inspector General to complete the investigation.

¹ 5 U.S.C. App. 3, § 5(d).

On January 16, 2021, we sent a letter, along with other committee chairs, to DHS and other agencies requesting that they produce to the Committees “[a]ll documents or materials that refer or relate to events that could or ultimately did transpire on January 6.”² DHS OIG also “requested records of electronic communication” from the Secret Service on February 26, 2021, for its own investigation into the January 6 attack.³ Despite the legal obligation to preserve these records, the Secret Service reportedly undertook a system migration process on January 27, 2021, that caused the erasure of text messages related to January 6.⁴

On November 29, 2021, DHS OIG issued a 50-page semiannual report to Congress covering the period from April 1, 2021, to September 30, 2021. On page 19, under a broader section with the heading “Highlights of Significant Office of Inspector General Activities,” the report stated that DHS “significantly delayed the OIG’s access to Department records, thereby impeding the progress of the OIG’s review” related to January 6. However, the brief description failed to mention that the Secret Service was the source of the access issues and did not indicate that OIG continued to encounter stonewalling. On the contrary, the report noted that “Secretary Mayorkas issued a reminder to all Department personnel about OIG access” in September 2021, and “[s]hortly thereafter, OIG began receiving responsive records.”⁵ The semiannual report was transmitted to Congress on November 29, 2021—nine months after DHS OIG requested communications records around the events of January 6.⁶ Inspector General Cuffari reportedly considered issuing a management alert in October 2021 about issues related to accessing the Secret Service’s texts but decided that this warning was unnecessary.⁷

² Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform; Chairman Bennie G. Thompson, Committee on Homeland Security; Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; and Chairman Jerrold Nadler, Committee on the Judiciary, to Director Christopher A. Wray, Federal Bureau of Investigation; Senior Official Performing the Duties of the Acting Under Secretary Joseph Maher, Office of Intelligence and Analysis, Department of Homeland Security; Acting Director Steve Vanech, National Counterterrorism Center; and Director of National Intelligence John Ratcliffe, Office of the Director of National Intelligence (Jan. 16, 2021) (online at https://intelligence.house.gov/uploadedfiles/20210116_hpsci_chs_hjc_cor_letter_to_fbi_dhs_nctc_odni_on_capitol_insurrection.pdf).

³ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman Bennie G. Thompson, Committee on Homeland Security, and Chairman Gary C. Peters, Committee on Homeland Security and Governmental Affairs (July 13, 2022) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-07-13-DHS-OIG-Letter-to-HSGAC-CHS.pdf>); Project on Government Oversight, *DHS Watchdog Failed to Sound Alarm for Months on Secret Service’s Purged Jan. 6 Texts* (July 21, 2022) (online at www.pogo.org/investigation/2022/07/dhs-watchdog-failed-to-sound-alarm-for-months-on-secret-services-purged-jan-6-texts); Briefing by Office of Inspector General, Department of Homeland Security, to Staff, House Committee on Homeland Security, and Staff, Senate Committee on Homeland Security and Governmental Affairs (July 15, 2022).

⁴ *Secret Service Watchdog Knew in February that Texts Had Been Purged*, Washington Post (July 20, 2022) (online at www.washingtonpost.com/national-security/2022/07/20/secret-service-national-archives/).

⁵ Office of Inspector General, Department of Homeland Security, *Semiannual Report to the Congress, April 1, 2021–September 30, 2021* (Nov. 29, 2021) (online at www.oig.dhs.gov/sites/default/files/assets/SAR/2021/oig-sar-apr21-sept21.pdf).

⁶ *Secret Service Watchdog Knew in February that Texts Had Been Purged*, Washington Post (July 20, 2022) (online at www.washingtonpost.com/national-security/2022/07/20/secret-service-national-archives/).

⁷ Project on Government Oversight, *DHS Watchdog Failed to Sound Alarm for Months on Secret Service’s*

In December 2021, two months earlier than previously reported, DHS OIG became aware that text messages sent and received by Secret Service agents related to the events of January 6 had been erased.⁸ Yet, Inspector General Cuffari took no steps to inform Congress of this serious and flagrant violation of federal records laws. On June 14, 2022, DHS OIG submitted another semiannual report to Congress covering the period of October 1, 2021, to March 31, 2022. That report failed to mention the erasure of text messages. The report noted a “significant delay of OIG’s access to Secret Service records, impeding the progress of our January 6, 2021 review,” and stated, “We continue to discuss this issue with Secret Service.”⁹

The Inspector General Act of 1978 requires Inspectors General to immediately report to the head of the agency “whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations.” The report is commonly called a “seven-day letter.” After a seven-day letter is transmitted, an agency head is required to notify appropriate committees of Congress.¹⁰ Inspector General Cuffari did not send Secretary Mayorkas a seven-day letter notifying him of the Secret Service’s refusal to fully cooperate and provide information responsive to the DHS IG’s investigation. The DHS IG’s failure to promptly report and escalate the Secret Service’s stonewalling calls into question whether Inspector General Cuffari has the professional judgment and capacity to effectively fulfill his duties in this investigation.

As a result, Inspector General Cuffari should step aside, and CIGIE should appoint another Inspector General to conduct this critical investigation into the erasure of Secret Service text messages and whether Secret Service personnel complied with federal recordkeeping laws. Due to the nature and importance of this investigation, there must be no doubt that the Inspector General leading this investigation can conduct it thoroughly and with integrity, objectivity, and independence. We do not have confidence that Inspector General Cuffari can achieve those standards.

Our Committees have been investigating independence concerns related to Inspector General Cuffari and his office for several years. On March 26, 2020, we both wrote letters expressing concerns over DHS OIG’s handling of investigative reports. Chairwoman Maloney wrote about the alarmingly slow pace with which Inspector General Cuffari’s office was issuing reports.¹¹ Chairman Thompson wrote regarding numerous shortcomings in reports issued by

Purged Jan. 6 Texts (July 21, 2022) (online at www.pogo.org/investigation/2022/07/dhs-watchdog-failed-to-sound-alarm-for-months-on-secret-services-purged-jan-6-texts).

⁸ Briefing by Office of Inspector General, Department of Homeland Security, to Staff, House Committee on Homeland Security, and Staff, Senate Committee on Homeland Security and Governmental Affairs (July 15, 2022); Briefing by United States Secret Service, to Staff, House Committee on Homeland Security (July 21, 2022).

⁹ Office of Inspector General, Department of Homeland Security, *Semiannual Report to the Congress, October 1, 2021–March 31, 2022* (June 14, 2022) (online at www.oig.dhs.gov/sites/default/files/assets/SAR/2022/oig-sar-oct21-mar22.pdf).

¹⁰ 5 U.S.C. App. 3, § 5(d).

¹¹ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Inspector General Joseph V. Cuffari, Department of Homeland Security (Mar. 26, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-03->

Inspector General Cuffari's office on the deaths of two children in the custody of Customs and Border Protection.¹² On May 10, 2022, we wrote to Inspector General Cuffari about disturbing reports that he sought to censor findings of domestic abuse and sexual harassment by DHS employees. We wrote that the allegations "raise concerns about your ability to independently and effectively perform your duties as Inspector General."¹³

This is not the first time Inspector General Cuffari has shown an unwillingness to investigate the Secret Service. According to reports, Inspector General Cuffari previously refused to investigate the Secret Service's actions surrounding excessive use of force, as well as its protocols on protecting officials during the coronavirus pandemic, contradicting recommendations from DHS OIG career staff.¹⁴

There is past precedent for Inspectors General to step aside from an ongoing investigation in instances where there are concerns about their independence. In January 2021, at the request of the Department of Justice (DOJ) Inspector General, CIGIE's Integrity Committee identified another OIG to carry out an investigation into the unauthorized disclosure of information from a draft DOJ OIG report on the Trump Administration's child separation policy.¹⁵ In 2020, the State Department's acting Inspector General recused himself from two investigations into Secretary of State Mike Pompeo after Chairwoman Maloney and others raised concerns about the acting Inspector General's independence.¹⁶ In 2007, the State Department Inspector General removed himself from investigations related to Blackwater after the Oversight Committee revealed that the Inspector General's brother served on Blackwater's advisory board.¹⁷ In this

26.CBM%20to%20CuffariDHS%20IG%20re%20Reports.pdf).

¹² Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Inspector General Joseph V. Cuffari, Department of Homeland Security (Mar. 26, 2020) (online at <https://homeland.house.gov/imo/media/doc/2020-03-26%20DHS%20OIG.pdf>).

¹³ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Bennie G. Thompson, Committee on Homeland Security, to Inspector General Joseph V. Cuffari, Department of Homeland Security (May 10, 2022) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-05-10.CBM%20Thompson%20to%20Cuffari-DHS%20IG%20re%20Reports.pdf>).

¹⁴ Project on Government Oversight, *Pulling Punches: Trump-Appointed Watchdog Suppressed White House-Related Probes* (Apr. 20, 2021) (online at www.pogo.org/investigation/2021/04/pulling-punches-trump-appointed-watchdog-suppressed-white-house-related-probes).

¹⁵ Office of the Inspector General, Department of Justice, *Investigative Summary—22-073* (May 11, 2022) (online at <https://oig.justice.gov/sites/default/files/reports/22-073.pdf>).

¹⁶ *Acting Watchdog Recuses Himself from 2 Pompeo Probes*, Politico (June 23, 2020) (online at www.politico.com/news/2020/06/23/watchdog-recuses-himself-pompeo-probe-336083); Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform; Chairman Eliot L. Engel, Committee on Foreign Affairs; Chairman Gerald E. Connolly, Subcommittee on Government Operations; and Chairman Joaquin Castro, Subcommittee on Oversight and Investigations, to Secretary Michael R. Pompeo, Department of State (May 21, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2020-05-21.CBM%20GEC%20Engel%20Castro%20to%20Pompeo-State%20re%20Removal%20of%20State%20IG.pdf>).

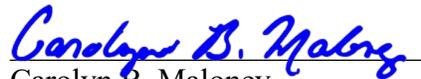
¹⁷ *State Department Inspector-General Bows Out of Blackwater Probe*, CNN (Nov. 14, 2007) (online at www.cnn.com/2007/US/11/14/blackwater.state/index.html).

case, other Inspectors General may have significant technical experience in recovering deleted text messages.¹⁸

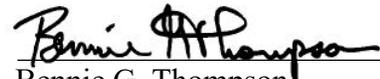
Inspectors General play a crucial role in the oversight community and are the only officers of their kind in the executive branch who report both to the agency head and to Congress. Congress and the American public must be confident in an Inspector General's ability to effectively meet the demands of the job. We request that Inspector General Cuffari step aside and that CIGIE appoint a new Inspector General to complete the investigation.

Please respond in writing to this request no later than August 9, 2022. If you have any questions, please contact Oversight Committee staff at (202) 225-5051 or Committee on Homeland Security staff at (202) 226-2616.

Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Bennie G. Thompson
Chairman
Committee on Homeland Security

cc: The Honorable James Comer, Ranking Member
Committee on Oversight and Reform

The Honorable John Katko, Ranking Member
Committee on Homeland Security

¹⁸ See Office of the Inspector General, Department of Justice, *Report of Investigation: Recovery of Text Messages From Certain FBI Mobile Devices* (Dec. 2018) (2018-003523) (online at <https://oig.justice.gov/reports/2018/i-2018-003523.pdf>) (The Department of Justice Office of the Inspector General was able to recover thousands of text messages through its investigation into missing text messages of FBI officials. The DOJ OIG took several steps to ensure a thorough and complete investigation, including consulting with the Department of Defense Computer Forensic Laboratory, utilizing digital forensic tools, and hiring an Android device Subject Matter Expert to assist in this investigation.).