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Opening Statement

Rep. Elijah E. Cummings, Ranking Member

Hearing on "Obstructing Oversight: Concerns from Inspectors General" September 10, 2014

Thank you to the witnesses for testifying here today, and thank you for everything you do. Rooting out waste, fraud, and abuse is a central tenet of this Committee, and we take this mission very seriously.

I am a staunch defender of IGs and their authorities. For example, in 2013, I sent a bipartisan letter to the President, and I was joined by Chairman Issa, as well as Rep. Chaffetz and Rep. Tierney, the Chairman and Ranking Member of the National Security Subcommittee. In that letter, we pressed the President to finally nominate an Inspector General at the State Department—a position that had remained vacant for five years. I have also supported legislation to help IGs do their job more effectively and efficiently, such as the IG Reform Act of 2008.

Last month, after receiving the letter from 47 IGs, I co-signed a letter with Chairman Carper and Ranking Member Coburn of the Homeland Security and Governmental Affairs Committee, as well as Chairman Issa. In that letter, we expressed our bipartisan concern to the Office of Management and Budget about access issues raised by the three IGs testifying here today from the Peace Corps, the Department of Justice, and the Environmental Protection Agency.

When Congress passed the Inspector General Act in 1978, Section 6 of that legislation authorized IGs to have very broad access to agency records. This provision was intended to give IGs wide latitude to conduct their audits and investigations, but Congress also included certain exemptions in the legislation, some of which are at issue today. In addition, some contend that other federal laws may conflict with this broad grant of authority, and that is also a concern that we will discuss today.

First, we have the Peace Corps. In 2011, Congress passed, and the President signed, the Kate Puzey Volunteer Protection Act. This law requires the Peace Corps to establish a confidential system for volunteers to report sexual assault crimes. When the IG sought access to this data in order to prepare a report also mandated by Congress, the Peace Corps raised a question about providing the personally identifiable information of sexual assault victims, which was supposed to be confidential.

On May 22, the agency and the IG signed a Memorandum of Understanding providing the IG with access to all information except personally identifiable information and explicit details of sexual assaults. I understand that this agreement does not address all of the IG's access concerns, but I believe it is a very good start when we have two potentially conflicting statutes like this.

Next, the Department of Justice Inspector General has expressed concern that when he seeks access to sensitive law enforcement information, such as grand jury and wiretap information, he must go through a lengthy approval process at the highest levels of the Department. The IG's testimony for today says the Department has granted access to the records in every case, but he contends that the lengthy delays erode his independence.

According to the Department, several other statutes restrict the release of sensitive information such as grand jury and wiretap material, so they must carefully analyze these requests. My understanding is that the Department has now asked the Office of Legal Counsel to review the issue. I applaud the IG for working through this process with the agency, and I look forward to OLC's review.

Finally, the Environmental Protection Agency IG has raised two concerns.

The IG reports that the EPA's Office of Homeland Security has been denying the IG access to classified threat material and failing to recognize the IG's statutory authority over intrusions into EPA computer networks. Democratic staff have been working with both sides to mediate this issue, and on June 19, EPA Administrator McCarthy proposed a framework for better cooperation. At this point, my understanding is that the IG still has issues with this proposal, so I hope we can spend some time today hearing about those concerns.

Lastly, the dispute between the EPA IG and the Chemical Safety Board seems, at least to me, to be the most problematic. The IG has been trying to obtain documents from the CSB Chairman, but the CSB still has not produced all of the requested documents. This week, the IG's office sent a letter explaining that although the CSB had complied "substantially" with the requests, documents still remain outstanding. I hope we can work with you closely and on a bipartisan basis to resolve this issue.

Let me close by making one observation. As we have seen, many of these issues involve several laws that appear to conflict, and some have raised the possibility of legislative fixes. I believe this idea should be considered very carefully. Although I will not hesitate to pursue statutory clarification if necessary, the last thing IGs need is for legislation to be introduced and fail, which could have the unintended effect of diluting their authority.

For these reasons, Mr. Chairman, I appreciate your commitment to work with me and my staff in developing bipartisan and widely-supported legislative reform proposals. My staff and I have devoted tremendous efforts to helping IGs do their work, and my goal has always been to try to solve challenges constructively. I hope we can do that today.