

Congress of the United States
Washington, DC 20515

March 8, 2024

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mark Green
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Comer and Chairman Green:

On February 1, 2024, you received correspondence from the Department of Homeland Security (DHS) Inspector General Joseph V. Cuffari in which he asked you to intervene in our investigation of him “to prevent further interference by the ranking members.”¹ Inspector General Cuffari’s decision to direct his correspondence to you—instead of the Ranking Members—is a blatant and surprisingly churlish attempt to obstruct our oversight and raises serious concerns about whether he is in any way capable of acting in an independent and nonpartisan way, as is required by law of an inspector general.² As Chairmen of our respective Committees, we urge you to repudiate this strange, unprecedented and petulant action by the head of an Office of Inspector General (OIG) and assure us that you do not intend to condone or encourage Inspector General Cuffari’s persistent failure to comply with our requests.

Inspector General Cuffari’s correspondence claims that DHS OIG is not under investigation, in part because the oversight is not being conducted by you or your staff. For example, in an August 2023 letter to our Committees, Inspector General Cuffari thanked members of your staff for “confirming that I am not under investigation by your respective Committees.”³ On February 1, 2024, Inspector General Cuffari stated:

¹ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Mark E. Green, Committee on Homeland Security (Feb. 1, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/IG%20Cuffari%20to%20Ch%20Comer%20Ch%20Green%20re%20RMs%20letter.pdf>).

² Congressional Research Service, *Statutory Inspectors General in the Federal Government: A Primer* (Nov. 13, 2023) (R45450) (online at <https://crsreports.congress.gov/product/pdf/R/R45450>).

³ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, et al., Committee on Oversight and Accountability (Aug. 31, 2023) (<https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DHS-OIG.230831-%20IG%20Cuffari%20response%20to%20July%2027%202023%20ltr%20RM%20Raskin%20RM%20Thompson.pdf>).

The July 27, 2023, letter incorrectly asserted that the committees you lead were conducting an “investigation” into my leadership of DHS OIG, and the January 25, 2024, letter, although less explicit, incorrectly implies that the committees are investigating various matters at DHS OIG.⁴

Included in Inspector General Cuffari’s decision to seek clarification from Majority staff with respect to the status of *our* investigation, is his assertion that the “Committee” is not investigating DHS OIG. Inspector General Cuffari’s assertion—which is putatively being used as a shield to obstruct *our* oversight—raises grave concerns about his judgement and respect for the process of congressional oversight. We certainly hope, and trust, that you have not counseled or advised Inspector General Cuffari on this matter. Imparting any signal or suggestion to Inspector General Cuffari that he is under no obligation to comply with our requests, simply because they are not coming from the Chairs of the Committees, would be an alarming breach of precedent. As noted in 2017 by Senator Charles E. Grassley, then-Chairman of the Senate Committee on the Judiciary:

Every member of Congress is a Constitutional officer, duly elected to represent and cast votes in the interests of their constituents. This applies obviously regardless of whether they are in the majority or the minority at the moment and regardless of whether they are in a leadership position on a particular committee. Thus, *all* members need accurate information from the Executive Branch in order to carry out their Constitutional function to make informed decisions on all sorts of legislative issues covering a vast array of complex matters across our massive federal government.⁵

We are similarly concerned that Inspector General Cuffari may be attempting (in vain) to shield himself from oversight by ambiguously asserting his communications with our Committees are whistleblowing disclosures. Inspector General Cuffari marked two communications with our Committees as “Whistleblowing Disclosure—For Committee Use Only.”⁶ However, the correspondence from Inspector General Cuffari appears to primarily

⁴ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Mark E. Green, Committee on Homeland Security (Feb. 1, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/IG%20Cuffari%20to%20Ch%20Comer%20Ch%20Green%20re%20RMs%20letter.pdf>).

⁵ Letter from Chairman Charles E. Grassley, Senate Committee on the Judiciary, to President Donald J. Trump (June 7, 2017) (online at [www.grassley.senate.gov/imo/media/doc/2017-06-07%20CEG%20to%20DJT%20\(oversight%20requests\).pdf](http://www.grassley.senate.gov/imo/media/doc/2017-06-07%20CEG%20to%20DJT%20(oversight%20requests).pdf)).

⁶ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, et al., Committee on Oversight and Accountability (Aug. 31, 2023) (online <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DHS-OIG.230831-%20IG%20Cuffari%20response%20to%20July%2027%202023%20ltr%20RM%20Raskin%20RM%20Thompson.pdf>); Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Mark E. Green, Committee on Homeland Security (Feb. 1, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/IG%20Cuffari%20to%20Ch%20Comer%20Ch%20Green%20re%20RMs%20letter.pdf>).

include information that is already public. It is highly unusual for an Inspector General to mark their correspondence to Congress as a whistleblower disclosure. Our staff made numerous attempts to engage with DHS OIG to obtain clarification and explanation on the blanket use of this marking and to determine whether Inspector General Cuffari was attempting in this unusual way to make a whistleblowing disclosure to Congress. However, DHS OIG staff failed to respond to our staff's direct inquiries.⁷

In his February 1, 2024, letter, Inspector General Cuffari identified himself as a whistleblower and requested that you intervene in our investigation. He stated, "I respectfully ask that you invoke the appropriate process to prevent further interference by the ranking members of your respective committees with our rights as citizens and as whistleblowers."⁸ While the Whistleblower Protection Act prohibits retaliation against most executive branch employees for making protected disclosures or engaging in protected activities, Inspector General Cuffari is the head of a federal agency and is thus is not covered by the Whistleblower Protection Act.⁹ His suggestion that our exercise of congressional oversight amounts to retaliation and his demand that you intervene are baffling and alarming and, to our knowledge, completely unprecedented.

As you know, Congress and our Committees have the authority and responsibility to conduct oversight as a normal and central part of the legislative process. Inspector General Cuffari's marking of his correspondence as a whistleblowing disclosure appears to be an attempt to prevent the public disclosure of his correspondence. To be clear, these notations have all the legal force of bureaucratic graffiti; they are legally incoherent and ineffectual. He can also stamp his correspondence "Top Secret National Security Document," but that will not make it a Top Secret national security document!

Furthermore, Inspector General Cuffari has obstructed our investigation and repeatedly failed to provide responsive information and documents to our oversight letters. For example, in response to our July 27, 2023, letter, Inspector General Cuffari provided what he claimed was a

⁷ Email from Minority Staff, Committee on Oversight and Accountability, to Chief of Staff, Office of Inspector General, Department of Homeland Security (Sept. 6, 2023); Email from Minority Staff, Committee on Oversight and Accountability, to Chief of Staff, Office of Inspector General, Department of Homeland Security (Sept. 14, 2023); Email from Minority Staff, Committee on Oversight and Accountability, to Chief of Staff, Office of Inspector General, Department of Homeland Security (Oct. 5, 2023); Email from Minority Staff, Committee on Oversight and Accountability, to Staff, Office of Inspector General, Department of Homeland Security (Nov. 3, 2023).

⁸ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Mark E. Green, Committee on Homeland Security (Feb. 1, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/IG%20Cuffari%20to%20Ch%20Comer%20Ch%20Green%20re%20RMs%20letter.pdf>).

⁹ Whistleblower Protection Act of 1989, Pub. L. No. 102-12.

“detailed substantive response” to our inquiry.¹⁰ However, he did not respond to our requests, but instead submitted a written response detailing his ongoing dispute with the Council of the Inspectors General on Integrity and Efficiency, which is currently investigating him.¹¹ On January 25, 2024, we sent another request to Inspector General Cuffari renewing our request for his office to comply with multiple inquiries.¹² Inspector General Cuffari’s February 1, 2024, letter to you not only failed again to provide responsive information or documents, but, amazingly, also sought your assistance in obstructing our investigation.

Inspector General Cuffari’s actions in attempting to evade congressional oversight, including by seeking your assistance in obstructing our investigation, are profoundly troubling. When we were in the Majority, we never attempted to impede your investigations in the Minority by indicating to your targets that they would not be investigated by the Chairs and therefore would not need to comply with the Minority’s investigative efforts.¹³ Given the unprecedented

¹⁰ Letter from Ranking Member Jamie Raskin, Committee on Oversight and Accountability, and Ranking Member Bennie G. Thompson, Committee on Homeland Security, to Inspector General Joseph V. Cuffari, Department of Homeland Security (July 27, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2023-07-27.JBR%20BGT%20to%20Cuffari-DHS%20OIG%20re%20Payments.pdf>); See Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, et al., Committee on Oversight and Accountability (Aug. 31, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DHS-OIG.230831-%20IG%20Cuffari%20response%20to%20July%2027%202023%20ltr%20RM%20Raskin%20RM%20Thompson.pdf>); Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, Committee on Oversight and Accountability, and Chairman Mark E. Green, Committee on Homeland Security (Feb. 1, 2024) (<https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/IG%20Cuffari%20to%20Ch%20Comer%20Ch%20Green%20re%20RMs%20letter.pdf>).

¹¹ Letter from Inspector General Joseph V. Cuffari, Department of Homeland Security, to Chairman James Comer, et al., Committee on Oversight and Accountability (Aug. 31, 2023) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/DHS-OIG.230831-%20IG%20Cuffari%20response%20to%20July%2027%202023%20ltr%20RM%20Raskin%20RM%20Thompson.pdf>).

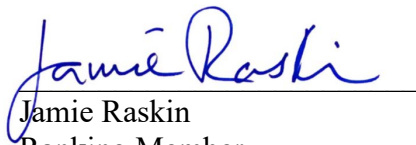
¹² Letter from Ranking Member Jamie Raskin, Committee on Oversight and Accountability, and Ranking Member Bennie G. Thompson, Committee on Homeland Security, to Inspector General Joseph V. Cuffari, Department of Homeland Security (Jan. 25, 2024) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/2024-01-25.JBR%20BGT%20to%20Cuffari-DHS-OIG%20re%20Compliance%20with%20July%2027%20Requests.pdf>).

¹³ While in the Minority, then-Ranking Member Comer sent numerous investigative letters indicating the targets were being investigated by the Committee on Oversight and Reform (Letter from Ranking Member James Comer, Committee on Oversight and Reform, to Chief Executive Officer Jack Dorsey, Twitter (Aug. 11, 2020) (online at https://comer.house.gov/_cache/files/b/8/b8c002b2-9ee6-4abe-9f1e-833d0a09b279/B54D30A118D39DDCAC7B589875E19EDA.twitter-follow-up-letter-final.pdf); Letter from Ranking Member James Comer, Committee on Oversight and Reform, to Chief Executive Officer Jack Dorsey, Twitter (Sept. 2, 2020) (online at <https://oversight.house.gov/wp-content/uploads/2020/09/Letter-to-Dorsey-9-2-20.pdf>); Letter from Ranking Member James Comer, Committee on Oversight and Reform, et.al., to Alex Padilla, California Secretary of State (Sept. 16, 2020) (online at <https://oversight.house.gov/wp-content/uploads/2020/09/CA-Sec-of-State-9-16-20.pdf>); Letter from Ranking Member James Comer, Committee on

The Honorable James Comer
The Honorable Mark Green
Page 5

nature of Inspector General Cuffari's absurd actions, we request that you reject and repudiate his actions and assure us that you are not participating in an invalid effort to impede our investigation into his gross mismanagement of DHS OIG.

Very truly yours,

A handwritten signature in blue ink that reads "Jamie Raskin". The signature is written in a cursive, flowing style.

Jamie Raskin
Ranking Member
Committee on Oversight
and Accountability

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is written in a cursive, flowing style.

Bennie G. Thompson
Ranking Member
Committee on Homeland Security