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Congress of the United States

House of Representatives

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Opening Statement

Rep. Elijah E. Cummings, Ranking Member

Hearing on "Is EPA Leadership Obstructing Its Own Inspector General"

May 7, 2014

The EPA Office of Inspector General has expressed serious concerns that deserve serious attention by this Committee. The IG asserts that information he considers relevant to his mission is being withheld by the EPA. The IG also believes that the EPA's Office of Homeland Security is engaged in investigations that exceed its authority.

These concerns are symptoms of a jurisdictional dispute caused by a difference in interpretation of two statutes: the Inspector General Act of 1978 and the Intelligence Authorization Act for Fiscal Year 1995.

Under the Inspector General Act, the IG has broad authority to investigate cases of employee misconduct. Yet federal courts have ruled that this authority may be limited in certain cases involving national security.

In addition, under the Intelligence Authorization Act and various Presidential Executive Orders and directives, the EPA has certain national security responsibilities to refer cases to the Federal Bureau of Investigation.

The dispute lies at the intersection of these two laws. The two offices do not agree on what role the IG should play in these cases or what obligations the EPA has to keep the IG informed of actions relating to referrals made to the FBI.

Passions have run high during this dispute and even resulted in an altercation between Special Agents of the IG and staff of the Office of Homeland Security.

There are several ways to resolve this issue. One way is to wait for a federal court to decide the matter. Another way is for Congress to enact new legislation. Both of these options will take a long time, and cooperation between the EPA, the IG, and the FBI will suffer in the meantime.

A better way is to find a practical solution that will allow all parties to win. I believe this Committee can do that by helping them craft a plan that would clarify their roles and

responsibilities, require the most information-sharing possible, and ensure better cooperation going forward.

In preparation for today's hearing, I asked my staff to work with all of the parties to help find a solution. My staff spent many hours discussing the issues with various stakeholders, trying to find not only common ground, but higher ground. Based on my staff's discussions with the parties, I believe there are significant areas of agreement, and I would like to confirm this progress here today:

- First, I believe all parties agree that the FBI, as the lead agency for national security investigations, should be directly involved in the discussion to resolve these concerns.
- Second, if the FBI is not leading an investigation into employee misconduct, it is properly the lead role of the IG, and not the EPA's Office of Homeland Security.
- Third, the Office of Homeland Security has an intelligence support function to perform, including intelligence analysis.
- Fourth, better information sharing between the EPA and the IG will help ensure that de-confliction occurs, which will protect investigations from being compromised or agents from being endangered.

Those are the areas of agreement I think we have achieved. If you all can confirm those today, I believe we will have a very strong foundation for a positive resolution.

I was also pleased to hear that yesterday, senior leadership of the EPA and the IG, as well as the FBI, scheduled a meeting next week to work towards a resolution of this dispute. This is very promising news.

I believe it is the job of this Committee to encourage reconciliation and resolution where parties may be at odds with each other and their dispute hampers their ability to perform their functions. This work is hard, often tedious, and seldom comes with headlines, but it is critical to improving the effectiveness and efficiency of our government.

Thank you.

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