



Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

1717 H Street, NW, Suite 825, Washington, DC 20006 • Integrity-Complaint@cigie.gov

December 29, 2020

Honorable Michael E. Horowitz
Chairperson
Council of the Inspectors General on
Integrity and Efficiency

Allison C. Lerner
Vice Chairperson
Council of the Inspectors General on
Integrity and Efficiency

Integrity Committee Case 20-060

Dear Michael and Allison:

We are writing to you regarding the issues raised in a letter dated June 8, 2020, from Undersecretary of State for Management Brian Bulatao (the June 8th letter or the Bulatao letter), which you referred to the Integrity Committee (IC) for consideration. The IC determined that the public interest counseled in favor of reviewing these serious allegations against Steve A. Linick, a former Department of State (State) Inspector General (IG). After careful consideration of an extensive record, the IC determined that the evidence refutes all but one of the allegations of misconduct. No formal investigation is warranted as to the remaining allegation, violation of an internal Office of Inspector General email policy, because it does not rise to the level of misconduct meriting further IC action.

In reaching this determination, the IC had the benefit of far more information than is usually available when deciding whether to refer a matter for investigation. In addition to Undersecretary Bulatao's letter, the IC considered matters of public record and obtained statements from key observers of the underlying events, including

- Sworn testimony by former IG Linick before the House Committee on Foreign Affairs, on June 3, 2020, with participation by House Committee on Oversight and Reform and the Senate Committee on Foreign Relations, which was released to the public on June 10, 2020;
- A sworn statement by former IC Chairperson and Department of Labor IG, Scott Dahl, dated July 8, 2020, concerning his consultation with IG Linick;
- An email exchange between IG Dahl and IG Linick in September 2019;
- Undersecretary Bulatao's written testimony before the House Committee on Foreign Affairs on September 16, 2020; and
- A written statement from Glenn Fine, former Principal Deputy Inspector General for the Department of Defense, dated October 6, 2020, provided at the IC's request, to IC Chairperson Kevin H. Winters.¹

¹ Under the Integrity Committee's 2018 Policies and Procedures (ICP&P), Section 7.B.1, the IC may, in determining whether to refer allegations for investigation, consider public information bearing on the allegations and may seek additional documents and information to facilitate its decision.

Considering the allegations against IG Linick in light of this extensive record, the IC concluded that the evidence refuted the allegations of misconduct and/or the allegations were insufficient to warrant a formal investigation.² In other words, there remained no reasonable basis to believe that IG Linick abused his authority in the exercise of official duties or while acting under color of office, or otherwise engaged in substantial misconduct, such as gross mismanagement, gross waste of funds, or a substantial violation of law, rule, or regulation, or conduct that undermines the independence or integrity reasonably expected of an Inspector General.³ Accordingly, the IC voted unanimously to close the matter. Part I of this letter provides some detail as to the key facts and the IC's analysis.

Nevertheless, the IC's review and deliberations in this matter have identified a potential gap in oversight and a lack of clarity about how to handle allegations against multiple individuals, some of whom fall outside the IC's authority. We explain in Part II of this letter how the IC proposes to address those issues and the outreach we are planning to introduce these changes to the IG community and to Congress.

I. The Integrity Committee's Decision

A. Factual Background

The allegations in this case arise from the following undisputed facts. On September 13, 2019, the *Daily Beast* published an article reporting that the State Department IG was about to recommend that the State Department's top representative on Iran policy be disciplined for his role in politically motivated firings of personnel.⁴ The article attributed the information to "two government sources involved in carrying out the investigation."⁵ The individual allegedly recommended for discipline was reportedly under consideration to become the President's national security adviser.⁶

Senior leaders of the State Department, as well as IG Linick, were troubled by the apparent leak and the suggestion that the unauthorized disclosure came from someone in the State Department Office of Inspector General (State OIG). IG Linick assured the leadership that he would obtain an independent investigation to determine whether anyone in State OIG leaked the information. According to the State Department's senior leadership, IG Linick promised to refer the matter to the Council of the Inspectors General on Integrity and Efficiency (CIGIE) for investigation. IG Linick, believing that the IC—CIGIE's only investigative arm—would not accept the allegations for investigation because many of the potential subjects lay outside the IC's limited authority, engaged the Department of Defense Office of Inspector General (DoD

² ICP&P, Section 7.C.i and ii (upon review of allegations, the IC will close the matter if it determines that the allegations do not meet the threshold standard or that the record refutes the allegations).

³ ICP&P, Section 7.A.

⁴ Available at <https://www.thedailybeast.com/brian-hook-state-department-inspector-general-set-to-recommend-discipline-for-trumps-top-iran-hand>.

⁵ *Id.*

⁶ *Id.*

OIG) to investigate whether any of the 15 State OIG personnel with access to the draft report leaked the information.

DoD OIG investigated and found no evidence that any of the 15 State OIG individuals were responsible for the leak. However, the investigators determined that IG Linick had violated an internal OIG email policy by sending sections of the report to his personal email account on multiple occasions so that he could review and edit the draft while traveling, when he could not access his office systems. Notably, the State Department allowed such occasional use for its staff, but the State OIG's policies did not. There was no evidence that IG Linick's use of his personal email contributed to the unauthorized disclosure.

In mid-March 2020, IG Linick was briefed on the results in the soon-to-be-issued report. He informed the State Department's senior leadership, including Undersecretary Bulatao, that the investigation by DoD OIG had cleared State OIG personnel of any role in the leak. Undersecretary Bulatao asked for a copy of the report, and IG Linick said that he expected to receive it shortly and intended to share it in some form but would have to discuss the matter with DoD OIG.⁷ He also wanted to consider any independence concerns that might be presented in disclosing information about OIG personnel to the leadership of the Department they were overseeing.

IG Linick received the investigation report in mid-March 2020, at about the same time the State Department shifted to maximum telework because of the COVID-19 pandemic. He testified that he became immersed in other matters (including State OIG's response to the early phases of the COVID-19 pandemic) and put aside issues related to providing the State Department with a copy of the report. On May 15, 2020, IG Linick was notified that he was being placed on administrative leave effective immediately and that he would be removed from his position in 30 days, per section 3(b) of the Inspector General Act of 1978 (IG Act). At that time, the State Department's request for the DoD OIG report remained pending.

B. The Allegations

In the June 8th letter and in subsequent statements, Undersecretary Bulatao alleged that:

1. IG Linick promised to refer the leak allegations to CIGIE and instead "hand-picked" the DoD OIG, which had a conflict of interest, to investigate the matter;
2. IG Linick refused to provide a copy of the DoD OIG investigation report to State Department leadership;
3. The DoD OIG investigation report was "exceedingly cursory," and the investigation should be redone;

⁷ U.S. Congress, Committee on Foreign Affairs, Interview of Steve Linick, June 3, 2020, (Linick Tr.) at 72-74.

4. The DoD OIG investigation report reveals that IG Linick transmitted copies of the non-classified State OIG investigation report between the office and his personal email accounts, contrary to State OIG internal policies; and
5. After being placed on administrative leave, IG Linick contacted State OIG personnel, entered State OIG premises to remove personal property, and requested a copy of the DoD OIG investigation report.

C. Applicable Standards

Upon receipt of the June 8th letter, the IC reviewed the complaint and supporting information provided to determine whether to commence an investigation into some or all of the allegations lodged against former IG Linick. The IC has the discretion to investigate allegations against a former IG arising from that IG's tenure, if doing so is in the public interest.⁸ The IC concluded that the first and second allegations were sufficiently consequential that the public interest would support commencing an investigation, provided that other elements of the IC's standards were met.

Before deciding whether to undertake an investigation, the IC determines whether the matter involves:

allegations of wrongdoing against a Covered Person [*i.e.*, someone subject to the IC's legal jurisdiction] that involve abuse of authority in the exercise of official duties or while acting under color of office, substantial misconduct, such as gross mismanagement, gross waste of funds, or a *substantial* violation of law, rule, or regulation, or conduct that undermines the independence or integrity reasonably expected of a Covered Person.⁹ (Emphasis added.)

If one or more allegations meet this threshold standard, the IC may refer them to the IC Chairperson for investigation. In evaluating the allegations, the IC may consider public information and may obtain additional documents and records, as it did in this case. The IC will close a matter without a formal investigation if it determines that the allegations do not meet the threshold standard or that the record sufficiently refutes them.¹⁰ In this case, the IC concluded that no formal investigation was called for because the evidence either refuted the allegations or the conduct at issue did not constitute misconduct under the threshold standard.

D. Whether a Formal Investigation is Warranted

⁸ ICP&P Section 2 ("At its discretion and consistent with the public interest (including the availability of an effective remedy), the IC may consider wrongdoing alleged to have occurred while an individual served as a Covered Person, even if that individual is no longer a Covered Person or in government service when the IC receives the allegation.").

⁹ ICP&P, Section 7.A.

¹⁰ ICP&P, Section 7.C.i. and ii.

In the public interest, the IC considered whether to refer for investigation Undersecretary Bulatao's allegations that IG Linick promised to refer the leak allegations to "CIGIE" for investigation but instead engaged DoD OIG, which, he alleges, had a conflict because IG Linick had previously discussed at least one aspect of the matter with then-Principal Deputy Inspector General (PDIG) Glenn Fine. He further suggests that IG Linick improperly influenced PDIG Fine to limit the scope of the leak investigation conducted by DoD OIG. Finally, Undersecretary Bulatao contends that IG Linick wrongfully refused to furnish a copy of the DoD OIG report to State Department leadership.

The available evidence supports closing the allegations without a formal IC investigation because it was reasonable and understandable that IG Linick did not refer the matter to the IC, but instead asked DoD OIG to conduct the investigation.¹¹ IG Linick acted properly under the circumstances. He contacted the then IC Chairperson and his actions aligned with the former IC Chairperson's views, which were shared by other experienced members of the IG community and were consistent with IC practices to date. These actions did not constitute wrongdoing within the meaning of the IG Act and the IC's threshold standard. The evidence also rebuts the allegation that DoD OIG's investigation was flawed by a conflict of interest or an inappropriate scope limitation. Finally, under the circumstances, the allegation that IG Linick wrongfully and intentionally refused to provide a copy of the DoD OIG report to the State Department is untenable, particularly when the State Department's request for the report posed substantial issues that IG Linick put aside when he became immersed in other matters--primarily State OIG's response to the COVID-19 pandemic.

1. Whether IG Linick should have referred allegations concerning the possible State OIG leak to CIGIE/the IC

Under the IG Act, the IC can investigate allegations of wrongdoing only against a narrowly defined group of individuals in the IG community: An IG, an IG's direct reports, and individuals holding positions within each office as to whom each IG determines their office could not credibly conduct an impartial or disinterested investigation.¹² The IC refers to the individuals over whom it has investigatory authority as "Covered Persons."¹³

When a complainant makes allegations against a group of people that includes both Covered and non-Covered Persons, the IC looks to whether the complaint specifies (or the IC

¹¹ As discussed below, the IC saw no evidence that IG Linick was wrongfully shopping for a favorable outcome.

¹² Inspector General Act of 1978, 5 USC app., as amended (IG Act), section 11(d)(4)(C). Every IG designates those positions annually, and they vary from OIG to OIG, depending on the size, organization, and reporting relationships, etc.

¹³ ICP&P, Section 2. The IC may also investigate allegations of wrongdoing against anyone serving in an Acting or Interim capacity in a covered position.

can clearly discern) allegations that a Covered Person committed specific wrongful acts.¹⁴ If so, the IC may refer the allegations against that person or persons for investigation. However, the IC does not investigate allegations against an undifferentiated group of people solely because one or more of them is a Covered Person. Instead, the IC declines to investigate and, where consistent with confidentiality obligations to the complainant, sends the matter to the OIG for appropriate action. If the IG has decided that the OIG cannot or should not conduct its own internal investigation, the IG generally engages another OIG to investigate the matter. The IC may ask to receive a copy of the resulting investigation report to be apprised of any findings of misconduct against a Covered Person.

In the case of the leak investigation, the 15 individuals within State OIG who had access to the leaked report consisted of seven Covered Persons, including IG Linick, and eight non-Covered Persons. The IC is aware of no evidence that specifically implicated any Covered Person, and the leak may have originated from someone outside the State OIG who was privy to the report.

IG Linick testified that he spoke with various members of State Department leadership about the *Daily Beast* article, the possibility that the leak had originated from State OIG, and the need for an investigation. Thereafter, IG Linick discussed the matter with the IC Chairperson (then Department of Labor IG Scott Dahl), telling him that about 14 people within State OIG had worked on the report. According to IG Linick, Chairperson Dahl told him that the IC “does not review offices,”¹⁵ a common short-hand reference to the limitations on the IC’s jurisdiction. IG Linick then asked Chairperson Dahl if his office, Department of Labor (DOL) OIG could conduct the leak investigation, but IG Dahl declined. The IG of the Department of Veterans Affairs (VA) also declined to take the assignment. IG Linick then asked the IG of the Department of Defense, who agreed to have his office investigate whether the leak originated from State OIG.¹⁶

Former IG Dahl’s statement corroborates much of this account. He stated that IG Linick called him on September 16, 2019, to ask whether DOL OIG could investigate whether the leak originated from State OIG, where multiple people had worked on the underlying evaluation.¹⁷ After checking with his staff, IG Dahl advised IG Linick on September 23rd that his office could not undertake the investigation and recommended that he call VA IG Michael Missal, because VA OIG had recently completed an investigation for DOL OIG.¹⁸

¹⁴ The IC’s online guidance that is available to the public emphasizes the limits of the IC’s jurisdiction and the need to specify the Covered Person’s wrongful actions. See <https://www.ignet.gov/content/guidance-and-faqs>. If the complaint lacks this specificity, the IC staff attempts to contact the complainant to request additional details. Guidance on the IC’s website encourages complainants to particularize their allegations to the extent possible.

¹⁵ Linick Tr. at 68.

¹⁶ Linick Tr. at 68-69.

¹⁷ Dahl affidavit (Dahl Aff.) at 1.

¹⁸ *Id.*

While IG Dahl did not recall discussing with IG Linick whether CIGIE or the IC should be asked to undertake the leak investigation,¹⁹ he shared the view that the IC was not the proper body to do so because there was no specific allegation of wrongdoing against IG Linick or a senior official in State OIG.²⁰ Instead,

when Linick approached me to see if my office could conduct this inquiry into the potential leak, I knew this was not a matter that CIGIE's Integrity Committee (IC) would have jurisdiction over to evaluate whether an investigation was warranted. At the time, I was the IC Chair and well aware that the IC has statutorily limited jurisdiction over only allegations of wrongdoing against specific individuals, including IGs and their very senior executives. What Linick described to me and requested my office's help with was a general suspicion from the Secretary of State that the OIG had potentially leaked findings of a report prior to its release and not an allegation that Linick or members of his senior staff had engaged in alleged misconduct. In my view, the IC would not have jurisdiction to review such a general allegation against an office because under the IG Act, the IC has jurisdiction to consider only allegations of wrongdoing against a specific individual IG or certain senior officials.²¹

PDIG Fine, who ultimately agreed to have his office perform the investigation, had the same understanding of the IC's approach to group allegations:

The particular allegation was not solely against Mr. Linick or other "covered persons" under the IG Act. Rather, an entire universe of people in the DoS OIG may have had knowledge about the information in the DoS OIG evaluation that appeared in the Daily Beast article. If the Integrity Committee investigated allegations of unauthorized disclosures of information from OIG reports that were disclosed prematurely, it would have to investigate many potential allegations relating to unauthorized disclosures where the subjects extended beyond the Integrity Committee's limited jurisdiction.²²

IG Linick informed State Department leadership, including Undersecretary Bulatao, in the fall of 2019 that DoD OIG was conducting the leak investigation within State OIG.²³ He recalls Undersecretary Bulatao pressing to have "CIGIE" conduct the investigation and that he advised the Undersecretary that he could file a complaint with CIGIE.²⁴ IG Linick testified that

¹⁹ Dahl Aff. at 2.

²⁰ *Id.*

²¹ *Id.* Further, IG Dahl observed that neither of the other experienced IGs, Michael Missal of VA OIG and Glenn Fine of DoD OIG, advised IG Linick that the leak allegations should be referred to the IC. Letter dated July 8, 2020, from Scott Dahl to Kevin Winters at 1-2.

²² Letter from Glenn Fine to Kevin Winters, dated October 6, 2020 (Fine letter) at 1-2.

²³ Linick Tr. at 69-70.

²⁴ *Id.* at 69.

he told the Deputy Secretary and Undersecretary Bulatao about his conversations with the IC Chairperson and the IGs whom he had asked to undertake the investigation.²⁵

Undersecretary Bulatao's account is similar in material respects. His written testimony stated that he first learned that DoD OIG was conducting the investigation in late November or early December 2019.²⁶ Undersecretary Bulatao describes himself as "completely surprised and deeply disappointed" to learn that IG Linick had not referred the leak to CIGIE for investigation,²⁷ and characterized this as a "failure to lead with integrity."²⁸ Nevertheless, neither he nor anyone from the State Department sought to report the issue to CIGIE or the IC until June 8th, some three weeks after IG Linick was relieved of his duties and informed that he was being terminated.

The IC determined that it was not improper under the circumstances for IG Linick to act on an understanding of the IC's limited jurisdiction and approach to group allegations that was shared by the IC Chairperson and other experienced members of the community and was consistent with IC practices to date. Having concluded that the IC was not the proper place to refer the allegation, IG Linick was left with the responsibility to investigate an allegation that he and the State Department's leadership regarded as a serious matter. He sought another OIG to conduct the investigation because he recognized that it would not be appropriate for investigators in State OIG to investigate a group that included their superiors.²⁹ As noted in the statements of former IG Dahl and former PDIG Fine, it is not an unusual practice for an IG who seeks an independent investigation of an issue within the OIG to ask another IG to perform that investigation.³⁰

2. DoD OIG's role

Undersecretary Bulatao also alleges that the DoD OIG leak investigation was improperly constrained in ways that call its results into question, citing a statement in the investigation report that the DoD OIG was asked by IG Linick to conduct a "limited investigation."³¹ Further, he alleges the DoD OIG had a conflict of interest because IG Linick spoke with PDIG Fine about the underlying retaliation evaluation that was the subject of the leak.³²

Here, too, the record before the IC refutes the allegation that misconduct occurred. PDIG Fine explained in his letter to the IC that the investigation was "limited" in the sense that DoD

²⁵ *Id.* at 70-71.

²⁶ U.S. Congress, Committee on Foreign Affairs, written testimony of Undersecretary Bulatao, September 16, 2020 (Bulatao Test.) at 5.

²⁷ *Id.*

²⁸ *Id.* at 4.

²⁹ Under CIGIE's Quality Standards for Investigations (QSI), in all matters relating to investigative work, the investigative organization must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude. QSI at 6.

³⁰ Fine letter at 2; Dahl Aff. at 1.

³¹ Bulatao Test. at 7.

³² *Id.* at 6-7; June 8th letter at 2-3.

OIG was asked to investigate whether the leak originated from a finite list of individuals within State OIG,³³ not to conduct a comprehensive investigation of the universe of persons with access to the information (including State Department personnel, Congress, Congressional staff, and others) to determine which of them made the unauthorized disclosure.³⁴ The scope aligned with the purpose of the investigation—determining whether the leak originated in State OIG—and nothing in the record suggests that any improper limitations were imposed on the investigation.

The IC found no merit in the suggestion that PDIG Fine had a conflict of interest that should have prevented him from agreeing to have DoD OIG perform the investigation. PDIG Fine confirmed that IG Linick consulted him about the legal analysis of allegations regarding politicized personnel actions, because PDIG Fine had overseen similar investigations while serving as the IG for the U.S. Department of Justice.³⁵ PDIG Fine also confirmed IG Linick's testimony that the conversation occurred long before the leak in question, such that PDIG Fine was not privy to the level of detail reported in the *Daily Beast* article, including when State OIG submitted its report or the recommendation for discipline.³⁶ Under these circumstances, PDIG Fine was not a potential party or witness regarding the leak. No conflict of interest existed, and there was nothing improper about IG Linick asking PDIG Fine to have DoD OIG investigate the possible leak, or in PDIG Fine agreeing to do so.

3. Alleged Refusal to Provide State Leadership with a Copy of DoD OIG's Leak Report

The IC also concluded that the record does not warrant further investigation of whether IG Linick committed wrongdoing because he did not provide State Department leadership a copy of the DoD OIG report between mid-March, when he received the report, and mid-May, when he was removed from office. When Undersecretary Bulatao asked for the report, shortly before IG Linick received it, IG Linick responded reasonably that, he would share it in some form, but that, before doing so, he wanted to discuss the request with DoD OIG, the report's author. It was also not unreasonable for IG Linick to consider any independence concerns that might be presented in disclosing information about OIG personnel to the leadership of the Department they were overseeing.

Moreover, IG Linick received the report and began to entertain State's request for a copy at precisely the same time that the State Department shifted to maximum telework, disrupting normal operations, and the government was commencing its massive response to the COVID-19 pandemic. He testified that he became absorbed in other matters, including State OIG's response to the early days of the pandemic, intended to allow the Deputy Secretary to review the report *in camera*, but did not circle back to implement this plan in the ensuing two months. Given the

³³ Fine letter at 2.

³⁴ *Id.*

³⁵ *Id.* at 2-3.

³⁶ *Id.* at 3.

rebuttal evidence, the IC believes that this two-month delay was reasonable and not improper under the extraordinary circumstances of the pandemic.

E. The Remaining Allegations

The IC also concluded that a formal investigation of IG Linick's use of personal email or of his actions while on administrative leave is not warranted, given the record before us.³⁷

In its investigation report, DoD OIG determined that IG Linick used his personal email on multiple occasions to work on the draft evaluation report and that this use was contrary to State OIG internal policies.³⁸ The facts are well established and uncontested. IG Linick acknowledged in his testimony that he and others were unable to access their official email and other systems while traveling and the work-around of using personal email to transfer non-classified materials.³⁹ The fact that the State Department allows this practice tends to confirm that it is not inherently wrongful as practiced by IG Linick.⁴⁰ On this record, the IC sees no need to devote additional resources to investigate a former IG's admitted violation of an internal email policy that is unlikely to rise to the level of a "substantial violation of law, rule or regulation" within the meaning of the IC's threshold standard.

Although Undersecretary Bulatao complains of various actions that IG Linick took while on administrative leave, the IC found no basis to investigate them. During the thirty-day notice period required prior to his removal, IG Linick was placed in a paid, non-duty status. Undersecretary Bulatao alleges that he directed IG Linick not to contact OIG staff and not to enter the building.⁴¹ IG Linick testified that he understood the instruction to apply to State Department personnel, rather than OIG staff.⁴² Further, he acknowledged that he communicated with OIG staff, including his deputy, though he was not certain which of them initiated the call, and that he entered the building, with an escort, to retrieve personal property located in his office.⁴³

There is neither allegation nor record evidence that IG Linick purported to exercise official authority (that is, acted "under color of office") or behaved unreasonably or that the complained of actions caused discernible harm. Under these circumstances, the public interest does not weigh in favor of investigating a former IG's personal communications with staff, even assuming that the State Department were authorized to forbid them. The same is true of IG Linick's retrieval of his personal property, under escort, when the State Department had made no

³⁷ The IC also concluded that the public interest would not weigh in favor of investigating these allegations, but we discuss them here in the interests of completeness.

³⁸ Department of Defense, Memorandum of Findings, March 17, 2020 ("DoD OIG Report") at 4, footnote 1.

³⁹ Linick Tr. at 160-162.

⁴⁰ DoD OIG Report at 4, footnote 1.

⁴¹ Bulatao letter at 4.

⁴² Linick Tr. at 150.

⁴³ Linick Tr. at 55.

provision to return it to him. No allegations have been made that he took or attempted to remove any official property during this visit.

Neither does the IC see a public interest in investigating IG Linick's request for a courtesy copy of the DoD OIG report in preparation for Congressional testimony expected to cover that subject. It does not appear that he succeeded in obtaining the report through this avenue, but rather that his counsel obtained it some other way.⁴⁴ There is no evidence that IG Linick sought to direct OIG staff to furnish the report or that he abused (or even attempted to exercise) any official authority in making the request.

F. The State Department's Request that the IC Reinvestigate the Leak Allegations

For the reasons stated above, the IC declines Undersecretary Bulatao's request for another investigation of whether State OIG was the source of information for the *Daily Beast* story. The investigation was handled by trained investigators in the Defense Criminal Investigative Service who used their unconstrained professional judgment about the leads to pursue and the questions to ask.⁴⁵ The record does not support Undersecretary Bulatao's allegation that the DoD OIG investigation was tainted by a conflict of interest or that any basis exists to question the investigators' impartiality or objectivity, as evidenced by the investigators' finding that IG Linick violated State OIG's internal email policy, hardly the hallmark of a friendly investigation.

II. Proposed Approach to Allegations Against Covered and Non-Covered Persons

Though the IC concluded that no further action was necessary on the allegations against former IG Linick, this matter illustrates some of the questions that can arise when the IC declines to act on undifferentiated group allegations, leaving to the IG the responsibility to find another office to conduct an investigation. During former IG Linick's testimony, members of the majority and the minority expressed concerns about the conditions under which an IG might engage another OIG to conduct an independent investigation of misconduct by OIG personnel. The lack of transparency in that process may give rise to questions concerning the independence and impartiality of the resulting investigation. For example, if an investigation concludes that a Covered Person committed misconduct, that important information could be suppressed or withheld, contrary to the exacting expectations of self-regulation embodied in the IG Act.

Without expanding its jurisdiction, the IC can assist in ensuring procedural regularity and transparency in such cases.⁴⁶ We propose that any allegations against Covered Persons, including undifferentiated group allegations, be reported to the IC. If the IC decides not to

⁴⁴ Linick Tr. at 156.

⁴⁵ DoD OIG Report at 1-5.

⁴⁶ The IC does not have the resources and the staff and members do not have the time to assume the responsibility that would accompany a significant expansion of its jurisdiction beyond current limits.

pursue the matter, the IC staff can assist the IG in finding a suitable OIG to undertake the investigation, on terms similar to those used in IC investigations, on a reimbursable basis.⁴⁷ This would avoid any perception that an IG is biasing the results by selecting friendly investigators or unreasonably limiting the scope of an investigation. The IC is prepared to offer this alternative to IGs who wish to avoid questions about the fairness and thoroughness of the internal investigations that they outsource.

In addition, in any investigation that includes any allegations against a Covered Person, a copy of the investigation report should be provided to the IC. Where there are findings of misconduct as to a Covered Person, the IC staff can ensure that the relevant portions of the report are made available to the appointing authority (the President or the agency head, as the case may be) and committees of jurisdiction, as they would be in an IC investigation.

The IC believes that these changes would address concerns expressed by Members of Congress during the June 3, 2020, hearing, assist IGs in engaging investigators when needed, and promote transparency and confidence in the IG community's ability to oversee its own conduct.

We look forward to working with CIGIE's leadership to implement these changes and communicate them to the membership, Congress, and the public. The IC proposes to address these changes in the near future at a CIGIE meeting and to add appropriate information to the IC's page on the CIGIE website. With respect to Congressional outreach, the IC will coordinate with the Legislation Committee, per our current practice.

Please let us know if you would like to discuss further.

Sincerely,



Kevin H. Winters
Chairperson
Integrity Committee



Deborah J. Jeffrey
Vice Chairperson
Integrity Committee

⁴⁷ There may also be cases in which the IC refers for investigation allegations against a Covered Person, with a recommendation that they be investigated by a single OIG, together with allegations against non-Covered Persons involved in the same or related misconduct.