



OFFICE OF THE INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY NEWS RELEASE

Office of the Inspector General of the Intelligence Community's Statement on Processing of Whistleblower Complaints

(September 30, 2019) The Office of the Inspector General of the Intelligence Community (ICIG) processes complaints or information with respect to alleged urgent concerns in accordance with the Intelligence Community Whistleblower Protection Act (ICWPA) and the ICIG's authorizing statute. With respect to the whistleblower complaint received by the ICIG on August 12, 2019, the ICIG processed and reviewed the complaint in accordance with the law.

The law required that the Complainant be “[a]n employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community.” 50 U.S.C. § 3033(k)(5)(A). The ICIG confirmed the Complainant was such an employee, detailee, or contractor.

The law also required that the Complainant provide a complaint or information with respect to an “urgent concern,” which is defined, in relevant part, as: “A serious or flagrant problem, abuse, violation of the law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.” *Id.* § 3033(k)(5)(G)(i). The Inspector General of the Intelligence Community determined that the Complainant alleged information with respect to such an alleged urgent concern.

In addition, the law required the Inspector General of the Intelligence Community within 14 calendar days to determine whether information with respect to the urgent concern “appeared credible.” *Id.* § 3033(k)(5)(B). The Inspector General of the Intelligence Community determined, after conducting a preliminary review, that there were reasonable grounds to believe the urgent concern appeared credible.

At the time the Complainant filed the Disclosure of Urgent Concern form with the ICIG on August 12, 2019, the ICIG followed its routine practice and provided the Complainant information, including “Background Information on ICWPA Process,” which included the following language:

In order to find an urgent concern “credible,” the IC IG must be in possession of reliable, first-hand information. The IC IG cannot transmit information via the ICWPA based on an employee’s second-hand knowledge of wrongdoing. This includes information received from another person, such as when a fellow employee informs you that he/she witnessed some type of wrongdoing. (Anyone with first-hand knowledge



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of the allegations may file a disclosure in writing directly with the IC IG.) Similarly, speculation about the existence of wrongdoing does not provide sufficient basis to meet the statutory requirements of the ICWPA. If you think wrongdoing took place, but can provide nothing more than second-hand or unsubstantiated assertions, IC IG will not be able to process the complaint or information for submission as an ICWPA.

The Disclosure of Urgent Concern form the Complainant submitted on August 12, 2019 is the same form the ICIG has had in place since May 24, 2018, which went into effect before Inspector General Atkinson entered on duty as the Inspector General of the Intelligence Community on May 29, 2018, following his swearing in as the Inspector General of the Intelligence Community on May 17, 2018. Although the form requests information about whether the Complainant possesses first-hand knowledge about the matter about which he or she is lodging the complaint, there is no such requirement set forth in the statute. In fact, by law the Complainant – or any individual in the Intelligence Community who wants to report information with respect to an urgent concern to the congressional intelligence committees – need not possess first-hand information in order to file a complaint or information with respect to an urgent concern. The ICIG cannot add conditions to the filing of an urgent concern that do not exist in law. Since Inspector General Atkinson entered on duty as the Inspector General of the Intelligence Community, the ICIG has not rejected the filing of an alleged urgent concern due to a whistleblower's lack of first-hand knowledge of the allegations.

The Complainant on the form he or she submitted on August 12, 2019 in fact checked two relevant boxes: The first box stated that, “I have personal and/or direct knowledge of events or records involved”; and the second box stated that, “Other employees have told me about events or records involved.”

As part of his determination that the urgent concern appeared credible, the Inspector General of the Intelligence Community determined that the Complainant had official and authorized access to the information and sources referenced in the Complainant’s Letter and Classified Appendix, including direct knowledge of certain alleged conduct, and that the Complainant has subject matter expertise related to much of the material information provided in the Complainant’s Letter and Classified Appendix. In short, the ICIG did not find that the Complainant could “provide nothing more than second-hand or unsubstantiated assertions,” which would have made it much harder, and significantly less likely, for the Inspector General to determine in a 14-calendar day review period that the complaint “appeared credible,” as required by statute. Therefore, although the Complainant’s Letter acknowledged that the Complainant was not a direct witness to the President’s July 25, 2019, telephone call with the Ukrainian President, the Inspector General of the Intelligence Community determined that other information obtained during the ICIG’s preliminary review supported the Complainant’s allegations. The Complainant



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followed the law in filing the urgent concern complaint, and the ICIG followed the law in transmitting the information to the Acting Director of National Intelligence on August 26, 2019.

In 2018, the ICIG formed a new Center for Protected Disclosures, which has as one of its primary functions to process complaints from whistleblowers under the ICWPA. In early 2019, the ICIG hired a new Hotline Program Manager as part of the Center for Protected Disclosures to oversee the ICIG's Hotline. In June 2019, the newly hired Director for the Center for Protected Disclosures entered on duty. Thus, the Center for Protected Disclosures has been reviewing the forms provided to whistleblowers who wish to report information with respect to an urgent concern to the congressional intelligence committees. In the process of reviewing and clarifying those forms, and in response to recent press inquiries regarding the instant whistleblower complaint, the ICIG understood that certain language in those forms and, more specifically, the informational materials accompanying the forms, could be read – incorrectly – as suggesting that whistleblowers must possess first-hand information in order to file an urgent concern complaint with the congressional intelligence committees.

The ICIG's Center for Protected Disclosures has developed three new forms entitled, "Report of Fraud, Waste, and Abuse UNCLASSIFIED Intake Form"; "Disclosure of Urgent Concern Form-UNCLASSIFIED"; and "External Review Panel (ERP) Request Form – UNCLASSIFIED." These three new forms are now available on the ICIG's open website and are in the process of being added to the ICIG's classified system. The ICIG will continue to update and clarify its forms and its websites to ensure its guidance to whistleblowers is clear and strictly complies with statutory requirements. Consistent with the law, the new forms do not require whistleblowers to possess first-hand information in order to file a complaint or information with respect to an urgent concern.

In summary, regarding the instant matter, the whistleblower submitted the appropriate Disclosure of Urgent Concern form that was in effect as of August 12, 2019, and had been used by the ICIG since May 24, 2018. The whistleblower stated on the form that he or she possessed both first-hand and other information. The ICIG reviewed the information provided as well as other information gathered and determined that the complaint was both urgent and that it appeared credible. From the moment the ICIG received the whistleblower's filing, the ICIG has worked to effectuate Congress's intent, and the whistleblower's intent, within the rule of law. The ICIG will continue in those efforts on behalf of all whistleblowers in the Intelligence Community.

The Intelligence Authorization Act for Fiscal Year 2010 established the Office of the Inspector General of the Intelligence Community within the Office of the Director of National Intelligence. The ICIG's mission is to provide independent and objective oversight of the programs and activities within the responsibility and authority of the Director of National Intelligence, to initiate and conduct independent audits, inspections, investigations, and reviews, and to lead and coordinate the efforts of the Intelligence Community Inspectors General Forum. The ICIG's goal is to have a positive and enduring impact throughout the Intelligence



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Community, to lead and coordinate the efforts of an integrated Intelligence Community Inspectors General Forum, and to enhance the ability of the United States Intelligence Community to meet national security needs while respecting our nation's laws and reflecting its values. The Forum consists of the twelve statutory and administrative Inspectors General having oversight responsibility for an element of the Intelligence Community. The Chair of the Forum is the Inspector General of the Intelligence Community.

For more information about the ICIG, please contact IC_IG_PAO@dni.gov or visit the ICIG's websites:

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