

Congress of the United States
Washington, DC 20515

August 20, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

Dear Secretary Mayorkas:

We write with serious concerns regarding allegations that the Biden-Harris Department of Homeland Security (“Department”) is restricting the DHS Office of Inspector General’s (“DHS OIG”) ability to conduct work and provide information to Congress. We also write with concerns about improper redactions placed on recent DHS OIG reports, which we understand were done at the request of the Department. As Members of Congress who value and expect transparency and accountability within the federal government, we are very troubled by all instances where we receive heavily redacted reports.¹ As a result of the alleged DHS OIG access issues and the hurdles we’ve faced in obtaining unredacted reports, we are concerned that the Biden-Harris administration’s actions against the DHS OIG will extend to the ongoing reviews relating to the assassination attempt against former President Trump and request that any report be provided to Congress in unredacted form.

The Department’s Assistant Secretary for Legislative Affairs asserted in an August 1, 2024, letter that there must be “appropriate safeguards” on information the DHS OIG provides to Congress.² The letter further states that “sensitivity reviews [on OIG reports] prevent the public release of information that could harm the national security or law enforcement missions of the Department. They do not prohibit the release of sensitive information to Congressional committees.”³ These statements from the Department, in conjunction with redactions placed on multiple reports, illustrate our primary concern—that the Department is creating a chilling effect regarding information the DHS OIG wishes to share with Congress and is imposing improper access restrictions. Simply put, absent a legitimate assertion of Executive Privilege, there is no category of information that Congress cannot receive.

An August 2, 2024, letter from the DHS OIG sheds more light on this matter.⁴ That letter stated, in part, that the Department’s “continued delays and denials have significantly impacted the timeliness of our audits and inspections and have hampered our ability to obtain and proactively analyze data that would assist in identifying risks.”⁵ DHS OIG noted that the information they request is needed for OIG staff to “do our jobs and to which

¹ The most recent instance is DHS’s failure to provide a fully unredacted report on the events of January 6, 2021. See: The Department of Homeland Security Office of the Inspector General, Final Report: *The Secret Service’s Preparation for, and Response to, the Events of January 6, 2021* (July 31, 2024), OIG-24-42. A heavily redacted version of the report was submitted to Congress on August 1, 2024. Subsequently, on August 2, 2024, a representative from the Department contacted select Congressional staff offering an *in camera* review of this report.

² Letter from Zephrahan Buetow to Barry Loudermilk (Aug. 1, 2024). (on file with the Subcommittee on Oversight).

³ *Id.*

⁴ Letter from DHS Inspector General Joseph V. Cuffari to Senator Charles E. Grassley (Aug. 2, 2024). See: https://www.grassley.senate.gov/imo/media/doc/dhs_oig_to_grassley_-_trump_assassination_attempt.pdf.

⁵ *Id.*

we are entitled, consistent with the law” and further states that “despite our continued reporting of these [DHS access] issues, we have yet to see satisfactory resolution.”⁶ As shown below, DHS OIG’s Semiannual Reports (“SAR”) for September 30, 2021, and each subsequent SAR thereafter has documented the OIG’s access issues. DHS OIG SARs from October 2016 through March 31, 2021, generally did not report access issues.⁷ The one exception was a Secret Service Protective Operations Mission Efforts report where Secret Service declined to provide requested information citing national security concerns.⁸ While *any* issues are unacceptable, this case did not carry over to subsequent reporting periods, or result in a pattern of attempts to restrict or delay access to information like we are currently seeing with the Biden-Harris administration.⁹ Let us remind you that federal law requires that IG’s “have timely access to all records” so that the IG community can perform full and complete reviews for the purpose of fully informing Congress.¹⁰

The Department’s alleged conduct creates a chilling effect when the DHS OIG should instead serve as a place where employees can report fraud, waste, abuse, and mismanagement within the agency. In light of the Biden-Harris administration’s conduct, does the DHS OIG’s office need to consider themselves whistleblowers to share required information with Congress?

We’ve incorporated the following examples of access challenges during the Biden-Harris administration reported by the OIG in SARs provided to Congress over the past few years:

- April 1, 2021 – September 30, 2021 DHS OIG SAR: “During this reporting period, the Department significantly delayed OIG’s access to Department records, thereby impeding the progress of OIG’s review of the January 6 events at the Capitol. The Department repeatedly suggested that OIG might not have a right of access to the records sought, but during the months-long period in which access was delayed the Department did not cite any legal authority consistent with section 6(a)(1)(B) of the IG Act that would have justified withholding the

⁶ *Id.*

⁷ DHS Office of Inspector General, *Semiannual Report to Congress October 1, 2020 - March 31, 2021*.

<https://www.oig.dhs.gov/sites/default/files/assets/SAR/2021/oig-sar-oct20-mar21.pdf> (PDF Pg. 58); DHS Office of Inspector General,

Semiannual Report to Congress April 1, 2020 - September 30, 2020. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2020/oig-sar-apr20-sep20.pdf>. (PDF Pg. 54); DHS Office of Inspector General, *Semiannual Report to Congress October 1, 2019 – March 31, 2020*. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2021/oig-sar-oct19-mar20.pdf>. (PDF Pg. 53). DHS Office of Inspector

General, *Semiannual Report to Congress October 1, 2018 – March 31, 2019*. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2019/oig-sar-oct18-mar19.pdf>. (PDF Pg. 61); DHS Office of Inspector

General, *Semiannual Report to Congress April 1, 2018 – September 30, 2018*. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2018/oig-sar-apr18-sep18.pdf>. (PDF Pg. 58); DHS Office of Inspector

General, *Semiannual Report to the Congress October 1, 2017 – March 31, 2018*. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2018/oigsaroct17mar18.pdf>. (PDF Pg. 57); DHS Office of Inspector General,

Semiannual Report to the Congress April 1, 2017 – September 30, 2017. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2017/oigsarapr17sep17.pdf>. (PDF Pg. 56); DHS Office of Inspector General,

Semiannual Report to the Congress October 1, 2016 – March 31, 2017. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2017/oigsaroct16mar17.pdf>. (PDF Pg. 49).

⁸ DHS Office of the Inspector General, *Semiannual Report to the Congress*, *Semiannual Report to the Congress April 1, 2019 – September 30, 2019*. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2019/oig-sar-apr19-sept19.pdf>. (PDF Pg.56).

⁹ Based on our review of SAR reports that followed, including DHS Office of Inspector General, *Semiannual Report to Congress October 1, 2019 – March 31, 2020*. <https://www.oig.dhs.gov/sites/default/files/assets/SAR/2021/oig-sar-oct19-mar20.pdf>. (PDF Pg. 53).

¹⁰ 5. U.S. Code § 406(a).

information. On September 30, 2021, Secretary Mayorkas issued a reminder to all Department personnel about OIG access. Shortly thereafter, OIG began receiving responsive records.”¹¹

- October 1, 2021 – March 31, 2022 DHS OIG SAR: “During the previous reporting period, we included information about Secret Service’s significant delay of OIG’s access to Secret Service records, impeding the progress of our January 6, 2021 review. We continue to discuss this issue with Secret Service.”¹²
- April 1, 2022 – September 30, 2022 DHS OIG SAR: In addition to the above-mentioned issues, DHS OIG reported that “during this reporting period and as described in the chart below, DHS OIG requests for direct ‘read-only’ access to databases were denied and data extracts were delayed. The Department components involved in these reportable issues are [Customs and Border Protection] CBP, [Federal Emergency Management Agency] FEMA, and [U.S. Immigration and Customs Enforcement] ICE. The Department components, as well as the Department’s Audit Liaison did not cite any legal authority consistent with section 6(a)(1)(B) of the IG Act to justify withholding or delaying DHS OIG’s access to information.”¹³
- October 1, 2022 – March 31, 2023 DHS OIG SAR: DHS OIG’s continued requests for direct “read-only” access to databases were denied and data extracts were delayed.¹⁴ The problems included CBP, FEMA, [Transportation Security Administration] TSA, ICE, and DHS Management.¹⁵ Department representatives did not cite any legal authority consistent with section 6(a)(1)(B) of the IG Act to justify withholding or delaying DHS OIG’s access to information. “Instead, Component Audit Liaisons cited Departmental policy requiring approval by the Departmental Audit Liaison.”¹⁶
- April 1, 2023- September 30, 2023 DHS OIG SAR: The access requests and denials in CBP, FEMA, TSA, ICE, and DHS listed above continued. In addition, Component Audit Liaisons requested that the OIG align requests with the stated objective of the announced audit, inspection, or evaluation, resulting in the DHS OIG taking additional steps to try to justify its requests to DHS and its components.¹⁷

¹¹ DHS Office of the Inspector General, *Semiannual Report to the Congress, April 1, 2021 – September 30, 2021*.

<https://www.oig.dhs.gov/sites/default/files/assets/SAR/2021/oig-sar-apr21-sept21.pdf>. (Pg. 19).

¹² DHS Office of the Inspector General, *Semiannual Report to the Congress, October 1, 2021- March 31, 2022*.

<https://www.oig.dhs.gov/sites/default/files/assets/SAR/2022/oig-sar-oct21-mar22.pdf>. (Pg. 15).

¹³ DHS Office of the Inspector General, *Semiannual Report to the Congress, April 1 2022 – September 30, 2022*.

<https://www.oig.dhs.gov/sites/default/files/assets/SAR/2022/oig-sar-apr22-sept22.pdf>. Projects listed where the OIG experienced access delays/denials include: CBP International Mail Enforcement (discretionary audit), CBP Firearms and Ammunition Accountability ((Pgs. 24-26).

¹⁴ DHS Office of Inspector General, *Semiannual Report to the Congress, October 1, 2022 – March 31, 2022*.

<https://www.oig.dhs.gov/sites/default/files/assets/SAR/2023/oig-sar-oct22-mar23.pdf>.

¹⁵ *Id.*

¹⁶ *Id.* Projects listed where the OIG experienced access delays/denials include: Analytic Assistance – Integrated Security Management System, TSA FARMS Border Deployments (inspection), FEMA’s use of Premium Pay during Disaster Response & Steady State Operations (audit), DHS OIG FY 2023 Unannounced Inspections, ICE Mobile Device Management & Security (audit). (Pgs. 23-24).

¹⁷ DHS Office of Inspector General, *Semiannual Report to the Congress, April 1, 2023 – September 30, 2023*.

<https://www.oig.dhs.gov/sites/default/files/assets/SAR/2024/oig-sar-apr23-sept23.pdf>. Projects listed where the OIG experienced

DHS OIG has further reported that the Secret Service significantly delayed access to information, impeding the progress of their reviews.¹⁸ Examples of access issues that DHS OIG has faced include a seven-month delay receiving emails from Secret Service and Secret Service asking for a reduced production scope, stating it had “support from others in the Department,” despite clear interest from multiple congressional committees in the matter, which clearly suggests the legitimacy of such a request.¹⁹

It is clear that some of the access issues outlined by the DHS OIG show signs of much needed improvements in cooperation and communication from the Department, which is unfortunately a common trend in the Department’s actions. We have seen the seriousness of the consequences, such as the actions that transpired on July 13, 2024, when former President Trump was nearly assassinated, one innocent man was killed, and two others seriously injured. Yet, the Department’s continued actions don’t lend much credibility and may cause unnecessary harm.

Inspectors General play an important oversight role to ensure integrity and efficiency in government. Congress expects total transparency and full cooperation from the Department with the DHS OIG and timely access to all records as required by law.²⁰ Additionally, Congress expects that the Department will not attempt to stop the DHS OIG from disclosing information to Congress or pose access issues to DHS OIG that can affect its ongoing or future work in any way, with specific emphasis on the work being done with respect to the attempted assassination against former President Trump.

Therefore, we request that the Department do the following by 5:00 pm on Tuesday, August 27, 2024:

1. Provide written justifications for each redaction that the Department or Secret Service instructed the DHS OIG to apply in the report provided to Congress on August 1, 2024.
2. Confirm in writing the steps the Department has taken to provide the DHS OIG with all access required to perform all reviews, including the assassination attempt against former President Trump.
3. Confirm in writing that the Department will not instruct or request the DHS OIG not to disclose any information to Congress with respect to any review related to the Secret Service or Department law enforcement functions, including the assassination attempt against former President Trump.

access delays/denials include: TSA Federal Air Marshal Service(FAMS) Border Deployments (Inspection), Integrated Security Management System Access (Analytic Assistance), CBP Mobile Device Management and Security (Audit), ICE Mobile Device Management and Security (Audit), Review of Preparations for the End of Title 42 and their Impact on Conditions of Detention in CBP Holding Facilities (Inspection), Audit of DHS Technology for Sharing Domestic Terrorism Threats (Audit). (Pgs 26-30).

¹⁸ The Department of Homeland Security Office of the Inspector General, Final Report: *The Secret Service’s Preparation for, and Response to, the Events of January 6, 2021* (July 31, 2024), OIG-24-42.

¹⁹ *Id.* See US Secret Service Response letter to DHS OIG, Pg. 67.

²⁰ 5. U.S. Code § 406(a).

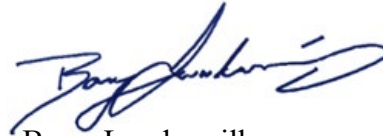
Secretary Mayorkas
August 20, 2024
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Thank you in advance for your cooperation with this important oversight matter which can help demonstrate your commitment to ensuring transparency in the Federal Government.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Committee on the Budget



Barry Loudermilk
Chairman
Subcommittee on Oversight
Committee on House Administration