

**RESTORING INDEPENDENCE:
REBUILDING THE FEDERAL OFFICES
OF INSPECTORS GENERAL**

HEARING

BEFORE THE
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
OF THE
COMMITTEE ON OVERSIGHT AND
REFORM

HOUSE OF REPRESENTATIVES
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Documents entered into the record during this hearing by Unanimous Consent (UC) and Questions for the Record (QFR's) are listed below.

- * UC - Project on Government Oversight report, "The Watchdogs After Forty Years: Recommendations for Our Nation's Federal Inspectors General," submitted by Rep. Connolly.
- * UC - Letter from former inspectors general regarding reforms to the inspectors general system; submitted by Rep. Connolly.
- * UC - Statement for the record from former Department of Defense Inspector General Gordon Heddell regarding inspector general independence; submitted by Rep. Connolly.
- * UC - Government Accountability Office report regarding inspector general independence and reforms; submitted by Reps. Maloney and Porter.
- * UC - Congressional Research Service report regarding Congress's authority to limit the removal of inspectors general; submitted by Rep. Maloney.
- * UC - Statement by Michael Horowitz, Chair of the Council of the Inspectors General on Integrity and Efficiency, regarding the removal of Inspector General Michael Atkinson; submitted by Rep. Connolly.
- * QFR's: to Ms. Kathy A. Buller; submitted by Rep. Connolly.
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- * QFR's: to Ms. Allison Lerner; submitted by Rep. Connolly.

Documents are available at: docs.house.gov.

RESTORING INDEPENDENCE: REBUILDING THE FEDERAL OFFICES OF INSPECTORS GENERAL

Tuesday, April 20, 2021

HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND REFORM
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, and via Zoom; Hon. Gerald E. Connolly (chairman of the subcommittee) presiding.

Present: Representatives Connolly, Maloney, Norton, Davis, Sarbanes, Lynch, Porter, Speier, Hice, Keller, Biggs, Herrell, and Comer.

Mr. CONNOLLY. The committee will come order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

Without objection, Carolyn Maloney, the gentlewoman from New York and Jackie Speier, the gentlewoman from California, shall be permitted to join the subcommittee and be recognized for questioning the witnesses.

I now recognize myself for an opening statement.

For more than 40 years, Inspectors General have provided independent and objective oversight of Federal Government and operations. Offices of the Inspector General conduct audits, inspections, evaluations, and investigations in order to strengthen program integrity, promote operational economy and efficiency, and root out fraud, waste, and abuse, as well as mismanagement, across the Federal Government. IGs are accountable to the President, to their agencies, to this Congress, and, as stewards of taxpayer dollars, to the American people. IGs provide a lot of bang for the buck.

In Fiscal Year 2020, alone, the 75 Federal OIGs collectively identified \$33.3 billion in potential savings from audit reports and \$19.7 billion in actual and anticipated recoveries from investigations. These potential savings from audits and investigations total \$53 billion, amounting to a return on investment of \$17 for every one dollar invested in the IG.

And IGs don't just investigate fraud and recoup money. Their return on investment also includes improved cybersecurity, ethics oversight of work force and contractors, and more recently, work that oversees the health and safety of our Nation.

IGs do not make many friends when they speak truth to power; in fact, sometimes they make enemies. During the last year in of-

office, unfortunately, President Trump executed a rash of politically motivated retaliatory personnel moves against IGs. He moved to replace one acting IG whose office was engaged in a review of misconduct or mismanagement by administration officials. The President publicly blocked a third well-respected acting IG from serving as the head of the newly established pandemic oversight body. In a more difficult and maybe sinister move, the President fired the intelligence community IG, Michael Atkinson, who reported whistleblower allegations to Congress that ultimately led to Mr. Trump's own impeachment. He also fired State Department IG, Steve Linick, who was investigating allegations of misconduct by Secretary Pompeo, allegations that have recently been confirmed by that very office.

The political motives behind these personnel changes were hardly veiled. Mr. Trump claimed only that he had lost confidence, a very low standard for the removal of an IG. This flimsy excuse collapsed under minimal scrutiny. The intent was clear: intimidation and obfuscation and obstruction.

The firings signaled the President's demand for loyalty to him over service to the American public. In doing so, the former President set a dangerous precedent; that an IG can simply be removed because they are doing their job.

We cannot allow that to happen. If a President needs to remove an IG, if there is cause, the President should provide very specific reasons for that cause to Congress, in writing. That is why I support Chairwoman Maloney's re-introduction of the IG Independence Act that includes provisions to require cause for removal of an IG.

In some cases, issues of protecting an effective IG from removal were overshadowed by the absence of a permanent IG. During the former President's tenure, 14 OIGs were without a confirmed individual; in fact, four of those agencies never had a permanent IG for the entire duration of the administration.

While previous administrations also had IG vacancies, President Trump was calculated in using the vacancies as a way to install acting IGs, sometimes with conflicts of interest. At both the State Department and the Department of Transportation, for example, IGs were installed as acting, who served within the departments they were meant to oversee.

Wearing dual hats, as we will hear from Ms. Lerner and Ms. Buller, undermines IG independence. In the absence of an appointed IG, we must sustain the office's independence by scoping the selection of qualified acting officials to hold their place. My vice chair, Ms. Porter, is championing the Accountability for Acting Officials Act that seeks to do just that.

I have also said before that IGs must be pure as the driven snow. That is because if IGs are to hold agencies accountable and encourage whistleblowers to come forward, they must be above reproach themselves.

Just this week, the Integrity Committee released a scathing investigation, not yet made public, that found one IG created a culture of witness intimidation at his/her agency. According to the investigation, the IG abused authority by ridiculing, belittling, and bullying her staff. These findings come more than four years after the allegations reached the Integrity Committee, the branch of the

Council of Inspectors General charged with overseeing the overseers.

This example is why I, and former ranking member Mark Meadows, introduced the enhanced Whistleblower Engagement Act, to ensure that OIG employees receive whistleblower training and direct the IG Council to identify best practices to promote timely and appropriate handling of alleged reprisals within an IG's office.

Moreover, given the outlandish and inappropriate steps this particular IG took to evade Integrity Committee oversight, you can trust we will be following up with legislation to make crystal clear that IGs must make documents and personnel available to the Integrity Committee in a manner commensurate to the access they are provided to oversee their respective affiliated agencies.

The Integrity Committee, itself, has sometimes fallen short. To ensure the accountability of our IG community, we will be reintroducing legislation today to codify and enhance administrative reporting reforms and to allow Congress greater insight into the Integrity Committee's operations. Those who watch the watchdogs must be held to great account.

Similar legislation passed this committee without opposition in the last Congress, and I hope we can move quickly on a bipartisan basis once again in this Congress.

Independent oversight by the IGs is essential to maintaining accountability and transparency in government. That independence was under constant attack in recent years. This hearing will examine some of the ways in which we can restore and bolster the framework of independence within the IG community, which benefits taxpayers and this Nation every day.

With that, I recognize the ranking member for his opening remarks.

Mr. HICE. Thank you, Chairman Connolly.

And I appreciate you calling this hearing today, as we examine the roles and the resources available to our Inspectors General. Rooting out waste, fraud, abuse, and misconduct is certainly one of the most important jobs that this committee and the Inspectors General serve; themselves, really, on the front line, as we, as a committee, try to serve on the front line, as far as Congress is concerned.

But one of the big concerns that I have, in addition, is the fact that according to the Council of Inspectors General on Integrity and Efficiency records, of the 76 Inspector General Offices, 18 have fewer than 10 employees, and as a result, some of these simply don't have the resources needed to do the job that we expect them to do, as Congress. Some of these agencies include the National Endowment for Humanities, the Farm Credit Administration, the Federal Trade Commission, and the Election Assistance Commission.

And all of these, in spite of not having proper resources, still provide hundreds of millions of dollars in grants to individuals, businesses, states, localities, and so forth, and yet, with minimal staffing, they find themselves in a situation where it is really, they are incapable of conducting the oversight and the responsibilities that they have on their shoulders.

Here is just one example that, personally, I was involved with, along with a few others. But when the retirement of Inspector General Patricia Layfield, after she retired, Ms. Mia Forgy, she is now the only staff member of the Election Assistance Commission Office of the Inspector General. I mean, that is pretty stunning, to think we have an Inspector General Office with only one person there.

In 2020 alone, the Election Assistance Commission provided \$825 million in grants. That was an increase of \$445 million from 2019. And more than half of that money, by the way, went out in just 45 days. So, you have got an enormous amount of money going out and you only have one person involved in the whole office. I mean, it is just amazing.

And due to the lack of staffing resources, the EAC Inspector General Office, they contract out the audits of the EAC grant programs, but they, themselves, don't even have the personnel to review the audits from the third party. So, how do you determine whether or not it is even an accurate audit if you don't even have the ability to look into and audit the audit that a third party is doing?

Furthermore, when we asked them to investigate substantiated allegations of an improper contract awarded to a pro-Biden firm by the California Secretary of State's Office to contact voters, the former Inspector General, Ms. Layfield, she informed us, the Republicans on this committee, that their office did not have the ability to conduct the investigations and, instead, they would need to hire a third-party contractor.

So, what is the purpose of the Inspectors General if they can't do their job, and why do we even have an office in the EAC if they don't have the ability to do their job?

And to make matters worse, the contract did not even pay out at that time, so immediate action by the Inspector General could have prevented, really, millions of dollars in taxpayer money from being misspent, but they did not have the resources or the personnel to deal with the issue at hand. This is deeply concerning, and it highlights a serious problem that many of the small Inspector General Offices are facing.

If an Inspector General's office does not have the staffing, I will say it again, if they don't have the staffing to conduct investigations into substantial allegations of wrongdoing, then, quite frankly, they don't have the resources to function at all, if they can't even do investigations into substantiated allegations.

Inspector General Offices should not be a pass-through for third-party contractors and they, themselves, still have no ability to oversee those contractors. It just is nonsense.

So, I am hopeful that my Democrat colleagues can and will stop the repeated attacks on the Trump administration and focus on ensuring that our Inspectors General are able to conduct robust oversight or look for other solutions to ensure that all agencies have a watchdog capable of overseeing agency operations and spending. That is what it is all about.

And I am hopeful, Mr. Chairman, that we can come together and work for those kinds of solutions to a broader problem, rather than just use this hearing, and I hope it doesn't turn into just an opportunity for continued attacks on the Trump administration. We have

serious issues that need to be addressed and resolved, and I hope we will be able to move in the spirit of accomplishing that task before us.

So, with that, Mr. Chairman, I yield back and I thank you.

Mr. CONNOLLY. I thank the gentleman and assure him that holding the Trump administration is not a series of gratuitous attacks. It is, in fact, to highlight actions that were taken that seriously threatened to undermine the integrity and the independence of IGs.

Mr. HICE. And I would remind the chairman that President Obama did similar actions. So, let's just, in fairness, deal with the problem, and not use it as an attack would be my request. Thank you.

Mr. CONNOLLY. Well, I would certainly expect the ranking member to show equal sensitivity to the Biden administration, because I noticed he lobbed grenades at Biden in his remarks, while preaching nonpartisanship for the rest of us.

With that, I see the distinguished chairwoman of the full committee, Mrs. Carolyn Maloney is on. I know she has an opening statement.

Madam Chairwoman, you are recognized for your opening statement.

Chairwoman MALONEY. Thank you, Chairman Connolly, for your insightful comments.

And thank you, Member Hice, for calling this important hearing on Inspectors General.

Inspectors General play a crucial role in our democracy by independently and objectively working to expose waste, fraud, and abuse in government. Supporting Inspectors General and the need for adequate independence and access has long been a bipartisan issue in this committee. The committee regularly relies on the work of IGs to identify issues in need of reform, recommendations for how that reform can be achieved. It is critical to have experienced, competent, and independent Inspectors General at every agency.

Unfortunately, and based on fact, President Trump repeatedly attacked the independence of IGs by removing or replacing IGs in what appeared to be retaliation for investigating misconduct of his own administration. That is why last year, I introduced the Inspector General Independence Act with House Majority Leader Hoyer, Chairman Connolly, and Chairman Lynch.

The Inspector General Independence Act would protect IGs from being fired as a result of political retaliation by only allowing an IG to be removed for one of a set list of reasons. I want to build on that proposal with an even bolder package of reforms.

Yesterday, I introduced the IG Independence and Empowerment Act. This comprehensive package includes a number of proposals, many of which have received broad, bipartisan support. Just a few examples include the enhanced whistleblower engagement act, a bill introduced by Chairman Connolly, to enhance whistleblower training for IGs, and a bill introduced by Vice Chair Jimmy Gomez, to give IGs the ability to compel testimony from contractors and former Federal employees. We have important work to do to both preserve and protect the independence and authority of Inspectors General going forward.

I look forward to the testimony of our witnesses today and appreciate their willingness to help us draw attention to the importance of Inspectors General and the work they do.

Thank you, again, for holding this important hearing, and I yield back.

Mr. CONNOLLY. I thank the distinguished chairwoman and thank her for her leadership on this subject. I look forward to working with her, hopefully on a bipartisan basis, as we move forward on the legislative agenda.

I would now like to introduce our witnesses. We are grateful to have their expertise. Our first witness will be Allison Lerner, who is the Inspector General for the National Science Foundation and the chair of the Council of Inspectors General on Integrity and Efficiency, known as CIGIE.

We will then hear from Kathy Buller, Inspector General of the Peace Corps and executive chair of CIGIE.

Third, we will hear from Mia Forgy, the Deputy Inspector General for the U.S. Election Assistance Commission.

Fourth, we will hear from Clark Ervin, former Inspector General for the Department of Homeland Security and Department of State.

And last, but certainly not least, we will hear from Liz Hempowicz, director of public policy at the Project of Government Oversight, I think also known as POGO.

If the witnesses would unmute themselves, and if our two in-person witnesses would rise, and if all of you would raise your right hand, it is the tradition of our committee and subcommittee to swear in witnesses.

[Witnesses sworn.]

Mr. CONNOLLY. Let the record show that all of our witnesses have, in fact, replied in the affirmative.

I want to thank you all. Without objection, your written statements will be made part of the record.

And with that, Ms. Lerner, you are now recognized for a five minute summation of your testimony. Welcome.

**STATEMENT OF ALLISON C. LERNER, INSPECTOR GENERAL,
NATIONAL SCIENCE FOUNDATION, CHAIR, COUNCIL OF THE
INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY**

Ms. LERNER. Thank you, Chairman Connolly.

Chairman Connolly, Ranking Member Hice, and distinguished members of the subcommittee, I appreciate you inviting me to appear before you today in my role as chair of the Council of the Inspectors General on Integrity and Efficiency.

Since January 1 of this year, I have had the honor of serving as CIGIE's chair, and for six years prior to that, I served as its vice chair. My testimony today will focus on actions to strength IGs' independence and ensure they have the tools necessary to do their work, to protect whistleblowers, and to hold IGs and their senior leaders accountable.

CIGIE has several legislative priorities, focused on strengthening IG independence. I'd also like to highlight the work of CIGIE's IG candidate recommendations panel, which is grappling with one of the greatest challenges currently facing the IG community: the fact

that 15 out of the 75 IG positions are vacant, including 13 Presidentially appointed positions.

The panel has worked with Presidential administrations and agency heads since 2009 to identify strong, independent candidates for IG positions. It has interviewed candidates and provided dozens of recommendations to both the Trump and Biden administrations for vacant Presidentially appointed IG positions, and it has supported agency heads working to fill IG positions through competitive hiring actions. CIGIE supports codifying some of the actions taken by the panel to ensure they continue across future administrations.

A strong message from agency leadership supporting cooperation with the Office of Inspector General can be an invaluable tool for OIGs. To help OIGs, whose agencies have not made such statements, CIGIE is preparing a white paper on these communications and then a template that IGs can use to work with their agency heads to promulgate such statements. We look forward to briefing the committee on the results of this project and to sharing the white paper and template with OMB, as it works to craft and message to agency heads in support of the value of IG oversight.

Inspector General Buller's testimony details legislative opportunities to provide IGs with essential oversight tools, including testimonial subpoena authority. I'd also like to highlight legislation that cures a longstanding problem with the Department of Justice OIG's jurisdiction. Unlike all other OIGs, the DOJ OIG does not have jurisdiction to review misconduct allegations against all Department employees. Misconduct by DOJ lawyers is investigated by DOJ's Office of Professional Responsibility, which is not independent, like the OIG.

Last Congress, the House passed the bipartisan, Inspector General Access Act, without objection. Senators Richard Durbin, Mike Lee, and a bipartisan group of co-sponsors, have introduced identical legislation in the Senate, and we encourage Congress to quickly pass this important legislation.

Our work as IGs would have far less impact without whistleblowers, whose actions have saved U.S. taxpayers billions of dollars and made government programs more efficient and effective. CIGIE has taken many actions to ensure whistleblowers are aware of their right to disclose evidence of waste, fraud, and abuse, and are also protected for doing so. As CIGIE chair, I'll encourage all OIGs to prioritize internal whistleblower education for OIG employees.

I also support the Securing Inspector General Independence Act of 2021, which, among other things, would require whistleblower protection coordinators to inform OIG employees of their whistleblower rights and protections, including the process for filing a complaint with CIGIE's Integrity Committee.

Finally, just as Inspectors General oversee our agencies, we're committed to upholding accountability within our own community. Since the IG Empowerment Act transferred full responsibility for CIGIE's Integrity Committee, the entity that oversees IGs and their senior officials, from the FBI to CIGIE, the IC's work has become more transparent and rigorous. Its workload has also increased steadily, along with the amount of staff, time, and other resources required to fulfill the IC's essential mission.

We are exploring ways to provide additional support, such as adding a senior investigative attorney to the team. The IC is also working to enhance the transparency of its operations, while still protecting the whistleblowers who contact it, who are often extremely concerned about being retaliated against as a result of their decision to come forward.

Thank you, again, for your strong bipartisan support for our community. I look forward to working closely with this subcommittee to ensure that Inspectors General continue to be empowered to provide the independent, objective oversight for which they're known, and which the taxpayers deserve.

This concludes my prepared remarks, and I'd be pleased to answer any questions you might have.

Mr. CONNOLLY. You are a pro. Sixteen seconds left. Thank you.

Ms. Buller, you are recognized for your five minute summation of your testimony.

**STATEMENT OF KATHY A. BULLER, INSPECTOR GENERAL,
PEACE CORPS, LEGISLATION COMMITTEE CHAIR, COUNCIL
OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY
LEGISLATION COMMITTEE**

Ms. BULLER. Chairman Connolly, Ranking Member Hice, and distinguished members of the subcommittee, thank you for inviting me to appear before you today. I am the Inspector General of the Peace Corps and the chair of the Legislation Committee for the Council of Inspectors General on Integrity and Efficiency, or CIGIE.

Each IG has its own relationship with Congress; however, on issues impacting multiple IGs, we are more effective in providing technical assistance to Congress through a collective effort. I am testifying in my capacity as a Legislation Committee chair.

Today, Inspectors General are operating amid a worldwide pandemic, overseeing some of the most extensive government spending bills in history. Despite the 15 vacant Inspector General positions at some of the largest and most consequential agencies within government, Inspectors General and their staff are working diligently to provide accountability and ensure integrity of Government processes.

While administration and agency leadership change, the IG community has a proven track record with integrity and functioning fairly and objectively.

Last year, with the support from the leadership of this committee, legislation was introduced to bolster and protect the independence and integrity of the IG community. While not all of it passed, CIGIE was pleased to see additional whistleblower protections enacted. The protections initially introduced in the House by Chairman Connolly, were bolstered by bipartisan support. These new whistleblower protections will make it easier for whistleblowers to come forward without fear of reprisal.

While these reforms and other key legislation, such as the Inspector General Empowerment Act of 2016, improved the ability and capacity of IGs to perform independent oversight, serious challenges remain. Each Congress, the CIGIE Legislation Committee presents the committee's top reform proposals to strengthen gov-

ernment oversight or to resolve challenges that IGs face under current law.

While I have outlined all of our legislative priorities in my written remarks, there are three I would like to highlight.

First, it's imperative that Congress take steps to protect the independence of the Inspectors General. CIGIE urges Congress to amend Federal Vacancies Reform Act to change who is eligible to serve as acting IG, include the first assistant to the Inspector General, and allow for senior OIG officials from different agencies to serve in that capacity.

Last year, two Presidential appointees were directed to serve as acting IGs for the agencies they served, one of whom, in an agency, continued in an agency management position while serving as acting IG.

The fact is that administrations from both parties have selected acting Inspectors General from senior management and political positions within the agencies to be overseen, creating actual and perceived conflicts of interest, and undermining independence.

This legislation, with an additional provision, requiring notification to Congress when an IG is placed on non-duty status, including the reasons why the action was taken, will greatly improve IG independence.

Second, to address lingering access issues, prohibit the use of appropriated funds to deny IG access to information. Existing appropriations prohibitions apply only to agencies funded under particular subcommittee appropriations acts. CIGIE recommends a governmentwide prohibition to further emphasize IGs' authority to access agency information.

Third, provide the IG community with testimonial subpoena authority. This tool can be used to get critical information from government contractors, subcontractors, volunteers, grantees, subgrantees, and former employees.

We are committed to providing technical assistance, as appropriate, to help ensure the effectiveness of testimonial subpoenas as an oversight tool. CIGIE recommends that testimonial subpoena authority for IGs mirror CIGIE's documentary subpoena authority, similar to the authority recently granted to the Pandemic Response Accountability Committee of CIGIE.

While there are differences between CIGIE's proposal and the legislation, we wanted to express our appreciation to the chairman, Committee Chairwoman Maloney, and Congressman Gomez for introducing H.R. 2089. As Chairman Connolly stated, when introducing the legislation, testimonial subpoena authority for IGs is a necessary tool to hold former officials accountable for their actions and consequences of their policy decisions.

In closing, I would like to thank all members and staff of this subcommittee and the full committee, for your efforts on initiatives affecting CIGIE and our legislative priorities. The Legislation Committee looks forward to continuing to be an important resource for you as you pursue additional oversight and legislative work.

That ends my prepared remarks and I'm here to take any questions.

Mr. CONNOLLY. Thank you so much, Ms. Buller.

Ms. Forgy, and Ms. Forgy, am I pronouncing your name correctly?

Ms. FORGY. It's Forgy.

Mr. CONNOLLY. Of course it is.

Ms. Forgy, forgive me, please. I took a stab and I got it wrong.

Ms. FORGY. No problem.

Mr. CONNOLLY. Welcome, Ms. Forgy.

Ms. FORGY. Thank you.

**STATEMENT OF MIA M. FORGY, DEPUTY INSPECTOR
GENERAL, U.S. ELECTION ASSISTANCE COMMISSION**

Ms. FORGY. Good morning, Chairman Connolly, Ranking Member Hice, and distinguished members of the subcommittee. Thank you for the invitation to discuss with you the operations and activities of the Election Assistance Commission, Office of Inspector General.

The EAC is a bipartisan commission, created and authorized by the Help America Vote Act, known as HAVA. The OIG is an independent division of EAC that's required by HAVA and the Inspector General Act of 1978. The OIG is comprised of an Inspector General and a Deputy Inspector General. Due to the planned retirement of the former Inspector General on March 31, 2021, the OIG is currently operating with one full-time employee.

For additional resources, the OIG procures audit support services from independent public accounting firms and legal and investigative services from other Federal agencies. HAVA gives EAC the authority to conduct regular audits of grants and payments distributed by the EAC and the OIG conducts those audits on behalf of the EAC.

To fulfill that mission, the OIG has established a risk-assessment process for selecting and auditing the administration of the \$1.2 billion in payments distributed by EAC to its grant recipients, collectively, in 2018 and 2020, and the unexpended payments distributed prior to 2011 that the EAC has reissued as new grant awards in Fiscal Year 2020.

The Consolidated Appropriations Act of 2018 included an appropriation of \$380 million in HAVA election security grants. The OIG procured audit support services in September 2019 to conduct audits of the 2018 election security grants for six states: New Mexico, Arkansas, West Virginia, Kentucky, Massachusetts, and Florida.

Due to the impacts of COVID-19 and the states' limited availability during the 2020 primary and Presidential elections, the six audits were performed between December 2020 and March 2021. The six audits reviewed a total of \$32.4 million in expended Federal funds and identified \$4.4 million of questioned costs and \$82,466 in funds that could be put to better use.

In general, the six audits of the 2018 election security grants found that the states are spending HAVA funds on allowable program activities. In December 2019, the EAC received an additional \$425 million in HAVA election security grants, and in March 2020, the Coronavirus Aid, Relief, and Economic Security Act, known as CARES Act, provided supplemental appropriations of \$4 million as support for the states in conducting the 2020 Federal elections.

OIG is currently in the procurement process to obtain audit services for Fiscal Year 2021 to continue auditing states' expenditures

of the 2018 election security grants and to include audits of the 2020 election security grants, 2020 CARES Act payments, and EAC grant awards being issued to the states in Fiscal Year 2020.

In addition to grant audits, the OIG is responsible for conducting internal audits, inspections and evaluations, and other reviews of EAC's programs, policies, procedures, and reporting on those results.

There have been considerable changes recently in the OIG's audit environment, including a substantial increase in the EAC's grant funding, as well as operational changes in EAC's grant management. The OIG, however, is working to ensure effective oversight of the \$1.2 billion of grants issued to the states while continuing to conduct OIG statutory audits, audits and assessments of EAC's internal business processes, and to comply with all OIG mandates issued by governmentwide policy, and government-auditing standards.

The OIG is currently operating with one full-time employee and a Fiscal Year 2021 budget of \$1 million for contracted audits and legal and investigative services. As a result of the EAC's recent budget increase, the OIG will have the ability to hire an additional FTE anticipated for Fiscal Year 2021. Additionally, the EAC is actively recruiting to fill the vacant Inspector General position.

In closing, election systems have been designated by the Department of Homeland Security as part of the Nation's critical infrastructure and the EAC plays a critical role in funding and assisting states to improve election processes. It is the OIG's role to offer guidance and information through its audits, that will help the EAC build and run programs that promote other competence by preventing and detecting fraud, waste, and abuse.

To adequately perform this role, the OIG is required to regularly conduct grant audits, as described within HAVA, perform our OIG statutory requirements, and showing that assessments, reviews, and audits of EAC's high-risk areas are performed, and readily respond to congressional requests.

The OIG will continue to work with the EAC and Congress to help promote efficient and effective government.

I appreciate the opportunity to provide this testimony regarding the activities of the OIG. If you have any questions, I will be happy to address them. Thank you.

Mr. CONNOLLY. Thank you, Ms. Forgy, and you got 17 seconds to go. Great job.

Mr. Ervin, you have your five-minute summation of your testimony. Welcome.

STATEMENT OF CLARK ERVIN, FORMER INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF STATE

Mr. ERVIN. Good morning, Chairman Connolly, Ranking Member Hice, and other members of the subcommittee, and thank you very much for the opportunity to testify before you today on this very important topic.

The assault on the IG community in the last few years highlights the urgent need to further amend the statute to further empower Inspectors General to do the job that Congress intended for them

to do and to further protect Inspectors General from reprisals for doing so.

Let me touch briefly on a few such reforms. First, I support a for-cause removal provision, with cause being defined as permanent incapacity or serious misconduct, as specified in H.R. 6984. And the stated cause should be documented so that its accuracy can be scrutinized by Congress and further tested in the court of public opinion.

Additionally, I support setting a fixed, but renewable term for IGs, say seven years. A fixed term would underscore that IGs are not typical political appointees who serve only at the pleasure of the President, and, therefore, serve the President's political purposes and advance his policy agenda.

In my judgment, the combination of these measures would further empower Inspectors General to exercise their oversight responsibilities vigorously. They would have the assurance of knowing that doing their jobs will not cost them their jobs.

Second, given the number and length of IG vacancies, we must do something to encourage presidents to fill them as soon as possible. One thought would be to require presidents, after a reasonable period of time, to nominate someone, or at least to give Congress a notional date by when a nomination can be expected.

In the meantime, vacancies should be filled only by the Deputy Inspector General, the general counsel to the Inspector General, or someone else senior in the Office of Inspector General.

The occupant of the IG position, whether on a permanent or a temporary basis, should be someone who has the qualifications specified in the statute and someone outside the agency chain of command, so that his or her independence is not compromised, either as a matter of fact or appearance. And IGs should not be double-headed, because done right, being an IG is a full-time job and then some.

Third, IGs should be given testimonial subpoena power with respect to former employees and agency contractors and grantees. Any good investigator will tell you that a thorough investigation requires reviewing documents and witness testimony, and then cross-checking them against each other.

I mentioned a couple other items in my written testimony, and I can think of, still others, as I sit here today, but in the interests of time, I'll leave it at that for now, and, again, thank you very much for inviting me, and I look forward to answering your questions.

Mr. CONNOLLY. Thank you so much, Mr. Ervin. Very thoughtful.

Ms. Hempowicz, you are recognized for your five-minute summation of your testimony. Welcome.

Ms. HEMPOWICZ. Thank you.

STATEMENT OF LIZ HEMPOWICZ, DIRECTOR OF PUBLIC POLICY, PROJECT ON GOVERNMENT OVERSIGHT

Ms. HEMPOWICZ. Chairman Connolly, Ranking Member Hice, and members of the subcommittee, thank you for inviting me to testify today about Inspectors General.

Congress enacted the Inspector General Act in 1978 to create a system of overseers who work within, but independent of, Federal

agencies. When agencies, themselves, were charged with this work, Congress found that agency personnel clearly failed to make sufficient and effective efforts to prevent and detect fraud, abuse, waste, and mismanagement in Federal programs and expenditures, in large part because of a lack of independence and the natural tendency to not call attention to your own shortcomings.

The IG system we have today was Congress' answer to that problem, and in large part, that system has been a success. The work of the IGs has continually resulted in substantial financial savings for the Federal Government, as we have heard.

That is not to say that the system has reached its full potential, however, especially coming off of the sixth year in a row in which polling shows that the public is gravely concerned about Government corruption. It is critical that these watchdogs have the resources, independence, and accountability they need to root out all forms of corruption in our Government.

That is why I strongly urge Congress to pass legislation to address IG resources and authorities by granting all IGs subpoena power to compel testimony when the subjects of their investigations have left government service or were contractors and reduce the statutorily required reporting elements of Inspector General semi-annual reports, to preserve their independence by protecting Inspectors General against unwarranted removal and limiting who can serve as a temporary acting Inspector General in the event of a vacancy, and to hold IGs accountable by ensuring the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency, has the resources and policies in place to adequately and consistently oversee the overseers.

While my written testimony goes into detail about all of these recommendations, I'd like to focus today on the issue of independence. Doing the job of an Inspector General well, will eventually put most IGs at odds with political leadership; indeed, this tension is exactly why Congress established independent structures for Federal IGs in the first place.

While that independence built into the IG Act is a good start, there are two critical gaps that leave internal watchdogs vulnerable to politically driven interference. First, a president has unfettered ability to remove an Inspector General even for improper reasons. Second, after such a removal, a president can replace them immediately with an individual who doesn't meet the standards laid out in the IG Act or one whose conflicts of interest could negatively affect the Office's work. Both gaps pose serious risks to the effectiveness of Inspectors General, and both must be addressed by Congress.

Though the Congress didn't place any limits on the President's authority to remove Inspectors General in 1978, they did require Presidents to notify Congress about the reasons for such a removal. They expected this requirement would act as a sufficient deterrent to keep presidents from removing aggressive watchdogs, because they were doing their job well; however, it has become abundantly clear that this notification to Congress is not serving as such a deterrent.

The public and Congress depend on IGs to ensure our Federal agencies are functioning effectively, and to do this job, IGs must be

confident that the law will protect them from retaliation. Right now, IGs do not have that confidence.

Last year, after President Trump removed four Inspectors General in quick succession, POGO immediately began hearing from those in the IG community. What we heard was that they were afraid that doing their jobs and going after the facts, wherever they may lead, without regard for how it would reflect on the President or others in political leadership, would cost, would be the end of their careers.

This is not an environment conducive to rigorous and effective oversight. That is why I strongly urge Congress to enact legislation that would require the President to have just cause to fire an Inspector General and to communicate the specific causes underlying that impending removal to Congress.

Granting Inspectors General for-cause removal protections will make it less dangerous to exercise the independence required of them to fulfill their missions.

I understand that the executive branch has asserted that such protections would be unconstitutional, but I would caution Congress against accepting that position outright. The Supreme Court recently had a chance to expansively strike down for-cause removal protections for executive branch officials, and it declined to do so; in fact, they went out of their way to highlight that in some cases, these protections are appropriate.

Our analysis is that IGs are one such office where these protections would be appropriate and constitutional, and the nonpartisan congressional Research Service agrees.

I also urge Congress to limit who the President can choose as an acting IG in the event of a vacancy to preempt issues of conflicting priorities by preventing agency employees from overseeing the agency they work for, and to encourage the President to make a formal nomination where she could exercise her full appointment power.

Thank you, again, for holding this important hearing and for your demonstrated commitment to the Inspector General System and community. I look forward to answering your questions.

Mr. CONNOLLY. Wow. Within three seconds. That is a pro. Thank you.

I would just observe, I was saying this to the distinguished ranking member before the hearing began, if we are going to bolster the powers and independence of IGs, including subpoena power, which I would support, personally, I do think, however, we have to reassure ourselves that, as I said in my opening statement, that the IGs, themselves, are purer than driven snow.

And that means CIGIE has to be more transparent, rigorous, and accountable for investigating any IG who may be, in fact, guilty of something that is untoward and that taints his or her office. And I just plant that idea, because while we may not agree on the record of the previous administration, I do believe that we can find common ground, though, in making sure that we strengthen the infrastructure of accountability for IGs, themselves. Otherwise, confidence gets eroded.

So, I just want to plant that idea in everyone's mind, because I think there is some common ground to be had here, but it is going

to require a more robust infrastructure at CIGIE, frankly, and better communication and accountability to Congress in terms of their oversight and investigations.

Sorry for that advertisement for a bill I would like to reintroduce.

The chair now recognizes for her five minutes of questions, our distinguished chairwoman, Chairwoman Maloney.

Chairwoman Maloney, I think you need to unmute.

Chairwoman MALONEY. Thank you, all of the panelists, for a very insightful testimony.

And, Mr. Chairman, thank you, again, for having this very important hearing.

Ms. Lerner, in the last year in office, President Trump removed or replaced five Inspectors General in what appeared to be retaliation for investigating misconduct of his own administration. In June 2020, the Government Accountability Office issued a report addressing the impact of political retaliation on IGs, and that report said, and I quote, ensuring the independence of IGs is critical to the Office of IG's credibility and effectiveness, end quote.

If there is the appearance of political interference with an IG's Office, how might that impact the mission and effectiveness of that office, Ms. Lerner?

Ms. LERNER. Thank you for the question, Madam Chairwoman.

And to answer it, any action that would make the work of an Inspector General appear to be politically motivated, goes to the heart of what an OIG is there for. IGs are meant to be appointed, without regard to political affiliation, and to conduct their work independently and in a nonpartisan fashion. And it is entirely in opposition to everything that we hold dear, to inject politics into the leadership decisions of the office.

Ms. Hempowicz, yesterday, I introduced, along with Mr. Connolly and Mr. Lynch, the IG Independence and Empowerment Act, and this legislative package includes a provision that would only allow Inspectors General to be removed for one of a few specific set of causes.

How would requiring cause for an IG to be removed, promote the independence of Inspectors General?

Ms. HEMPOWICZ. Thank you so much for your question, Chairwoman, and also for that legislation, which POGO has endorsed.

How would requiring cause help to insulate Inspectors General? I think, you know, there are two parts to this. One, there needs to be cause, and then, two, that cause needs to be communicated to the Congress. And so, I think, you know, both parts are important.

First, to require cause, it requires the President to show why they're removing that Inspector General, which would remove some of those questions about whether or not this is politically motivated. But so does that communication to Congress, by giving Congress those documented reasons for removing the Inspector General. It helps remove politics out of the equation and allows the President, really, to exercise their authority in a way that is completely above board and not subject to abuse of power.

Chairwoman MALONEY. Thank you.

Also, the Government Accountability Office noted in a June 2020 report that in order to safeguard the independence of Inspectors

General, that Congress could consider a for-cause removal requirement. And last week, the congressional Research Service released an analysis of congressional authority to limit the removal of Inspectors General and concluded that for-cause removal restrictions, quote, appear to be a constitutionally permissible means of encouraging independence for most IGs.

Do you believe that legislation to only allow IGs to be removed for cause is consistent with Supreme Court precedent?

Ms. HEMPOWICZ. Yes, Congresswoman, I believe it is completely consistent with Supreme Court precedent.

Chairwoman MALONEY. I just want to end by saying that it is vital that Inspectors General are empowered to perform their jobs and investigate waste, fraud, and abuse, without fear of political, interference, or retaliation. Our legislation establishing for-cause removal, and other protections, will prevent these abuses and strengthen the independence of Inspectors General so that they are better able to do their jobs.

Again, I thank everyone in attendance and I yield back.

Mr. CONNOLLY. I thank the Chairwoman.

And, without objection, the report she's referring to, the June 8, 2020, report to Congress from the GAO, it is a 10-page report, and without objection, I will enter it into the record.

Mr. CONNOLLY. With that—

Chairwoman MALONEY. And also, Mr. Chairman, could you also, I request, in addition, to have in the record, the congressional Research Services report—

Mr. CONNOLLY. Yes.

Chairwoman MALONEY.—From April 16, 2021, and—

Mr. CONNOLLY. Without objection—

Chairwoman MALONEY.—And also, the GAO's report from June 2020 on IGs.

Mr. CONNOLLY. Yep. I have a whole list I was going to do at the end, but absolutely—

Chairwoman MALONEY. OK. All right.

Mr. CONNOLLY [continuing]. Without objection.

Mr. CONNOLLY. I thank the chairwoman.

Chairwoman MALONEY. OK. Great. Thank you.

Thank you for a great hearing.

Mr. CONNOLLY. Thank you so much and thank you for your leadership.

The distinguished ranking member, Mr. Hice, is recognized for his five minutes.

Mr. HICE. Thank you, Mr. Chairman.

And I would just say that there are very good explanations and reasons for each of the Inspectors General that were removed, and we can't get into that.

But I would like to go to Ms. Forgy, if I can, to begin with you. A major political firm for President Biden's Presidential campaign was SKDKnickerbocker, and you are familiar with them.

What steps has your, the EAC IG Office taken to look into this thirty-five-million-dollar contract that was awarded to the Secretary of State of California?

Ms. FORGY. I stated in my opening statement, we are in the process of procuring audit support services to start the audit to include

a review of that particular contract that was brought to our attention by the ranking members.

Mr. HICE. It has taken an awfully long time to look into that, in spite of the fact that last year, in a conversation that many of us, the committee Republicans, well, first we wrote to you back in October, I believe, it was of last year, then had a conversation where IG Layfield literally said that the allegations were credible.

Why has it taken so long?

Ms. FORGY. So, we received the letter in October from the ranking members. EAC management had already reached out and had correspondence with California and California responding that they had not spent Federal funds inappropriately.

In order for our office to respond to that, we would be conducting an audit, however, unfortunately, when we received the letter in October, the office was under continuing resolution, and we were under continuing resolution from October to December. So, not having the appropriations for the early part of Fiscal Year 2021 delayed the process of the procurement of support services.

Mr. HICE. So, how many investigations, investigative reports and audits does your office conduct each year versus the number that you contract out?

Ms. FORGY. So, for our audits, OIG statutory audits, as well as the grant audits, they are all procured by independent public accounting firms. We have the statutory audits that we do every year, the financial statement audit, and FISMA audit. This year includes the data [inaudible] audit.

The Fiscal Year 2020 audits that we did, we did six grant audits which were all, as well, procured with independent public accounting firms.

Mr. HICE. So all of them go out of office, and yet, in your own report dated April 7 of this year, your office stated that the office's audit of the third-party audit was not sufficient to support an opinion on the audit results; in other words, you could not come to a conclusion, correct?

Ms. FORGY. The statement means that we did not audit in order to support or to have a test to the opinion.

What we do is make sure that the independent public accountants are following government auditing standards and they are complying with those standards when they are doing the audit to come across, to come to their conclusions and findings.

Mr. HICE. OK. I understand that, but from our perspective, what we are interested in is, is it an accurate audit?

And you are not able to come, your office could not come to a conclusion with that, and that is very concerning. What is the point of having a third party do the audit if you cannot conclude whether or not the audit, itself, is accurate?

That is what we are concerned about. We want to know, is it accurate?

Ms. FORGY. Our office does a review of the independent public accountings, in accordance with government auditing standards. So, we make sure that they have sufficient evidence for the findings that they provide within their audit report. I would review those details to make sure that all those standards, in accordance

with the IG Act, that those standards are followed throughout the process of the entire audit.

Mr. HICE. All right. Well, if I can, I have only got 45 seconds. But the point is, if your office, by your own words, you said you couldn't come to sufficiently verify that it was a good audit, so if you cannot verify the audit results on contractors, then why even use contractors?

Ms. FORGY. So, that statement doesn't mean that we couldn't come to a conclusion. It means that we relied on the independent public accounting firms' responses, and the findings for their audits, as they follow government auditing standards.

Mr. HICE. Well, from our conversation, it was clear that you are ill-funded and, quite frankly, disorganized in multiple ways to get things done.

I see my time is expired, so I will call it quits from there, but huge, huge question marks arise from sending out audits to third-party contractors and then not having the ability to determine whether or not it is a good audit is very alarming.

And I yield back, Mr. Chairman.

Mr. CONNOLLY. I thank the ranking member.

I think he raises a valid point, and I will certainly commit to working with him to explore that aspect of the smaller IG offices that don't have the resources to do the job.

Mr. HICE. Thank you.

Mr. CONNOLLY. I think it is a very valid point.

The chair now recognizes the gentleman from Illinois, Mr. Davis for his five minutes of questioning.

OK. Mr. Davis is not there.

The chair recognizes the gentleman from Maryland, Mr. Sarbanes, for his five minutes.

Mr. SARBANES. Thanks very much, Mr. Chairman.

Can you hear me OK?

Mr. CONNOLLY. We can hear you loud and clear, John.

Mr. SARBANES. Excellent. Well, thanks for the hearing. I appreciate it very much.

And, you know, this committee has historically shared bipartisan concern about Inspector General vacancies. I wanted to speak to that a little bit.

There are currently 13, as I understand it, 13 vacant Inspector General positions that are Presidentially appointed and Senate confirmed, which is more than a third of the total number of all Presidentially appointed Inspectors General.

And I am going to want to hear from each of you briefly, what effect does it have on the Office of Inspector General when there is no confirmed Inspector General. Maybe you can give me a brief sense of that very quickly, just what does that impact look like.

Why don't we start with Ms. Lerner.

Ms. LERNER. I'll be happy to start.

I think GAO did a study a few years back and surveyed the IG community and what they found was that most IGs believed that acting IGs are capable, do act independently, but many believe that there could be a perception by external stakeholders that the acting IGs don't have the same independence that the confirmed IGs do.

And that perception is not helpful to the organization and its ability to accomplish its mission through its work.

Mr. SARBANES. Ms. Lerner, I am going to keep moving around.

Ms. LERNER. What I have been able to see, I've worked with some very—sure.

Mr. SARBANES. Yes, let me move to Ms. Buller, quickly.

Ms. BULLER. I agree with everything that Ms. Lerner said. In addition, I think that it negatively impacts the ability of the office for planning purposes; for example, if you have a number of vacant senior executive service positions, that would really be something that an IG, a confirmed IG would want to fill, an acting IG is more reluctant to go ahead and fill positions, I think, that need to be filled in those types of situations.

Mr. SARBANES. All right. Let me move to another issue.

The list of Inspector General vacancies includes four positions that have been vacant for more than five years, five years, including the Department of Defense Inspector General, as I understand it. In January, the House passed the Inspector General Protection Act, which you know is a bipartisan bill sponsored by Ranking Member Hice and Congressman Lieu, which would require the President to report to Congress if an Inspector General has not been nominated for 210 days after a position becomes vacant.

Ms. Hempowicz, how would requiring the President to report to Congress help to incentivize filling the vacant Inspector General positions?

Ms. HEMPOWICZ. Thank you for the question, Congressman.

Quite simply, a five-year vacancy at the Department of Defense Inspector General is unconscionable, and so, asking a President to explain to Congress why they haven't been able to find an individual to lead such a critical office, I think would, itself, serve as incentive for the President to go out there and find somebody who can fill this job and do this job well.

But I think it also could tell Congress if there are problems with the pipeline for Inspectors General. I understand that CIGIE keeps a list of qualified individuals, but, you know, and so I think there is a talent pool to pull from, but if that is not sufficient, you know, the President can tell Congress that and we can all work together to figure out what is the best way to ensure that there are individuals who are qualified and independent in these important offices.

Mr. SARBANES. Thank you very much.

These positions have to be filled, obviously, by qualified individuals. The law, as you know, requires Inspectors General be appointed, quote, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law and management analysis, public administration, or investigations.

Ms. Lerner, can you just touch on, quickly, why are these qualifications so important for Inspectors General?

Ms. LERNER. Well, looking at [inaudible] and starting with the nonpartisan nature of the role, as I mentioned earlier in response to your first question, you know, that's the heart and soul of what we do. It has to be done in a nonpartisan fashion, and that makes us, especially our politically appointed IGs, different.

Integrity is another watch word that is critical for our community and ensuring that we have people who embody that word in their lives and in their work enables us to retain the trust of the public in the work that we do.

And the disciplinary expertise helps, because within an OIG, there are many different [inaudible] types of work that we do, and having knowledge or expertise in one of those sets the Inspector General up for success, as well.

Mr. CONNOLLY. Thank you. The gentleman's time is expired.

Mr. SARBANES. Thanks very much. I yield back.

Mr. CONNOLLY. Thank you, Mr. Sarbanes.

The gentleman from Pennsylvania, Mr. Keller, is recognized for his five minutes.

Mr. KELLER. Thank you, Chairman, and thank you to all our panelists here today. Based on reports from the Council of Inspectors General for Integrity and Efficiency, 18 of the 76 offices of Inspectors General have fewer than 10 employees, and 31 have fewer than 40 employees.

Further, IG vacancies have proved to be a reoccurring problem under both, Democrat and Republican administrations. According to a report issued by the U.S. Government Accountability Office last year, between 2007 and 2016, 53 of the 64 IGs covered by the IG Act experienced at least one period of vacancy. Alarming, the longest IG vacancy spans six years.

The agencies overseen by the IGs are responsible for doling out hundreds of millions of taxpayer dollars and grants annually. With minimal staffing resources and many vacancies to point toward, it is no wonder these offices too frequently tell Congress they do not have the resources necessary to conduct investigations into waste, fraud, and abuse.

Deputy Secretary Forgy, thank you for your testimony. As the only person working in the Election Assistance Commission's, or the EAC's, Office of Inspector General, do you believe that you have the adequate resources to investigate allegations of waste, fraud, and abuse?

Ms. FORGY. So, our office, with the size of our office, we utilize the services of other Federal agencies or investigative services. So, at any event where we have an audit that comes up or we're looking into something where there is a need for an investigation, we have the resources to reach out to another Federal agency to obtain those investigative services.

Mr. KELLER. So you do the investigative services through other agencies?

Ms. FORGY. From another Federal agency, yes.

Mr. KELLER. Other agencies. So, it is not, necessarily, the Inspector General's Office that is doing it, it is actually an agency that is doing it?

Ms. FORGY. So, we would contract or have an interagency agreement with another Federal agency OIG's Office.

Mr. KELLER. OK. Why isn't there currently an acting Inspector General, and have you experienced any delay to existing investigations and annual audit responsibilities in the Election Assistance Commission as a result of the vacancy?

Ms. FORGY. The former Inspector General had a planned retirement date of March 31, 2021, so she retired that day. The EAC, I will say, is actively recruiting to fill that IG position.

Since the IG position has been vacant, I have not currently had any issues with resources and, soliciting or obtaining services or carrying out our work; again, we use independent public accounting firms to do our audits, our grant audits, specifically, and that goes through a procurement process. And once we, we are in the process of doing that now, and getting that started is heavily based on having the appropriations given to the EAC or the OIG in order for us to have the budget to actually do the procurement process.

Mr. KELLER. So the audits that you are conducting, you are saying are going to take place by private firms and you have somebody in your office that oversees those contracts with the private firms?

Ms. FORGY. Correct.

Mr. KELLER. OK. Thank you for that.

The Office of the Inspectors General play an important role in overseeing Federal agencies and holding bad actors accountable. As the body tasked in truth with their oversight, Congress should ensure IGs have the resources necessary to carry out their work in holding government agencies accountable to the American taxpayers.

I look forward to continuing this committee's efforts to improve the IGs' ability to do their important work. I thank you and yield back.

Mr. CONNOLLY. Thank you, Mr. Keller.

The chair now recognizes the gentleman from Illinois, Mr. Davis, for his five minutes.

Mr. Davis, you need to unmute. Mr. Davis? I can see you.

Well, while we are waiting for—

Mr. DAVIS. How about now?

Mr. CONNOLLY. There you are. OK. Great.

You are recognized. You are recognized—

Mr. DAVIS. Thank you, Mister—

Mr. CONNOLLY [continuing]. Loud and clear.

Mr. DAVIS. Thank you, Mr. Chairman.

I also want to thank all of the witnesses for their clear testimony.

The area I want to pursue is that of whistleblower protection. We all know that whistleblowers often provide key information about waste, fraud, abuse in agencies or in government contractors. This seems particularly critical for the work that Inspectors General are doing to identify fraud in the billions of Federal dollars that have been spent in response to the coronavirus pandemic.

Ms. Lerner, let me ask you, what role are whistleblowers playing or could they play in identifying wasteful or fraudulent spending under the CARES Act or other pandemic-response laws?

Ms. LERNER. As they do in all programs, in which, you know, people work, whistleblowers are folks who have insights into actions that are being taken that may be inefficient, that may constitute waste, fraud, or abuse, and they are uniquely positioned to share that information with folks, with oversight professionals, like my office.

In the context of CARES Act funding, you know, for example, you could have individuals within the Department of Labor who are aware that people who are supposed to be conducting identity checks to ensure that people are receiving unemployment insurance payments are qualified for them are not conducting those checks. That would be the sort of information that they could provide to OIGs that would be, you know, very useful to us in conducting oversight and holding people accountable and protecting the funds involved in those programs.

Mr. DAVIS. Thank you. We also know that whistleblowers who provide information to Inspectors General or to Congress do so at great personal risk of retaliation. One method of retaliation, sometimes used by an agency or agency management is to open an investigation into the whistleblower or to request that the Inspector General investigate that individual.

How can Inspectors General protect against being used as conduits for retaliatory investigations, while maintaining the ability to investigate legitimate allegations of wrongdoing?

Ms. LERNER. That's a very good question, sir.

And Inspectors General are required to have processes in place to assess all allegations that come to them for merit to determine if there's a potential violation of law, rule, or regulation that would require an investigation, and ensuring that those processes play out for every allegation that comes in, will go a long way toward ensuring that an IG does not open an inappropriate investigation.

I think the bigger concern here would be the actions of program peoples who may have been aware of a wrongdoing by an employee and failed to act on that until the moment when that person blew the whistle, then they make a referral to Inspector General. And as an IG, I would want to be aware of a situation like that, when it appears that there has been a retaliatory referral to my office, and that would be a matter that we would work with the Office of Special Counsel on, to determine the best course of action to respond to that inappropriate behavior.

Mr. DAVIS. Are there any further protections that an individual, I mean, we often hear from individuals that, you know, if I come forth with what I know, something is going to happen to me. I am going to bear the brunt of something, myself.

How do we assure employees that they can be protected and that they are protected when they decide to reveal information?

Ms. LERNER. I think we do that by making sure that employees understand that the Inspector General Act requires us to protect the identity of people who come to us with information like this, to the maximum extent practicable, and every IG I know takes that responsibility extremely seriously. Because we recognize that if people are afraid to come to us, then we will lose out on important leads that could help us do our work and [inaudible] in the strongest possible fashion.

Mr. CONNOLLY. Thank you.

Mr. DAVIS. Thank you very much.

Thank you, Mr. Chairman, and I yield back.

Mr. CONNOLLY. Thank you, Mr. Davis.

The chair recognizes the gentleman from Arizona, Mr. Biggs, for his five minutes.

Mr. BIGGS. I thank the chairman and the ranking member.

Ms. Forgy, like many of my fellow members on this subcommittee, I am profoundly disturbed that Presidential candidate Joe Biden's main election advisory firm, SKDKnickerbocker, received \$35 million in HAVA funds from then-California Secretary of State, Alex Padilla, in apparent violation of Federal law. This committee has been trying to examine that contract since at least September of last year, which is before my time serving on this body.

Your predecessor, former Election Assistance Commission Inspector General Patricia Layfield, frequently indicated her need to rely on third-party contractors to investigate the SKDKnickerbocker transaction.

Ms. Layfield left the EAC earlier this month and we still don't know the story behind the thirty-five-million-dollar transaction, now, seven months after this committee's initial inquiry; meanwhile, Joe Biden is in the White House and Mr. Padilla is in the U.S. Senate.

My colleagues, Mr. Comer, Mr. Hice from this committee, as well as Mr. Davis from the House Administration Committee, pointed out in a March 18, 2021, letter to your boss, EAC Commissioner Donald Palmer, the troubling fact that the EAC OIG cannot oversee a single contract worth \$35 million, but it is still disbursing nearly \$1 billion in taxpayer funds.

Ms. Forgy, I know you are now the sole person working in the EAC IG Office, and very simply, what do you need to ensure the SKDKnickerbocker contract is more expeditiously investigated?

Ms. FORGY. So, I previously stated we are in the process of doing the procurement process to obtain the services that we need from independent public accountants to review that contract. That contract process is underway, and once we have a legal contract in place, we will start the process of looking into that contract in order to address the concerns that were expressed by the ranking members to our office.

Mr. BIGGS. So, Ms. Forgy, if I understand you correctly, you basically let out bids for a contract, is that correct, and you haven't received those bids back and you are going to be reviewing those?

Ms. FORGY. The process is still—the contracting officer is doing their internal review at this moment. Once that's completed, we will do a solicitation through a blanket purchase agreement that we have. Those contractors that are on that blanket purchase agreement are experienced with doing grant audits and with the EAC.

And so, once we have those proposals back, we will review those. Once we have that process completed, we will have a complete contract and we will be able to start the process of looking into the SKD contract and addressing the concerns that were expressed by the ranking members.

Mr. BIGGS. Ms. Forgy, can you give us kind of a rough timeline on when that will be completed, that process?

Ms. FORGY. Based on prior experience, the procurement process and internal review takes about 21/2 to 3 weeks. So, we are hoping to have a solid contract, official contract in place by early to mid-June.

Mr. BIGGS. OK. Thank you.

Now, under the HAVA and the CARES Act, the EAC received a huge infusion of cash for staff and gave out about \$1 billion in grants across the country.

What plans did the EAC put in place to oversee the increase in grant money that the EAC was awarded this year?

Ms. FORGY. I am not able to speak on the matter, as that's a programmatic matter under the Grants Management Office, for their oversight, but I would be happy to write that question down and take that back to the Grants Management Office and provide you with further information after the hearing.

Mr. BIGGS. I would appreciate that. Thank you, Ms. Forgy.

And, are also, is the IG Office, then, reviewing allegations of waste, fraud, and abuse of any of these funds?

Ms. FORGY. Yes. That will be included as the oversight of our review of grant audits when we go out with the IPAs. That is a part of that review of all the states that we review for grant audits.

Mr. BIGGS. So, when Inspector General Patricia Layfield retired on April 9, leaving you as the only employee in the EAC OIG's Office, the EAC has not yet designated you as an acting OIG, and this raises questions about whether your agency is hamstringing your ability to conduct robust oversight of its actions and make investigative decisions.

Can you elaborate on the impacts of not having an acting EAC IG while your office should be reviewing, you know, the billion dollars in grants from 2020.

Ms. FORGY. So, currently, as my role as Deputy IG and carrying out, specifically, that role of overseeing the grants, the grant audits, I'm able to do the procurement process under my role and get that process started for the contract that we anticipate for June. So, that process had not currently been hindered.

The EAC, again, as I mentioned in my earlier statement, they are actively in the process of hiring the—filling the Inspector General position.

Mr. BIGGS. Thank you. My time has expired.

Thank you, Mr. Chairman.

Mr. CONNOLLY. I thank the gentlemen.

The gentlemen from Massachusetts, Mr. Lynch, is recognized for his five minutes.

Mr. LYNCH. Thank you, Mr. Chairman.

Can you hear me?

Mr. CONNOLLY. We can hear you loud and clear.

Mr. LYNCH. Very good.

First of all, I want to say thank you to you. You have been nothing short of relentless on this issue, trying to get the process and the protections for our Inspectors General. I know you have been working on this for several years and putting a lot of energy and effort into this, and I just want to, you have been like a dog on a bone, and I mean that as a compliment. You have been really relentless on this, and it is so important, right.

We rely so heavily, especially on the Oversight Committee, it is a real partnership that we have with our Inspectors General, and I appreciate Inspector General Horowitz's efforts and, you know, several of the people on this call and the work they have done.

In our Subcommittee on National Security, as you know, Mr. Chairman, we rely so heavily on, first of all, Stuart Bowen, during, you know, he was the Special Inspector General for Iraq reconstruction, and then Inspector General Sopko, who has been doing Afghanistan.

We would have been totally in the blind, really, without the reports that they offered to us to assist. And this was across Republican and Democratic administrations, right; they identified waste and fraud in the contracting process in both, you know, in both Democratic and Republican administrations and gave Congress the information that we needed to take appropriate action. So, I am grateful for that process.

I do want to point out a difference of approach, though, however, between what President Trump did versus what President Biden is doing. In the case with President Trump, I mean, let's be honest, every time an Inspector General came up with an opinion or information that was contrary to the wishes of the President, he got rid of them. They were gone. And then, he would put them on administrative leave, before they could contest their removal, so they were completely out of the picture. So, you know, to my colleagues on the other side of the aisle, you have got to be kidding me, you know, just a clear abuse of power in removing Inspectors General for doing their jobs.

And I will give you an example for President Biden, here is his response. So, we recently had Inspector General Sopko before my subcommittee and he testified in a way that was not helpful at all to President Biden's eventual decision to remove U.S. troops from Afghanistan in September.

Mr. Sopko testified that it would be, you know, a disaster or, you know, that there might be a collapse. But President Biden did not attack that Inspector General. He did not attack that Inspector General. He accepted the information but weighed other information that he thought was even more compelling about the 20 years that we have spent in Afghanistan.

And he made a decision that was contrary to the evidence provided by Inspector General Sopko. But he showed due respect for the work that Inspector General Sopko undertook. He just came up with a difference of opinion than the recommendations of the IG, and he made a decision that was contrary to the recommendations of the Inspector General.

That is a lot different than what President Trump did. If it were President Trump, he would have removed that Inspector General. He would have fired him for coming up with information that was not harmonious with the President's wishes.

So, look, I am a co-sponsor of a lot of your legislation that is going to protect Inspectors General. We have had some very helpful commentary and advice from all the witnesses here.

I do want to ask, you know, with respect to the information we got on Afghanistan and Iraq, Ms. Hempowicz, from POGO, how helpful and how important is that information, because I know you are doing God's work, as well, in terms of trying to keep us on the right side of things, but how helpful was that information to POGO?

Ms. HEMPOWICZ. Those Inspectors General reports have been invaluable to our work, conducting oversight over the Department of Defense.

Mr. LYNCH. OK. I got it.

Ms. HEMPOWICZ. Just completely invaluable. Yes, it's hard to state it in another way, it's just, you know, it's irreplaceable.

Mr. LYNCH. Yes. I am with you. OK.

Thank you, Mr. Chairman, and I yield back.

Mr. CONNOLLY. And thank you for your gracious comments, Mr. Lynch. I very much appreciate it.

The gentlewoman from New Mexico, Ms. Herrell, is recognized for her five minutes.

Ms. Herrell?

Ms. HERRELL. Yes. Sorry, I had to unmute.

Mr. CONNOLLY. No problem.

Ms. HERRELL. Thank you, Mr. Chairman. Thank you.

I just want to make a statement and then I have a question for Allison Lerner. It seems she's asked Congress to enable all Inspectors General to issue testimonial subpoenas for former employees, contractors, and grant recipients. And we have heard from some IGs that they would use that subpoena power to call former executive branch officials to discuss the policy and political considerations behind a policy decision.

Is it appropriate for an IG to investigate the political considerations behind a policy decision?

And let me just keep going. I am concerned about the likelihood that the subpoena power could be used for entirely political purposes, including calling former administration officials to testify on subjects unrelated to waste, fraud, and abuse.

What protections are there in CIGIE's proposals or existing legislation to ensure that this tool is not abused for political purposes?

Ms. LERNER. I believe that the legislation that was dropped yesterday by this committee, focuses the testimonial subpoena authority on, you know, the areas within the jurisdiction of the IG, which is preventing and detecting waste, fraud, and abuse in the programs and operations of the agencies they oversee. So, IGs could use this testimonial subpoena authority to conduct reviews into matters appropriately within their jurisdiction.

And being able to do this would ensure that, you know, unfortunately, sometimes today we have people who retire in order to avoid participating in a compelled interview, which they would have to do if they remained a Federal employee, and that undermines the ability of an Inspector General to completely review into an issue that they have independently determined warrants review.

So, enabling IGs to have access to those people, whether or not they remain employed with the agency, is crucial to our ability to complete the work that we think is necessary for the American taxpayer.

Mr. CONNOLLY. Would my colleague yield, without prejudice? We will freeze her time.

Ms. Herrell, would you yield?

Ms. HERRELL. Yes, sir. What did—

Mr. CONNOLLY. I just want to underscore a point you are making. You are right, subpoena power could be abused, as can any power of an IG, and that is why CIGIE has to be thorough, robust, and expeditious, as well as transparent in insisting on accountability, so those kinds of abuses are caught and dealt with. And so, I thank you for bringing that up.

Thank you for yielding, and your time is now resumed.

Ms. HERRELL. Thank you, Mr. Chair.

Just one followup to that. So, would we be guaranteed that this tool would not be used as a preliminary tool by the IGs, in your opinion, Ms. Lerner?

Ms. LERNER. I'm not quite sure what you mean by preliminary, but what I can say is that the IGs have a long history of utilizing documentary subpoenas and utilizing them well. They have review processes in place to ensure that what they're seeking isn't overbroad and that it's not burdensome. And we would ensure that appropriate procedures are in place, too, for testimonial subpoenas to ensure that, you know, the same considerations are addressed and that those are not abused, as well.

Ms. HERRELL. Great.

Ms. HEMPOWICZ. Congresswoman, can I add something?

I just want to add—

Ms. HERRELL. Sure. Of course.

Ms. HEMPOWICZ. Yes, I just want to add that the Department of Defense Inspector General does have testimonial subpoena power currently, and so does the Pandemic Response Accountability Committee, and I would say in those, in neither instance have we seen that authority be abused. I completely take your question, I think there is the threat and so, it is critical that there is accountability for Inspectors General. But just from what we've seen so far, that authority has not been abused.

Ms. HERRELL. Great.

Ms. LERNER. And I would just note.

Ms. HERRELL. Thank you—go ahead.

Ms. LERNER. I would just note, as well, that frequently having the authority means that you don't have to use it. In situations, you know, voluntary cooperation follows, instead of the need to compel cooperation. So, I think we would see that, in addition, and I imagine that the instances in which people would actually use testimonial subpoena authority would be limited, as it has been in the IGs that have it currently.

Ms. HERRELL. Great. Thank you both.

And thank you, Mr. Chair. I yield back.

Mr. CONNOLLY. Thank you so much, Ms. Herrell.

The gentlewoman from California, Ms. Speier, is recognized for her five minutes. Welcome.

Ms. SPEIER. Thank you, Mr. Chairman.

Let me first say how grateful I am to you that you are having this hearing. I had a similar hearing last week on the Department of Defense Inspector General and the Service Inspectors General, and what are called component Inspectors General, and I am deeply concerned that we have a serious problem on our hands.

First of all, we now have an Inspector General for the Department of Defense who is also the Inspector General for the Environ-

mental Protection Agency, the Department of Defense has a budget, as we know, of \$740 billion, and yet we don't have an Inspector General that is designated specifically for that Department. So, hopefully, we are going to see that that is going to change.

But I actually think that the system is broken, and I am curious whether or not we should go back to the drawing board. And I appreciate the chairman's commitment to this issue, and as Congressman Lynch said, you are a dog with a bone.

So, here is my concern. First of all, it could be used for political purposes by either administration, depending on their concern for being criticized. So, would we not be better served to have a term, and I think one of our witnesses, Mr. Ervin, has suggested that, have a term of office for, let's say, eight years, that we give the President the opportunity to make an appointment? If it is not done within, you know, 90 days of a vacancy that another entity, maybe it is CIGIE, would make the appointment. That we require specific qualifications to become an Inspector General.

So, I guess I would like to start off by asking Ms. Hempowicz what she thinks of that idea.

Ms. HEMPOWICZ. Yes. So, to your first question, thank you, Congresswoman, in that hearing, I watched every minute of it. It was incredible last week. Thank you so much for holding that hearing.

You know, I think, one, the Project on Government Oversight has made a recommendation, ourselves, that if there is a longstanding vacancy in an IG Office, that Congress designate an entity within CIGIE to make a temporary appointment. I think that would surely incentivize a President to exercise their full appointment authority and choose the individual who would sit in that seat.

And to your question about term limits, I think there is some wisdom there. I think my, one, I think that would need to be accompanied by improvements to the Integrity Committee to ensure that those individuals aren't, you know, kind of lawless during that eight years, not to suggest that they would be, but I also—and one concern would be by the end of their term, they might be looking kind of for their next job, and so I think that would be my one hesitancy there.

I think, really, how to increase independence of these offices is to give them for-cause removal protections and to address who can serve as a temporary Inspector General when there is a vacancy. But we certainly don't object to term limits.

Ms. SPEIER. All right. Thank you.

Ms. Lerner, what are your thoughts on that?

Ms. LERNER. Having served in this community for almost 30 years, you know, I've seen that there's kind of natural turnover that comes. Some IGs come and stay for a couple of three years. Some last, like I have, I'm 12 years in my role, and some are even longer.

I'm concerned that if we have term limits, first, it would make, it would increase our difficulty in recruiting people. Some folks might not want to have a limit on the time that they can serve, and anything that makes it harder to find people to take, qualified people to take these jobs, would be of concern to me.

But I am also concerned that we would still have leaving, people leaving even before the end of their term. So, it wouldn't get us out of the constant need to fill IG vacancies.

Certainly, if we did have terms, I think that putting them more along the lines of the controller general, which I believe is 10 years, would make sense. Because for an IG to—you know, we're agents of positive change and making change takes time, and you want to ensure that people have sufficient time to really have an impact on an organization.

But I agree with Ms. Hempowicz that some of the other matters that are the focus of this conversation, the ensuring that we have protections for people who will act when vacancies are long term, are areas that I would focus on more than putting term limits in place.

Ms. SPEIER. So, tell me about the training that an Inspector General goes through. In the Department of Defense, these component IGs have three weeks of training and they have the position for two years, and they are servicemembers, so, I mean, I am very curious as to how they can do their jobs, but could you tell me a little bit about that.

Mr. Chairman, I can't see what my time limit is, so you will have to cut me off when it is appropriate.

Mr. CONNOLLY. The witness may answer the question, although, the gentlelady's time has expired.

Ms. SPEIER. Thank you.

Mr. CONNOLLY. Thank you.

Ms. LERNER. There aren't, isn't specific training required of Inspectors General, but what CIGIE does is for all Inspectors General who come on, they're offered what we call IG 101, which is courses that CIGIE provides to new Inspectors General to ensure that they understand their responsibilities, their broad responsibilities, how to, you know, their budgetary responsibilities, that they understand what the Integrity Committee is.

We also work to introduce new Inspectors General to their peers so that they can find mentors and folks that they can call when they have questions, which inevitably, you get moments that you think no one else has ever encountered, but other people have. We try to forge those relationships.

And we invite new Inspectors General to come to a meeting of CIGIE's executive council so they can see the depth and breadth of the committees that CIGIE has and get involved in the work that the organization does.

Ms. SPEIER. Thank you. I yield back.

Mr. CONNOLLY. Thank you so much, and thank you for your kind comments, Ms. Speier.

The Congresswoman from the District of Columbia is recognized, Ms. Norton, for her five minutes. Welcome.

Ms. NORTON. Thank you very much. I just came from a Rules Committee meeting, Mr. Chairman, but I wanted very much to be here to ask a question in this important hearing, because these IGs are so important to us when we are investigating waste, fraud, or abuse, you know, the usual problems.

But over the last four years, I looked at the record and I was amazed to see the attacks on Federal IGs from the Trump adminis-

tration. He fired multiple Inspectors General because apparently a fear of what they might uncover.

And if I could indicate what I mean, he fired Michael Atkinson, the IG of the Intelligence Committee, who first alerted Congress to the whistleblower report over the notorious Ukraine phone call, because the IG followed the law, so he fired him.

He nominated an IG to replace Christy Grimm, acting IG for the Department of Health and Human Services, after she released a report that there were, quote, severe shortages at hospitals combating the coronavirus.

Then he fired Steve Linick from his role as IG of the State Department, at the request of then-Secretary Mike Pompeo, because Mr. Linick was investigating Pompeo for misuse of government resources. And we have just seen that he has been found to have, they learned just this morning that it was true that he and his wife misused government resources.

Mr. Trump didn't fire IGs who were investigating the things his administration was doing wrong. He left gaping holes in the IG community for years to come. While vacancies have plagued previous administrations, they were particularly widespread on this one. He left 13 agency IG positions vacant, 5 of which were vacant for his entire presidency, Mr. Chairman.

Ms. Hempowicz, what problem do vacancies in IG roles present to the American taxpayer?

Ms. HEMPOWICZ. Thank you so much for the question, Congresswoman.

I think it presents three distinct problems. The first, I think is, the first is that it sends a signal that oversight is not important to the administration, which is not a great signal to send to taxpayers. Second, is that there is a reduced independence when you have vacancies in these offices, whether they're longstanding or short vacancies.

In many, in a couple of instances that POGO has seen over the years, there are acting Inspectors General that are auditioning for the permanent role, and as part of that auditioning process, they would like the buy-in and they would like the positive recommendation of the agency head.

We know from Congress' legislative history in creating the IG Act and the IG system, that when the agency has buy-in into the Inspector General's work, that that office is less likely to call out problems that may be, that may reflect poorly on the agency.

And the third problem is that vacancies in these offices really reduce their ability to do long-term planning. And I think, you know, you see offices focusing a little bit more on, you know, numbers of audits and small things that they can use to kind of show Congress this is what we're doing, but not necessarily focusing on those big-picture issues of constitutional concern, those issues that are of concern to people across the country.

And so, I think, really, you know, it's those three issues are the main ones that present themselves.

Ms. NORTON. Ms. Hempowicz, that is very enlightening.

I am wondering if you could tell us about the people that President Trump did nominate to fill vacancies——

Ms. HEMPOWICZ. Yes.

Ms. NORTON [continuing]. were they experienced investigators and accomplished members of the IG community?

Ms. HEMPOWICZ. When we're talking about those who were nominated to fill the position permanently, I think it was a mixed bag. Some of the nominations, you know, were, made total sense; individuals who understand the IG community, who come from investigative backgrounds, who have strong leadership, who demonstrated strong leadership throughout their careers.

But then there were also a couple of nominees who appeared to not really have any experience with the Inspector General realm; in particular, one nominated to lead the Department of Defense Inspector General had very little management experience at all. And considering the size of that office and also the breadth of their mission, not only overseeing the Department of Defense, but also overseeing all the component IGs underneath them that don't have that same structural independence, I think it raises serious questions about the quality of those nominees.

Mr. CONNOLLY. Thank you.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. CONNOLLY. Thank you so much, my colleague from the District of Columbia.

The vice chairwoman of our subcommittee, the gentlelady from California, where I know it is still early there, Ms. Porter, is recognized for her five minutes.

Ms. PORTER. Thank you very much, Mr. Chair.

Ms. HEMPOWICZ, Inspectors General, as you have testified, are individuals appointed to serve in an oversight role for Federal agencies. Can we break that role down a little bit? What is the Inspectors General mission?

Ms. HEMPOWICZ. So, the Inspectors General mission is to oversee their office, and their offices' mission is to investigate waste, fraud, abuse, and mismanagement within the agency they serve.

Ms. PORTER. This would include things like audits, looking at things for efficiency, effectiveness, trying to make sure tax dollars are spent wisely, that Congress' purpose is being carried out?

Ms. HEMPOWICZ. Yes, ma'am, absolutely.

Ms. PORTER. So, because of this need for independence, Inspectors General are typically never selected from within the agency that they are assigned to oversee; is that right?

Ms. HEMPOWICZ. Yes, ma'am.

Ms. PORTER. But last year, that happened. A political appointee from within an agency was appointed to be the acting Inspector General, overseeing that agency. And, in fact, my understanding is that this happened not once, but twice.

I guess, would that and did that put the very purpose of the Inspector General role at risk? Does this potentially create serious conflicts of interest?

Ms. HEMPOWICZ. Absolutely. And I would argue that it puts all whistleblowers that come to that, that came to that Inspector General Office, at risk of being exposed to the agency leadership that they may have been blowing the whistle on.

Ms. PORTER. So, this issue, let's call it wearing dual hats, working within the agency and being the acting Inspector General for the agency at the same time. This could effectively put the Inspec-

tor General's role at risk. It could open the door for waste, fraud, or abuse, it wouldn't protect whistleblowers, necessarily.

A GAO report issued last summer noted that when the same person is an agency official and an acting Inspector General, that situation raises concerns. So, I want to submit that GAO report for the record, which is very consistent with your testimony.

Ms. Lerner, I want to turn to you. You are the chair of the Council of Inspectors General on Integrity and Efficiency, or CIGIE. Did you or any member of CIGIE express to any Trump administration officials opposition to this dual-hat conflict of interest that we have just been discussing?

Ms. LERNER. Yes.

Ms. PORTER. Who did you speak to?

Ms. LERNER. I can't go into the specifics, with whom I had the conversations, but, you know, I have, through, in the prior administration and in the current administration, engaged with the White House to ensure what, you know, the qualities of a strong acting Inspector General would be and the importance that those people be independent in mind and appearance.

Ms. PORTER. With that dual-hat person coming from within the agency to be Inspector General, did you raise, would you characterize the concerns you raised as strong?

Ms. LERNER. Well, they are strong concerns. I mean, being able to be not just act independently but be viewed independently is essential to the credibility of an Inspector General and the work of his or her office.

Ms. PORTER. And I know you feel like you can't say who you spoke to, and I respect that. Could you share the office in which the individual spoke, that you spoke to?

Ms. LERNER. I would have to leave it broad, but I can assure you that, you know, the concerns were raised.

And Mr. Horowitz and I also met with the acting Inspectors General who were, and to ensure that they understood their responsibilities to act independently and the impact that it could have on their ability to meet with, and especially, government, generally accepted government auditing standards and the actions that they'd need to—

Ms. PORTER. Well, Ms. Lerner, first, I want to hope that you had more luck with accountability than I just did with my teenager, who desperately, apparently needs to fill his water bottle in the middle of this questioning.

[Laughter.]

Ms. PORTER. I want to state that I think it is so important, what you just said, that we prevent this from happening again, because you did raise strong concerns, others raised concerns, and this happened again, not just once, but twice.

And that is why I introduced the Accountability for Acting Officials Act, which would preventive these dual-hat conflicts of interest. The bill would require an acting Inspector General to be the next-in-line official from the same office, generally the deputy or principal deputy or a senior official from the broader Inspector General community, if the deputy position is vacant.

Ms. Buller, does CIGIE support these, do you support these provisions to prevent this type of dual-hat conflict of interest?

Ms. BULLER. Absolutely.

Mr. CONNOLLY. The gentlelady's time has expired, but the witness may respond.

Ms. BULLER. Absolutely. And as a matter of fact, it is one of CIGIE's priorities that we submitted to Congress.

And I would like to thank the Congresswoman for her support in this priority.

Ms. PORTER. Thank you. I yield back.

Mr. CONNOLLY. Thank you so much, and don't be too hard on your son. In a pandemic we are seeing all kinds of things, right.

The last questioner is the chair, and I want to thank everyone for participating in this hearing.

So, Mr. Ervin, you are a former IG; is that correct?

If you would turn on your mic.

Mr. ERVIN. That's right, Mr. Chairman.

Mr. CONNOLLY. And would you favor adding a former IG, given all the experience that person might have to CIGIE?

Mr. ERVIN. I would, sir. And I see at least a couple of advantages to that. One is, arguably, and in my judgment, this would be the case, adding a former Inspector General would add additional heft to CIGIE in its oversight role with regard to the Inspector General community.

Mr. CONNOLLY. Right.

Mr. ERVIN. Two, and if that person were a former IG who had served for a considerable period of time, and there are many, that person, over time, would have developed some perspective, would have seen it all, as it were, and, therefore, could give some advice to his counterparts about what is a credible allegation, what is not a credible allegation, what actions should be taken with regard to allegations, et cetera. So, I think I would—

Mr. CONNOLLY. And, presumably, several steps removed, there is a certain disinterest. You are not judging peers.

Mr. ERVIN. Exactly.

Mr. CONNOLLY. Yes. Ms. Lerner, would you be open to that idea?

Ms. LERNER. I would, sir.

Mr. CONNOLLY. Thank you so much.

So, Ms. Hempowicz, we have got a lot of vacancies that are probably close to a historic high; is that fair?

Ms. HEMPOWICZ. Yes, I would say so.

Mr. CONNOLLY. We have people with dual roles, where even if the intent is not conflictual, the possibility of conflict is there, the dispassionate, disinterested, you know, investigative motivation or impulse could be compromised and, certainly, perception-wise is a problem, fair enough?

Ms. HEMPOWICZ. Yes, sir. Absolutely.

Mr. CONNOLLY. Having people as acting, when you have, say, 39 of these positions required by law, law passed by Congress, requiring confirmation, which is clearly the intent of Congress, that there be accountability and advice and consent, and that these positions are elevated in a certain way, that I think is a pretty strong statement, even if the intent isn't circumvention of the law, de facto, it is circumventing the law.

Would that be fair?

Ms. HEMPOWICZ. Absolutely. I would say, absolutely, it is circumventing the law.

Mr. CONNOLLY. So, we have got some work to do—oh, here is another one.

What is your view about a standard of removal for an IG that, I am just not comfortable with that person?

Ms. HEMPOWICZ. That I've lost confidence in this individual?

Mr. CONNOLLY. Or I've lost confidence.

Ms. HEMPOWICZ. Yes. That is what we see from the White House, White Houses of both political parties. I don't think that's a reason for removal.

Why did you lose confidence in the individual is what—

Mr. CONNOLLY. Right. So, at the very least, if you are going to make that assertion, Democrat or Republican, you are going to have to back it up—

Ms. HEMPOWICZ. Yes, and you should have to—

Mr. CONNOLLY [continuing]. With actual evidence for why your confidence has gone away.

Ms. HEMPOWICZ. Absolutely. You should have to do so in that, so, before that 30-day window that Congress has put into the law, before that individual is removed from this office.

Mr. CONNOLLY. Do you believe that having a fixed term that maybe could be renewable, might add to the independence and the ability of an IG to function?

Mr. Ervin, I see you shaking your head yes.

Mr. ERVIN. I do, sir, for a couple reasons. One, I think it would further underscore that Inspectors General are not typical appointees, that they are supposed to be apolitical, and if the term were sufficiently long, seven years, renewable, 14 years, et cetera, that would mean that over time, an Inspector General would serve in both, Republican administrations and Democratic administrations.

Mr. CONNOLLY. Thank you.

And I saw you also shaking your head, Ms. Hempowicz. You agree?

Ms. HEMPOWICZ. Yes. I think it certainly would. But I would, again, say, you know, I think the No. 1 way to increase and ensure independence is to give these Inspectors General protections from removal.

Mr. CONNOLLY. Now, the final thing I want to ask about, because we have covered a lot of territory here today, and I don't wish to abuse time, but I have been focused for a number of years on strengthening the role of CIGIE, because my view is, if on both sides of the aisle, we are going to accept an IG's report as prima facie evidence of X, unquestioned the integrity behind it, then the integrity behind it has to be unquestionable.

And if there is any reason to believe that integrity is subject to question, we have to have faith, the American public has to have faith, that there is an accountable body that will swiftly, robustly, thoroughly, and expeditiously, investigate whatever the issue may be and either clear somebody or hold them to account.

Do you believe that the current structure of CIGIE provides that, Ms. Hempowicz?

Ms. HEMPOWICZ. No, sir, I don't. I think, you know, if you just look at the annual report from this last year, the vast majority of allegations of wrongdoing against Inspectors General that came to CIGIE were allegations of abuse of power.

But what we've seen, at least in the annual report, is then what gets reported back to Congress, is that, you know, the majority of those investigations were closed, either because they didn't meet the investigative threshold standard, which is one thing, or because the allegations, themselves, didn't provide enough information.

The fact that those are reported together does not give us enough information to know, and I would just highlight, again, I would also highlight that the investigative threshold standard that CIGIE has, the Integrity Committee has put out, which is great, we certainly appreciate that transparency, is not an objective standard. There is a lot of room for, there's a lot of wiggle room there.

And so, I think that is one area where the Integrity Committee can have a clearer standard and then the reporting to Congress that would be required under your legislation, I think also answers another piece of that puzzle, where it would be required to report to Congress why they didn't continue investigations.

Mr. CONNOLLY. And I am going to invite you, Mr. Ervin, to comment on it, as well, but I just have to tell you I have had my own direct experience, where several members of this committee a number of years ago filed a complaint against an IG, a complaint that I continue to believe is profoundly valid. And CIGIE, to members of this committee, basically said, we looked at it. There is nothing to look at. Thank you very much.

Now, we detailed something like an 8-or a 10-page complaint, and they didn't even have the courtesy to at least go down the charges we made or the concerns we expressed and show it the respect of a response. We looked at it, and here is what we found.

And I can tell you that it really shook us in terms of our confidence in CIGIE's functioning. And it can't be pro forma. It actually has to be pretty robust.

And, by the way, I don't mean in any way to reflect on the current leadership of CIGIE. This was a number of years ago, and it raised institutional, structural questions, not the willingness of individuals to look at it.

Mr. Ervin, would you like to comment on that?

Mr. ERVIN. Yes, I'd just say two things about that, Mr. Chairman.

One, I could not agree with you more on your larger point, and that is, we have to hold Inspectors General to account for their own behavior. We have to watch the watchdogs. It reflects directly on the credibility of Inspectors General work if they, themselves, are not thoroughly investigated when credible allegations are made. That's the first thing I would say.

And the particular instance that you cite, I'm not aware of, but if there was bipartisan consensus that a given Inspector General needed to be investigated, and if that is the response that you got back, that is very troubling and suggests that reform should be made to process.

Mr. CONNOLLY. Yes, I can't confess that it was bipartisan consensus, because part of the complaint was that this particular IG,

flat-out, had engaged in partisan activity, with respect to circumscribing an investigation that had, you know, real impact, and it was hugely prejudicial.

Now, that was our view.

Mr. ERVIN. Right.

Mr. CONNOLLY. We wanted CIGIE to look at it to confirm or exonerate that person. We would have certainly respected a thorough investigation, but we didn't get one.

But aside from that personal experience, as a member of this committee, it raised questions about CIGIE. And I have talked to other IGs about that and the need to strengthen it.

Ms. Lerner, you chair CIGIE. I am going to give you the final word, but would you like to comment on how, maybe, you think we could help you in your job to strengthen the role of CIGIE and the transparency of your proceedings.

Ms. LERNER. Thank you for the opportunity.

Certainly, I think we've made a lot of progress in CIGIE's taking over running the Integrity Committee from the FBI with the passage of the Inspector General Empowerment Act, where our, we have more investigations. They are looking into more complex matters.

But that gets us to the issue of resources, and I think the most important thing that we could do for the Integrity Committee to help it do its job better is to get additional resources for it. Right now, we have a very small staff and the chair of the committee, who is an Inspector General himself, has to be involved in overseeing, I think we have nine ongoing investigations right now, on top of his full-time day job. It is an untenable situation.

Mr. CONNOLLY. Yes.

Ms. LERNER. And if we had, if CIGIE had an appropriation, if we had dedicated resources for the committee, that would enable us to hire a senior investigative attorney to oversee the work and have a cadre of investigators available to do these investigations, instead of having to beg, borrow, and steal from our colleagues across the Inspector General community. I think we would be in a much better position to do these cases, handle them well, and handle them in a more timely fashion.

Mr. CONNOLLY. Well, I think those are very fair points, Ms. Lerner, and I am sympathetic, because I want to do everything, we can to make sure that CIGIE is, you know, so above reproach and so respected for its ability to quickly look at the situations and look at them thoroughly, and, by the way, clear names.

Anyone can file a complaint. That doesn't mean you have done anything wrong, and we don't want to besmirch reputations, but on the other hand, we have got to make sure that there is accountability.

Mr. Hice, I promised you equal time if there is anything that you wish to add.

Mr. CONNOLLY. I thank my friend from Georgia, and I hope we can cooperate on, at least the CIGIE legislation, which I see as just an improvement and a good government measure.

With that, I want to insert in the record: a report from the Project on Government Oversight, titled, "The Watchdogs After Forty Years: Recommendations for Our Nation's Federal Inspectors

General”; a letter, also from the Project on Government Oversight, titled, “Former Inspectors General Call on Congress to Pass Overdue Reforms to the IG System”; a statement from former IG for the Department of Defense, Gordon Heddell; and a report from the congressional Research Service, previously referred to by the chairwoman, titled, “Congress’ authority to limit the removal of Inspectors General.”

And I would ask, without objection, all that material be entered into the record, as well as the GAO letter I referenced earlier.

Without objection, so ordered.

Mr. CONNOLLY. And also without objection, all members will have five legislative days, within which to submit additional written questions for the witnesses through the chair, which will be forwarded to the witnesses for their expeditious response, we hope.

I would ask the witnesses to please respond as promptly as you are able.

I want to thank all of our colleagues. We had great participation today. We have a legislative program to follow through on this hearing, and I thank our witnesses for their very thoughtful contribution to this discussion.

With that, this hearing is adjourned.

[Whereupon, at 11:38 a.m., the subcommittee was adjourned.]

