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One Hundred Eighteenth
Congress of the United States
House of Representatives

SUBCOMMITTEE ON OVERSIGHT
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July 24, 2024

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
2707 Martin Luther King Jr Ave S.E.
Washington, DC 20528

Dear Secretary Mayorkas:

I write to you in my capacity as Chairman of the Committee on House Administration Subcommittee on Oversight (“Subcommittee”), which has jurisdiction over the safety and security of the United States Capitol.¹ As Chairman of the Subcommittee, I am conducting a full and complete review of the security failures that resulted in a breach of the U.S. Capitol Building on January 6, 2021.

As you are aware, the Department of Homeland Security Office of Inspector General (“DHS OIG”) has a plethora of outstanding reports, including the following two reports concerning the response to January 6, 2021:²

- 1) *Department of Homeland Security Law Enforcement Preparation for and Response to the January 6, 2021 Events at the U.S. Capitol*
- 2) *United States Secret Service Preparation for and Response to the Events of January 6, 2021*

The Subcommittee is aware that the *United States Secret Service Preparation for and Response to the Events of January 6, 2021*, report is complete. Additionally, we are aware that the Secret Service has reviewed and cleared this report. Therefore, you alone are preventing the DHS OIG from releasing this report to Congress. Given the events of July 13, 2024, yet another security failure by the U.S. Secret Service (“USSS”) to detect and prevent a serious threat to a protectee, there is absolutely no justification for your delay.

Additionally, the Subcommittee is aware that the Department of Homeland Security (“DHS”) told the DHS OIG in 2021 that if the DHS OIG were to release a report without the explicit permission of DHS—including by not accepting arbitrary redactions imposed by DHS—that DHS would revoke future access to the DHS OIG to continue to conduct independent reports.

¹ Rule X, Rules of the U.S. House of Representatives for the 118th Congress; Paragraph (c)(2), Rule 17 Rules of the Committee on House Administration for the 118th Congress.

² DEPT. OF HOMELAND SECURITY OFF. OF INSPECTOR GENERAL, ONGOING PROJECTS

Based on information provided to this Subcommittee, since Secretary Mayorkas was confirmed in 2021, DHS has repeatedly obstructed, delayed, or denied the ability of the DHS OIG to conduct effective oversight, as is mandated by the Inspector General Act of 1978.³ Such examples include refusing to provide documents on the grounds of the Presidential Records Act and the Privacy Act, as well as instructing DHS employees not to provide documents directly to the DHS OIG. However, these reasons for obstruction purposely misunderstand the role of the DHS OIG to conduct internal reviews. Regulations such as the Privacy Act apply to releasing information to the public, not the Inspector General.

This Subcommittee is equally concerned that this obstruction is a pattern of behavior to delay or prevent the release of certain reports that could be damaging to the Department.

I recently observed DHS' influence over their independent Inspector General firsthand. On February 8, 2024, the Subcommittee sent a letter to the DHS OIG requesting unredacted copies of OIG 22-29 report titled, *I&A Identified Threats prior to January 6, 2021, but Did Not Issue Any Intelligence Products before the U.S. Capitol Breach*. This report was released in March 2022 but was heavily redacted. When the Subcommittee attempted to coordinate an *in-camera* review of this report, the DHS OIG informed us that it was unable to remove the redactions without approval from DHS main. This raises the question: why is DHS, the entity subject to independent oversight dictating preventing the DHS OIG from sharing the unredacted version of this report with Congress?

Subsequently, the Subcommittee contacted the DHS OIG on April 23, 2024, requesting an unredacted portion of report OIG 22-29, and was told that our inquiry should be directed to DHS, as DHS is the entity prohibiting DHS OIG from releasing unredacted portions of the reports to this Subcommittee. This report is pivotal to the Subcommittee's ongoing investigation into the security and intelligence failures surrounding January 6, 2021. As such, the Subcommittee is concerned that DHS OIG is unable to assist in our investigation, at the direction of DHS.

Based on the review of the unredacted reports *in camera* it was clear that many of these redactions are unnecessary and are merely an attempt to shield DHS from scrutiny regarding the failures in intelligence gathering and reporting before and after January 6, 2021. The redacted portions of the reports include threats to the Capitol building, Members of Congress, and law enforcement were redacted from the report at the explicit direction of DHS. To date, your office has failed to adequately engage with the Subcommittee to negotiate the redactions in OIG 22-29 report despite previously agreeing to do so.

Some redactions for national security or to protect personally identifiable information are always expected, and we have supported such redactions during our conversations with DHS. However, the Subcommittee is concerned that many redactions imposed on reports are not actually in the interest of national security or to protect sensitive information.

³ Inspector General Act of 1978, H.R. 8588, 95th Cong. § 404 (1978).

DHS interfering in Inspector General investigations in any way or threatening to withhold Inspector General access to certain records in the course of an investigation is unacceptable. DHS refusing to approve the release of DHS OIG reports concerning DHS' and the United States Secret Service's actions related to January 6, 2021, over three and a half years is also unacceptable and raises significant concerns that critical security gaps have gone unaddressed.

This failure to provide an in-depth review of the Department's security planning and operational failures related to January 6 not only raises concerns about the Department's botched planning for former President Trump's rally in Pennsylvania on July 13, 2024, but it is quite possible that such reports could have prevented the security breakdown that resulted in the near assassination of a former president and presidential candidate.

It is unacceptable for DHS to refuse to comply with federal law and refuse to cooperate with their own Inspector General. Continued obstruction and delays of long-awaited OIG reports serves only to prevent the Department from correcting previous failures in the interest of preventing public criticism and avoiding oversight. As such, the Subcommittee requests a yes or no answer to the following questions:

1. Do you commit to ensuring your agency's full cooperation with and independence of the DHS OIG consistent with all applicable laws?⁴
2. Do you commit to fully cooperating with the DHS OIG requests including granting timely and complete access to all records, personnel, and any other information?
3. Do you commit to expediting any internal processes for DHS OIG requests for DHS review of reports to ensure the timely release of reports produced by the DHS OIG?
4. Will you immediately review and approve for release the following outstanding DHS OIG reports within five business days of the receipt of this letter?
 - *Department of Homeland Security Law Enforcement Preparation for and Response to the January 6, 2021 Events at the U.S. Capitol*
 - *United States Secret Service Preparation for and Response to the Events of January 6, 2021*

Anything more than a one-word response to the above questions will only serve to underscore your inability to ensure the DHS OIG's independence. Additionally, the Subcommittee requests that you provide the following information and produce any correspondence sent or received by DHS, DHS Office of General Counsel in relation to the DHS OIG report titled *USSS Preparation for and Response to the Events of January 6, 2021*:

1. When did USSS receive the unreleased draft report for review from DHS OIG?
2. When did USSS return the unreleased draft report with technical corrections or managerial comments to DHS OIG?
3. When did DHS receive the unreleased draft report for review from the DHS OIG?
4. When did DHS return the draft report with technical corrections to the DHS OIG?
5. When did DHS return the final report with managerial comments to DHS OIG?

⁴ Inspector General Act of 1978, H.R. 8588, 95th Cong. § 404 (1978).

Letter from Chairman Loudermilk to Secretary Mayorkas

July 24, 2024

Page 4 of 4

Please produce to the Subcommittee a complete, written explanation of the above questions and a plan to ensure the continued independence of the DHS OIG by July 31, 2024. Thank you for your cooperation with this important oversight matter and ensuring the continued transparency of government.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barry Loudermilk". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Barry Loudermilk

Chairman

Subcommittee on Oversight

Committee on House Administration

cc: Dr. Joseph V. Cuffari, Department of Homeland Security Inspector General
Chairman Mark Green, House Committee on Homeland Security
Chairman James Comer, House Committee on Oversight and Accountability