

United States Senate
WASHINGTON, DC 20510

April 8, 2020

VIA ELECTRONIC TRANSMISSION

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear President Trump:

According to reports, on Friday, April 3, you placed Intelligence Community Inspector General (IC IG) Michael Atkinson on administrative leave for thirty days pending his removal from office.¹ As you know, Congress created inspectors general to combat waste, fraud, and abuse, and to be independent watchdogs holding federal agencies accountable to the taxpayer. Congress established the IC IG, “to initiate and conduct independent investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence.”² Further, the IC IG and indeed all inspectors general (IG) are designed to fulfill a dual role, reporting to both the President and Congress, to secure efficient, robust, and independent agency oversight. To ensure inspectors general are fully capable of performing their critical duties, and in recognition of their importance both to efficient administration and to the legislative function, Congress set clear, statutory notice requirements for their potential removal.

Specifically, current law requires that you inform the Senate and House Intelligence Committees in writing of the reasons for your removal of the IC IG, at least 30 days prior to that removal.³ However, in your recent letter to the Senate Intelligence Committee, you stated only that, “it is vital that [you] have the fullest confidence” in those serving as IGs and that “this is no longer the case” with regard to Mr. Atkinson.⁴ Further, according to public reports, Mr. Atkinson already was placed on administrative leave, effectively removing him from his position prior to the completion of the statutorily required notice period.⁵

Congressional intent is clear that an expression of lost confidence, without further explanation, is not sufficient to fulfill the requirements of the statute. This is in large part because Congress intended that inspectors general only be removed when there is clear evidence of

¹ Sonam Sheth and Charles Davis, *Trump Fired the Intelligence Community Official Who Told Congress About the Ukraine Whistleblower Complaint*, Business Insider, (April 4, 2020) available at <https://www.businessinsider.com.au/trump-fires-intelligence-official-who-handled-whistleblower-complaint-2020-4>.

² H.R. 2701, 111th Cong. (2010) (enacted).

³ 50 U.S.C. § 3033(c)(4) (stating that, “The [Intelligence Community] Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal”).

⁴ Letter from Donald Trump, President of the United States, to Senate Committee on Intelligence (April 3, 2020); see also Letter from Barack Obama, President of the United States, to the President of the Senate (June 11, 2009).

⁵ See *Supra* note 1.

wrongdoing or failure to perform the duties of the office, and not for reasons unrelated to their performance, to help preserve IG independence.⁶ The Senate Committee Report on the Inspector General Reform Act of 2008 provides further clarity regarding the high bar that is expected in cases of removal. In that report, the Committee expressed its intent that, “Inspectors General who fail to perform their duties properly whether through malfeasance or nonfeasance, or whose personal actions bring discredit upon the office, be removed.” The report also states that, “[t]he requirement to notify the Congress in advance of the reasons for the removal should serve to ensure that Inspectors General are not removed for political reasons.”⁷

In 2009, senators of both parties raised similar concerns when the Obama administration removed the IG of the Corporation for National and Community Service, Gerald Walpin, by placing him on administrative leave for 30 days without consulting members of Congress.⁸ Like the present notice at issue here, the initial notice of removal for IG Walpin only vaguely noted the President no longer had “the fullest confidence” in him.⁹ At that time, the senators affirmed Congress’s intent that any notice of removal should clearly outline specific reasons supporting that decision. The senators also reiterated the purpose for the 30 day notice to Congress: to provide an opportunity for an appropriate dialogue with Congress in the event that the planned transfer or removal is viewed as an inappropriate or politically motivated attempt to terminate an effective inspector general. By placing the IG on 30 days of administrative leave and naming an acting replacement, the administration has already effectively removed that IG and appears to have circumvented Congress’s role in this process.¹⁰

As supporters of the Inspector General community, and as advocates for government transparency and accountability, it is our responsibility to confirm that there are clear, substantial reasons for removal. To that end, we ask that you provide more detailed reasoning for the removal of Inspector General Atkinson no later than April 13, 2020. Please also provide your views on how the appointment of an acting official prior to the end of the 30 day notice period comports with statutory requirements.

Sincerely,



Charles E. Grassley
U.S. Senator



Gary C. Peters
U.S. Senator

⁶ S. Rep. No. 110-262 at 8 (2008)(reporting on S.2324).

⁷ *Id.*

⁸ Letter from Charles Grassley, United States Senator, to Barack Obama, President of the United States (June 11, 2009); Letter from Joseph Lieberman, Susan Collins, et al, Chairman and Ranking Member, Senate Committee on Homeland Security and Governmental Affairs, to Barack Obama, President of the United States (June 19, 2009); see also Josh Gerstein, *W.H.: Fired IG 'confused, disoriented'*, Politico, (June 16, 2009), available at <https://www.politico.com/story/2009/06/wh-fired-ig-confused-disoriented-023831>.

⁹ Joint Staff Report of S. Comm. on Fin. and H. Comm. on Oversight and Government Reform, 111th Cong., *The Firing of the Inspector General for the Corporation for National and Community Service*, at 47 (Comm. Print 2009).

¹⁰ see *Supra* note 4 at 5 (stating that, “[w]hile we hope that this advance notice will encourage useful communication between Congress and the Executive Branch on IG performance and serve as an effective deterrent against improper terminations, we note that the provision does not alter the President’s ultimate authorities with respect to Executive Branch employees”); see also *Supra* note 9 at 46.



Susan M. Collins
U.S. Senator



Ron Wyden
U.S. Senator



Mitt Romney
U.S. Senator



Mark Warner
U.S. Senator



Dianne Feinstein
U.S. Senator



Jon Tester
U.S. Senator