

United States Senate

WASHINGTON, DC 20510

September 30, 2019

The Honorable Michael K. Atkinson
Inspector General of the Intelligence Community
1500 Tysons McLean Drive
McLean, VA 22102

Dear Inspector General Atkinson:

According to a recent news report, the Office of the Intelligence Community Inspector General (IC IG) changed its “Disclosure of Urgent Concern” form, the document by which a whistleblower submits a complaint that can be transmitted to Congress, to no longer require first-hand knowledge of alleged wrongdoing.¹ Specifically, the report described a previous version of the form, which was approved on May 24, 2018,² that included a section titled “First-Hand Information Required” and stated:

In order to find an urgent concern “credible,” the IC IG must be in possession of reliable, first-hand information. The IC IG cannot transmit information via the ICWPA [Intelligence Community Whistleblower Protection Act] based on an employee’s second-hand knowledge of wrongdoing. This includes information received from another person, such as when a fellow employee informs you that he/she witnessed some type of wrongdoing. ... If you think that wrongdoing took place, but can provide nothing more than second-hand or unsubstantiated assertions, IC IG will not be able to process the complaint or information for submission as an ICWPA.³

The current version of the form, which notes that it was revised in August 2019, no longer includes this requirement.⁴ Instead, this new form asks the individual to check one of two boxes labeled, “I have direct and personal knowledge [of the disclosed information]” or “I heard about it from others.”⁵

We are not aware of any federal law, regulation, or internal directive relating to whistleblowers that requires first-hand information in order for the complaint to be accepted as credible or receive legal protections, which calls into question why your office used it in the first place. Accordingly, in order to better understand the basis for why initial versions of the form required first-hand information, please answer the following no later than October 7, 2019:

¹ Sean Davis, *Intel Community Secretly Gutted Requirement of First-Hand Whistleblower Knowledge*, *The Federalist* (Sept. 27, 2019), <https://thefederalist.com/2019/09/27/intel-community-secretly-gutted-requirement-of-first-hand-whistleblower-knowledge/>.

² *Id.*

³ *Id.*

⁴ Disclosure of Urgent Concern Form – Unclassified, Office of the Inspector General of the Intelligence Community, <https://www.dni.gov/files/ICIG/Documents/Hotline/Urgent%20Concern%20Disclosure%20Form.pdf> (last accessed Sept. 30, 2019).

⁵ *Id.*


1. Please provide all previous versions of the “Disclosure of Urgent Concern” form and indicate the dates when each version was in use.
2. Why did the IC IG initially require first-hand information in its May 2018 disclosure form? Why did the IC IG remove the requirement for first-hand information?
3. Prior to May 2018, did any intake form or practice require first-hand information?
4. How many whistleblower complaints has the IC IG dismissed or prevented from following the ICWPA process because they did not contain first-hand information? How many complaints have been filed since the August 2019 form change?
5. When did the IC IG begin using the current version of the form, which notes that it was revised sometime in August 2019?
6. Who is authorized to make revisions to the form?
7. Who initiated a) the approval process for the May 2018 form and b) the August 2019 revision concerning the first-hand versus second-hand information requirement on the form?
8. Please list all personnel who were involved in and approved both the May 2018 and August 2019 versions of the form.
9. Did the IC IG provide any notice, formally or informally, about a) using a form that required first-hand knowledge or b) revising the form to no longer require it? If so, please explain in what manner and to whom. If no notice was provided, explain why not.
10. Did the administrative processes by which the most recent version of the form was approved differ in any way from the processes used to approve prior forms? Please explain.
11. Please provide all records⁶ discussing the creation of the May 2018 form as well as the change in reporting standards found on the August 2019 form.

⁶ Records” include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (emails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether or not they resulted in final documents).


The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.”⁷ Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to examine “the efficiency and economy of operations of all branches and functions of the Government with particular reference to ... the effectiveness of present national security methods, staffing, and processes[.]”⁸

Should you have any questions, please contact Brian Downey and Scott Wittmann of Chairman Johnson’s staff at (202) 224-4751, DeLisa Ragsdale and Joshua Flynn-Brown of Chairman Grassley’s staff at (202) 224-4515, or Wendy Baig of Senator Lee’s staff at (202) 224-5444.


Sincerely,



Ron Johnson
Chairman
Committee on Homeland Security and
Governmental Affairs



Charles E. Grassley
Chairman
Committee on Finance



Mike Lee
Member
Committee on the Judiciary

⁷ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

⁸ S. Res. 70, 116th Cong. § 12(e)(1)(E) (2019).