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September 28, 2007

The Honorable Howard J. Krongard
Inspector General
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Mr. Krongard:

I am writing to you about an exceptionally serious matter: reports that your senior staff has threatened officials that you could fire them if they cooperate with the Committee's investigation into your conduct.

On September 18, 2007, I wrote to you requesting your assistance with an Oversight Committee investigation into your actions as State Department Inspector General. In that letter, I described allegations from seven officials in your office that you interfered with on-going investigations in order to protect the State Department and the White House from political embarrassment. I requested various documents related to the investigation, and I informed you that Committee staff would be conducting interviews of several officials in your office.

Two of the individuals who came forward were John A. DeDona, the former Assistant Inspector General for Investigations, and Ralph McNamara, the former Deputy Assistant Inspector General for Investigations. They told my staff that they had resigned after you repeatedly halted or impeded investigations undertaken by their office. The other individuals who contacted my staff asked that their identities not be revealed because they feared that you would retaliate against them.

Today, I am writing to express my grave concern with the tactics your office has reportedly used in response to my request. This week, several current employees in your office — including two who have agreed to go on the record — informed the Committee that your senior staff attempted to coerce them not to cooperate with the Committee's inquiry and threatened their jobs and careers.

The two officials who agreed to go on the record about the threats are Special Agent Ron Militana and Assistant Special Agent in Charge Brian Rubendall. Both currently work in the

investigations division of your office. Both are career federal investigators. Just last week, you referred to Special Agent Militana as “one of my best investigators” in a statement you released.¹

In addition to describing the threats he received, Special Agent Militana kept contemporaneous notes of these interchanges, which he has now shared with my staff.

Special Agent Militana and Assistant Special Agent in Charge Rubendall report that on September 25, 2007, one week after I sent my letter, your congressional affairs liaison and an attorney in the Counsel’s office approached them about the Committee’s invitation to be interviewed. They were taken into the office of the Deputy Inspector General, where your congressional liaison told Special Agent Militana and Assistant Special Agent in Charge Rubendall that they wanted to discuss their upcoming interviews.

At this point, according to Special Agent Militana, your congressional liaison told them they could suffer retaliation based on their cooperation with the Committee’s investigation. According to Special Agent Militana, she stated:

The majority are not friends. The minority staff has been helpful. They advise that you should never do a voluntary interview in a million years.

When Special Agent Militana questioned her statement, the congressional liaison told him: “You have no protection against reprisal. You have no whistleblower protections. Howard could retaliate and you would have no recourse.”

The attorney informed Special Agent Militana and Assistant Special Agent in Charge Rubendall that although they might have some civil service protections against termination, he concurred with the congressional liaison. Special Agent Militana said that when he pressed the issue, the congressional liaison stated: “Howard can fire you. It would affect your ability to get another job.”

Special Agent Militana and Assistant Special Agent in Charge Rubendall stated that at the end of this session, they felt angry that such threats were being used against them. Assistant Special Agent in Charge Rubendall informed my staff that as career investigators who deal with whistleblowers, they were shocked by the brazenness of these tactics.

They ultimately concluded that this activity was inappropriate and should be reported to the Committee.

Special Agent Militana and Assistant Special Agent in Charge Rubendall are not the only current employees to raise these concerns. Other employees have also reported that the congressional liaison and the attorney told them that if they appear before the Committee, you could take unspecified legal actions against them based on their statements.

¹ *Statement from State Department IG, Associated Press (Sept. 18, 2007).*

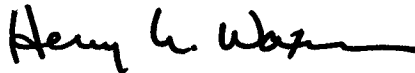
I am appalled by these reports. As an Inspector General, you hold a position of special trust within the federal government. Your office is supposed to be an example of how to protect whistleblowers, not an example of how to persecute them. It is unclear whether you directed your senior staff to engage in these activities or whether they took matters into their own hands. In either case, the threats against Special Agent Militana, Assistant Special Agent in Charge Rubendall, and others are reprehensible.

You should be aware — and you should advise your staff — that Congress has passed civil and criminal prohibitions against threatening and tampering with witnesses, retaliating against whistleblowers, and providing false information to Congress.² If Special Agent Militana's and Assistant Special Agent in Charge Rubendall's accounts are true, some or all of these provisions may be implicated.

The Committee will not tolerate any intimidation of potential witnesses. I direct you to instruct your staff, including your congressional affairs liaison and attorneys, to suspend all communications (other than those necessary to collect responsive documents) with employees the Committee is planning to interview. I also warn you against any further efforts to intimidate witnesses or prevent truthful communications with Congress.

If you have any questions about this matter, you should contact me personally.

Sincerely,



Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member

² See, e.g. 18 U.S.C. § 1505 (“Whoever corruptly, or by threats of force, or by any threatening letter or communication influences, obstruct, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law ... or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress — Shall be fined under this title, imprisoned not more than 5 years ... or both”); 23 U.S.C. § 2302 (“Any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority ... take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety”).