



Office of Inspector General United States Department of State

January 22, 2021

Melanie Sloan
American Oversight
1030 15th Street NW
Washington, DC 20005

SUBJECT: Sixth Interim Release OIG Freedom of Information Act Request No. 2019-111

This is the sixth interim response to your Freedom of Information Act Request dated September 30, 2019 addressed to the Department of State (DOS) Office of Inspector General (OIG) seeking:

“all email communications (email messages, email attachments, calendar invitations, and attachments thereto) sent or received by Inspector General Steve Linick regarding any potential or submitted whistleblower complaints involving allegations that concern the conduct of Secretary Mike Pompeo.”

Your request was received in this office on October 3, 2019. Your request was given the FOIA Case number of 2019-111. DOS OIG previously made five interim releases to you on August 17, 2020, September 17, 2020, October 17, 2020, November 17, 2020, and December 16, 2020.

FOIA 2019-111:

For the sixth interim response DOS OIG searched the OIG’s Office of Investigations, Office of Evaluation and Special Projects, Office of General Counsel, and the Front Office (which, as previously discussed by DOJ Counsel, is an unclassified email account). Those searches identified 6 records (26 pages) responsive to your request. We reviewed the responsive records under the FOIA to determine whether they may be disclosed to you. Based on that review, this office is providing the following:

18 page(s) are released in full;
8 page(s) are released in part;

OIG redacted from the enclosed documents names and identifying information of third parties to protect the identities of these individuals. Absent a Privacy Act waiver, the release of such information concerning the third parties named in these records would result in an unwarranted invasion of personal privacy in violation of the Privacy Act. Information is also protected from

disclosure. Information is also redacted pursuant to Exemptions (b)(5), (b)(3), (b)(6), (b)(7)(A), and (b)(7)(C) of the FOIA further discussed below.

Exemption 3, 5 U.S.C. § 552(b)(3)

Exemption 3 protects “information specifically exempted from disclosure by [another] statute.” 5 U.S.C. § 552 (b)(3). In this instance 41 USC § 4712, which enhances protection of contractors from reprisal for a protected disclosure. Accordingly, DOS-OIG is withholding names of complainants and witnesses.

Exemption 5, 5 U.S.C. § 552(b)(5)

Exemption 5 of the FOIA protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” 5 U.S.C. § 552(b)(5). DOS-OIG is invoking the deliberative process privilege of Exemption 5 to protect information that falls within that privilege’s domain.

Exemption 6, 5 U.S.C. § 552(b)(6)

Exemption 6 allows withholding of “personnel and medical files and *similar files* the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6) (emphasis added). DOS-OIG is invoking Exemption 6 to the names of lower-level investigative staff, third parties, subjects and any information that could reasonably be expected to identify such individuals.

Exemption 7(A), 5 U.S.C. § 552(b)(7)(A)

Exemption 7(A) authorizes the withholding of “records or information compiled for law enforcement purposes . . . to the extent that production of such law enforcement records or information . . . could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552 (b)(7)(A). DOS-OIG is invoking Exemption 7(A) to protect information pertaining to ongoing investigations including ongoing proceedings.

DOS-OIG may also assert other to be determined Exemptions for this information. Although other exemptions may be applicable to this information, DOS-OIG is not in a position to assert other exemptions at this time since these matters are still pending. An enclosure to this letter provides a brief explanation for additional exemptions that may be present.

Exemption 7(C), 5 U.S.C. § 552(b)(7)(C)

Exemption 7(C) protects from public disclosure “records or information compiled for law enforcement purposes . . . [if disclosure] could reasonably be expected to cause an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C). DOS-OIG is invoking Exemption 7(C) to protect the names of lower-level investigative staff, third parties, subjects and any information contained in these investigative records that could reasonably be expected to identify those individuals.

Appeal

Although I am aware that your request is the subject of ongoing litigation and appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal.¹ If you choose to file an administrative appeal it must be received within 90 days of the date of this response. Please address any appeal to:

Appeals Officer
Appeals Review Panel
Office of Information Programs and Services
U.S. Department of State
State Annex 2 (SA-2)
515 22nd Street, NW
Washington, DC 20522-8100
Facsimile: 202-261-8571

Both the envelope and letter of appeal should be clearly marked, "Freedom of Information Act/Privacy Act Appeal." Your appeal letter should also clearly identify the DOS-OIG's response. Additional information on submitting an appeal is set forth in the DOS regulations at 22 C.F.R. § 171.13.

Assistance and Dispute Resolution Services

For further assistance and to discuss any aspect of your request you may contact DOS-OIG's FOIA Public Liaison at:

FOIA Officer
Office of General Counsel
Office of Inspector General
U.S. Department of State
1700 North Moore Street
Suite 1400
Arlington, VA 22209
foia@stateoig.gov

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Jillian M. Clouse

Jillian M. Clouse
Assistant Counsel to the Inspector General



Report suspected fraud, waste, and abuse

ICIG Hotline 855-731-3260 | Fax: 571-204-8088

Secure ICIG Hotline: 933-2800

Email: ICIGHotline@dni.gov

Secure Email: ICIGHotline@dni.ic.gov

www.dni.gov/ICIG-Whistleblower/

Public/Media Inquiries: IC_IG_PAO@dni.gov

Office of the Inspector General of the Intelligence Community

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DATE: WEDNESDAY, OCTOBER 9, 2019 8:00 AM EDT

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THIS DAY IN HISTORY:

1967: Che Guevara Is Executed. On October 9, 1967, US-backed Bolivian forces executed Che Guevara after capturing him in battle on October 8. The forces buried him in an unmarked grave until 1997, when his remains were found and returned to Cuba.

WHISTLEBLOWING NEWS:

Trump On Second Whistleblower: Keep Them Coming! The [Washington Times](https://www.washingtontimes.com/story/news/2019/10/06/trump-second-whistleblower-492k/) (10/6, Richardson, 492K) reports that President Trump on Saturday "took aim...at reports that a second whistleblower has emerged, accusing

his foes of 'going to the bench' after the first complaint filed about his conversation with the Ukraine president." Trump [tweeted](https://twitter.com/realDonaldTrump/status/1172444444), "The first so-called second hand information 'Whistleblower' got my phone conversation almost completely wrong, so now word is they are going to the bench and another 'Whistleblower' is coming in from the Deep State, also with second hand info. Meet with Shifty. Keep them coming!"

Elaine Quijano said in the lead story for the [CBS Weekend News](https://www.cbsnews.com/news/trump-faces-deepening-political-crisis/) (10/6, lead story, 2:12, 2.23M) that Trump "faces a deepening political crisis" with the revelation that "a second whistleblower has come forward." Nicole Killion added that "the White House issued a statement in response to the second whistleblower. It says it doesn't matter how many people decide to call themselves whistleblowers about the same telephone call, it doesn't change the fact that the

President has done nothing wrong.” The [Washington Times](#) (10/6, Richardson, 492K) says reports of additional whistleblowers “stoked the Democratic Party’s impeachment momentum.” However, if Republicans “were worried about the specter of more whistleblowers, they didn’t show it.”

Reporting on the second whistleblower in the lead story for [NBC Nightly News](#) (10/6, lead story, 2:28, Snow, 2.91M), Kate Snow said, “The impeachment inquiry launched by Democrats may be about to get a boost.” Kelly O’Donnell added, “The new whistleblower is cooperating with the intelligence community Inspector General Michael Atkinson, but is not expected to file a separate complaint.” Hans Nichols said on [NBC Nightly News](#) (10/6, story 2, 1:57, Snow, 2.91M) “If the whistleblower does have a firsthand account, he or she could clarify open questions about the President’s interaction with Ukraine, including if the call log of Trump’s July 25th conversation with President Zelensky omits any crucial information where ellipses existed, and if any officials concluded that the President’s ‘I would like you to do us a favor, though,’ amounted to a quid pro quo.”

[USA Today](#) (10/6, Wu, 10.31M) reports that Rep. Chris Stewart (R-UT) was asked about the second whistleblower on [Fox News Sunday](#) (10/6, 85K). Stewart said, “It does not matter. This person is going to come forward and say, yep the president had this phone call. And yep, we have this transcript. Why should I care at all?”

The comments came as Mark Zaid, a lawyer for the whistleblower “whose complaint set off an impeachment inquiry of President Trump said Sunday that the same legal team was now representing a second whistle-blower, an intelligence official with firsthand knowledge of the president’s interactions with Ukraine,” the [New York Times](#) (10/6, Karni, Fandos, 18.61M) reports. In a [tweet](#) Sunday, Zaid wrote that the new whistle-blower “made a protected disclosure under the law and cannot be retaliated against.” The Times adds, “Another member of the legal team confirmed on Twitter that the firm was now representing ‘multiple whistleblowers’ but declined to comment further.” Rep. Jim Himes (D-CT), a member of the House intelligence Committee, said Sunday that the panel “had not yet heard from a second whistleblower,” but he “hastened to argue that the speed with which details of the case were becoming public was itself a strong sign of wrongdoing.”

Himes told [CBS’ Face The Nation](#) (10/6, 2.33M), “We’re sitting here watching the information flow out of the White House, damning information, facts that are undisputed. What’s happening is people around the President, professionals, who are in the Oval Office, who are in the situation room, are watching what is happening and are finally saying, my God, this cannot happen anymore.”

The [Washington Examiner](#) (10/6, Dunleavy, 448K) reports that the second whistleblower “is said to be an intelligence official,” and the [AP](#) (10/6, Tucker) that the second whistleblower “has information that backs the original

whistleblower’s complaint about President Donald Trump’s dealings with Ukraine,” according to Zaid. In a text message Sunday, Zaid “told The Associated Press in a text message Sunday that the second whistleblower, who also works in intelligence, hasn’t filed a complaint with the inspector general but does have ‘firsthand knowledge that supported’ the original whistleblower.”

The [Los Angeles Times](#) (10/6, King, 4.64M) says that in addition to the second whistleblower, “more may be in the offing, raising the possibility of damaging new disclosures as people in proximity to the president begin to provide evidence.” The [Washington Post](#) (10/6, Sonmez, Nakashima, 14.2M) reports that another member of the whistleblower’s legal team said Sunday that “multiple” whistleblowers have come forward. Andrew Bakaj [tweeted](#), “IC WHISTLEBLOWER UPDATE: I can confirm that my firm and my team represent multiple whistleblowers in connection to the underlying August 12, 2019, disclosure to the Intelligence Community Inspector General. No further comment at this time.”

[Reuters](#) (10/6, Chiacu, Hosenball) says the emergence of the second whistleblower “complicates efforts by Trump and his Republican supporters to dismiss the complaint as politically motivated hearsay and may strengthen the Democrats’ case against him.” The [Wall Street Journal](#) (10/6, Volz, Subscription Publication, 7.57M) similarly says Trump’s attempts to undermine the credibility and motives of the first whistleblower could be undermined by the existence of another one.

Sunday evening, Trump [re-tweeted](#) a post from Sen. Lindsey Graham (R-SC) that said, “When it comes to ‘more whistleblowers coming forward’.....I’ve seen this movie before — with Brett Kavanaugh. More and more doesn’t mean better or reliable.” Trump wrote, “Democrat lawyer is same for both Whistleblowers? All support Obama and Crooked Hillary. Witch Hunt!”

The [Washington Times](#) (10/6, Richardson, 492K) reports that Graham “said Sunday that anonymous whistleblowers would be front and center for Senate hearings if House Democrats pursue articles of impeachment against President Trump.” Graham told [Fox News Sunday Morning Futures](#) (10/6), “Here’s what’s going to happen: If the whistleblower’s allegations are turned into an impeachment article, it’s imperative that the whistleblower be interviewed in public, under oath, and cross-examined.” Graham added that “if that doesn’t happen in the House, I will make sure it happens in the Senate.” The Times adds that Graham “cited the president’s right under the Sixth Amendment to confront his accusers.” He said, “Nobody in America goes to jail or has anything done to them without confronting their accuser.”

Analysis: Trump Whistleblower Claim Has “Spun Out Of Control.” [CQ Roll Call](#) (10/3, Donnelly, 154K) reports that, according to its analysis, President Trump’s argument that the whistleblower “had no firsthand knowledge

of the alleged wrongdoing” is “off base.” The article discusses how “misstated or distorted” facts “can harden after much retelling into fantastically conspiratorial tales that are believed in the nether regions of cyberspace.”

White House Official Told Whistleblower Trump’s Zelensky Call Was “Crazy,” “Frightening.” The [New York Times](#) (10/8, Fandos, 18.61M) reports that a memo written by the whistleblower at the center of the House impeachment inquiry says a White House official who listened to the President’s July phone call with Ukraine President Volodymyr Zelensky described it as “crazy,” “frightening,” and “completely lacking in substance related to national security.” According to the memo, the White House official was “visibly shaken by what had transpired.” The whistleblower wrote, “The official stated that there was already a conversation underway with White House lawyers about how to handle the discussion because, in the official’s view, the president had clearly committed a criminal act by urging a foreign power to investigate a U.S. person for the purposes of advancing his own re-election bid in 2020.”

Jonathan Karl said on [ABC World News Tonight](#) (10/8, story 2, 1:51, Muir, 6.89M) that “the President has made it perfectly clear that he wants to know who was talking to the whistleblower. He’s even suggested that person is effectively a spy who should be severely punished.” Karl added, “I’ve spoken to several senior White House officials about this, none of them say they know of any effort to actually find out who that person was.”

CNN Describes “Mad Scramble” In Administration Following Trump’s Call With Zelensky. CNN White House correspondent Kaitlan Collins said on [CNN’s The Lead](#) (10/8, 814K), “Sources say as soon as Trump hung up with Ukraine’s President in late July, a mad scramble began inside of the Administration. At least one National Security Counsel official alerted the White House national security lawyers that there were concerns about what Trump said. Those are the same lawyers who later ordered the transcript moved to a more secure server in order to limit those who could see it.”

Portman: Trump Should Not Have Discussed Biden With Zelensky, But It’s Not “An Impeachable Offense.” Kristen Welker, on [NBC’s Today](#) (10/8, 3.33M) reported that “a fourth Republican senator is now distancing himself from the President over that controversial Ukraine call.” Sen. Rob Portman (R-OH) “[told] a local paper the President should not have raised the Biden issue on that call period, but he added, ‘I don’t view it as an impeachable offense.’”

Kinzinger: Trump Asking Zelensky To Probe The Bidens Is “Not Impeachable.” Appearing on [CNN’s New Day](#) (10/8, 514K), Rep. Adam Kinzinger (R-IL) said, “It’s one thing to say, ‘Hey, can you tell us and investigate the Bidens’ or any political opponent?’ But if there is “evidence that military aid was withheld as a contingent for getting this information...that’s a whole new level of issues and concerns. ... The problem is, though, Democrats started calling it an

impeachment inquiry and that has a whole different level of things.” Kinzinger said asking for an investigation of the Bidens is “wrong,” but “that’s different than saying it’s impeachable. That’s a different question. ... For me, as I have to look at this decision, talking to the Ukrainians and saying, ‘Give us information on Biden’ in and of itself is not impeachable. What else comes out, who knows?”

A [New York Times](#) (10/8, 18.61M) editorial says that when he spoke with the President, Zelensky “must have recognized that winning Mr. Trump over required cringing flattery and total deference.” His approach “worked, at least in the short term,” as “the White House did release the military assistance for Ukraine that it had withheld, although more likely in response to pressure from Congress than Mr. Zelensky’s vague promises.” The Times adds that “Zelensky’s phone call has not turned his people against him, perhaps because it remains unclear to them how he...should have acted when trapped between a rock and a hard place.” The Times adds, “However clumsy Mr. Zelensky appeared in the role of a Trump appeaser, it was not his or Ukraine’s fault that Mr. Trump tried so cynically to bend them to his schemes.”

NYTimes Report: Whistleblower Consulted With Schiff Before Filing Complaint.

The [New York Times](#) (10/2, Barnes, Schmidt, Rosenberg, 18.61M) reports House Intelligence Chairman Adam Schiff “learned about the outlines of a CIA officer’s concerns that President Trump had abused his power days before the officer filed a whistle-blower complaint.” The Times adds the leak “explains how Mr. Schiff knew to press for the complaint when the Trump administration initially blocked lawmakers from seeing it.” The Times also reports the CIA officer “approached” a House Intelligence Committee aide “with his concerns...only after he had had a colleague first convey them to the CIA’s top lawyer” and became “concerned about how that” was being handled by the agency. The aide “shared some of what the officer conveyed to” Schiff. Noting the Times piece, [The Hill](#) (10/2, Rodrigo, 2.98M) indicates “the CIA officer whose whistleblower complaint is at the center of the impeachment inquiry...consulted the House Intelligence Committee before filing it.”

The NYTimes story was not mentioned on the major network newscasts and received scant attention on mainstream print media. On the other hand, it was widely covered by conservative publications. [Townhall](#) (10/2, Vespa, 177K) reports, for example, that “this whole impeachment circus just got shadier,” with the [Washington Examiner](#) (10/2, Brest, 448K) and [Breitbart](#) (10/2, Bleau, 673K), among other outlets, also reporting the story.

Sean Hannity said on [Fox News’ Hannity](#) (10/2, 535K) that Schiff “got an early account of the so-called whistleblower’s accusation.” Schiff “learned about the so-called whistleblower, who is not a whistleblower, and that

whistleblower's so-called concerns before he or she filed a complaint. In fact, Schiff's office spoke directly to the future non-whistleblower whistleblower and even recommended that the future he or she hire an attorney and meet with the inspector general to file a complaint. His fingerprints all over this. This is not a real whistleblower. Hearsay, 'I heard it from so-and-so, who heard it from so-and-so, who heard it from so-and-so,' would not be admissible in a court of law, but apparently not in the court of corrupt Democrats who spread lies and conspiracy theories of one hoax after another. ... And the sleazebag, the cowardly Schiff himself was behind this, quote, 'nonpartisan, totally legitimate' whistleblower complaint from the very beginning."

The [New York Post](#) (10/2, Moore, Schwab, 4.57M) and [Axios](#) (10/2, Basu, 521K) also run pieces on the NYTimes disclosure, though Axios takes a much more benign view of the whistleblower's actions that do conservative reports. To Axios, they illustrate "his concerns that the issue may not be handled with the appropriate level of urgency," but "nonetheless" it is "likely that Trump will latch onto the revelations for further attacks."

[Breitbart](#) (10/2, 673K) reports a spokesperson for Schiff "attempted to downplay" the "bombshell report confirming suspicions the impeachment inquiry architect received an early account of allegations made in a complaint regarding...Trump's July telephone call." Said Schiff spokesman Patrick Boland, "This is a regular occurrence, given the Committee's unique oversight role and responsibilities. Consistent with the Committee's longstanding procedures, Committee staff appropriately advised the whistleblower to contact an Inspector General and to seek legal counsel," Patrick Boland, Schiff's spokesman said. "[A]t no point did the Committee review or receive the complaint in advance. ... The Committee did not receive the complaint until the night before the Acting Director of National Intelligence's open hearing before the Committee."

The [Daily Caller](#) (10/2, Ross, 716K) reports that Schiff has "strongly implied in interviews over the past several weeks that he did not know the substance of the complaint," and "also said that he might not have known about the complaint if not for a letter from the Intelligence Community Inspector General." The Daily Caller adds that "during his many interviews about the allegations against Trump," Schiff "did not reveal that his office had been in contact with the whistleblower," and "in a Sept. 19 press conference, he suggested that he did not know what the whistleblower was alleging."

[Townhall](#) (10/2, Vespa, 177K) reports Schiff "is a snake. Period. There's no way around it. He's part of the cabal of anti-Trump Democrats who pushed the Russian collusion myth for two years." On the Ukraine controversy, Townhall adds, "Alas, it was all fake news. There was no quid pro quo. But House Democrats decided this allegation was enough to launch a formal impeachment inquiry – and all of this was

done before the complaint was ever released." Townhall also reports, "In light of today's New York Times report about Schiff's office communicating with the whistleblower before the formal complaint was filed, some people think Schiff may not be the most honest politician out there."

Trump Thanks NYTimes, Says Story Shows Schiff A "Fraud" And Inquiry "A Scam." The President yesterday [tweeted](#) a link to the NYTimes story and its headline "Schiff, House Intel Chairman, Got Early Account of Whistle-Blower's Accusations." Trump added, "SCHIFF IS A FRAUD!" The [Washington Examiner](#) (10/2, Brest, 448K) recounts Trump was also asked to comment on the story during his news conference yesterday. Said Trump, "I love that question. It shows that Schiff is a fraud. I love that question. ... I think it's a scandal that he knew before." Trump added, "I think he probably helped write it, OK, that's what the word is. I give a lot of respect for The New York Times for putting it out. ... That is big stuff. That's a big story. He knew long before, and he helped write it, too. It's a scam."

The [Washington Post](#) (10/2, Nakashima, 14.2M) reports Trump "suggested without evidence that Schiff may have helped compose the whistleblower complaint," but "an attorney for the whistleblower, whose identity has not been made public, rebutted Trump's claim." Said Mark Zaid, "Absolutely not."

Rep. André Carson (D-IN) was asked on [CNN's Situation Room](#) (10/2, 668K) about Trump's claim that Schiff helped write the whistleblower complaint. Carson said, "Chairman Schiff is a very skilled attorney. He's a very brilliant man. He takes his oath very seriously, as do the rest of us. He would never do such a thing. I think this is part of the gaslighting and misdirection that Trump is doing right now."

John Roberts, on [Fox News Special Report](#) (10/2, 1.53M), described Trump as "lashing out in all directions with special attention given to that revelation that...Schiff had advance knowledge that the whistleblower complaint was coming."

Kaitlan Collins said on [CNN's The Lead](#) (10/2, 662K), "We've heard privately just how much the President has focused and zeroed in his anger on Adam Schiff over the last few days as they've launched this impeachment inquiry against him. And you saw it play out today when the President was asked" about the New York Times report that Schiff's office got an early account of the whistleblower's accusations. Trump "said he believed that Adam Schiff knew about the scandal before" and that he believed Schiff "helped this whistleblower quite this complaint, something that the President provided no evidence for why he thought that and...the whistleblower's lawyer has said that is not true. But really this is just a larger aspect of you could see just how angry the President is as he's facing this impeachment inquiry."

Schiff's Handling Of Whistleblower Complaint Draws Criticism. The [New York Post](#) (10/3, Schwab,

Garger, 4.57M) says Schiff is facing growing criticism over “his handling of the whistleblower complaint – and how he’s conducting the Trump impeachment inquiry.” Schiff “was ripped Wednesday over the closed-door testimony of former US envoy for Ukraine Kurt Volker.” Rep. Jim Jordan (R-OH) “stormed out of the hours-long deposition and told reporters that Schiff wanted to limit certain members from questioning Volker.” Said Jordan, “If this is how Mr. Schiff is going to conduct these types of interviews in the future...that’s a concern.” The Post adds that on Wednesday, “Schiff was ripped by liberal commentator Sam Stein for not disclosing that he was aware of the complaint before it was filed.”

Kimberley Strassel writes in the [Wall Street Journal](#) (10/3, Subscription Publication, 7.57M) that Schiff’s handling of the whistleblower complaint raises questions about the legitimacy of the impeachment inquiry.

House Republicans Will Force Vote To Condemn Schiff. In what [Politico](#) (10/3, Zanona, Everett, 4.29M) describes as “their most aggressive offensive yet as the GOP fumbles for a strategy to bear back impeachment efforts,” House Republicans “will force a vote to formally condemn Rep. Adam Schiff when they return from recess.” Politico says the move, which is “largely symbolic” since it will not be approved by the Democrat-controlled House, has the backing of “the House’s highest-ranking Republicans and some of President Donald Trump’s close allies on Capitol Hill”: House Minority Leader McCarthy and House Minority Whip Scalise.

Nunes Warns Whistleblower To Be Truthful About Contact With Schiff When He Testifies. Rep. Devin Nunes (R-CA) said on [Fox News’ The Story](#) (10/2), “The thing not clear is when did they actually find out about it. We still don’t have a date, when did the whistleblower start talking to the Democrats of the Intelligence Committee? It would’ve been very easy to just tell us. He had multiple opportunities to tell us.” Nunes added, “What you have to remember is the whistleblower is supposedly going to come and talk to us. We already got questions for the whistleblower and question one through ten, is who did you talk to, when did you talk to them? So, the whistleblower better be careful when he comes in to make sure he tells us the truth and have the exact dates.”

WPost Gives Schiff Four Pinocchio’s For Comments About Whistleblower Contact. In a fact check, the [Washington Post’s](#) (10/4, Kessler, 14.2M) Glenn Kessler gives Schiff four Pinocchio’s for his comment, “We have not spoken directly with the whistleblower. We would like to.” According to Kessler, Schiff “clearly made a statement that was false. He now says he was answering the wrong question, but if that was the case, he should have quickly corrected the record. He compounded his falsehood by telling reporters a few days later that if not for the IG’s office, the committee would not have known about the complaint. That again suggested there had been no prior communication.” Kessler adds, “The explanation that Schiff was not sure it was the same whistleblower especially strains credulity.”

In an analysis headlined “Adam Schiff’s Unforced Errors On The Impeachment Inquiry,” the [Washington Post’s](#) (10/4, 14.2M) Amber Phillips says Schiff “handed the president at least two things to yank on within as many weeks.” According to Phillips, Republicans “can frame this as Schiff keeping damaging information about Trump to himself.” She concludes, “Schiff’s problem is this: Trump doesn’t much care about context when bashing his enemies.”

Federalist’s Davis: Whistleblower Could Be Prosecuted For Unauthorized Disclosure Of Classified Information. Sean Davis of [The Federalist](#) (10/2, 126K) says the Times’ “bombshell report...raises serious questions about whether the complainant followed federal laws providing whistleblower protections for employees within the US intelligence community.” According to Davis, “Under federal law, whistleblowers within the intelligence community are required to report any allegations of wrongdoing to the Intelligence Community Inspector General (ICIG) in order to receive statutory whistleblower protections for their disclosures.” Davis adds that the law “does not provide any protections to employees or contractors who bypass the process required by law and go directly to Congress, nor does it provide any avenue to disclose classified information to Congress without first going through the ICIG.” Davis says “if the complainant or a colleague leaked classified information to Schiff or his committee, those individuals could be subject to criminal liability for illegal and unauthorized disclosure of classified information.”

In another piece for [The Federalist](#) (10/2, 126K), Davis writes that “political and media elites” expect Americans to accept “that what the anti-Trump whistleblower complaint describes is confirmed by the unredacted and publicly released transcript of Trump’s July 25 phone call” with Ukrainian President Volodymyr Zelensky. “In other words, we’re not supposed to question whether this whole thing has been a political hit job from the start.” Davidson argues that “the Ukraine complaint is based entirely on hearsay and contains blatant falsehoods and misstatements of fact.” Davidson concludes that Americans “have every reason to be suspicious of the emerging Ukraine narrative, and simply appealing to the authority of current and former intelligence officials, many of whom lied to Congress and illegally leaked to the press, isn’t going to change anyone’s mind.”

Democrats Consider “Extreme Measures” To Protect Whistleblower’s Identity. Norah O’Donnell said in opening the [CBS Evening News](#) (10/7, lead story, 2:31, 4.07M), “In a city which leaks like a broken faucet, House Democrats are considering extreme measures to protect the identity of a whistleblower who raised alarms about President Trump possibly pressuring Ukraine to investigate Joe Biden and his son.” CBS’ Major Garrett: “President Trump again denounced the House impeachment inquiry that continues to ensnare more parts of his Administration.” Trump: “It’s lucky that I’m the President, because I guess a lot of people

couldn't handle it. I sort of thrive on it." Garrett: "A second whistleblower has emerged, this one according to lawyers, with direct knowledge of President Trump's phone call with Ukraine's President. The House Intelligence Committee is considering extreme measures to protect the first whistleblower's identity, such as interviewing the person behind a curtain and obscuring his or her voice." Rep. Raja Krishnamoorthi (D-IL): "We have to take all precautions, because we cannot burn his or her identity." Krishnamoorthi said on [CNN's Situation Room](#) (10/7, 708K), "We're kind of in an unusual situation where the President is basically threatening the whistleblower. ... And so this extremely unusual situation unfortunately demands extreme measures."

The [Washington Post](#) (10/7, Bade, Miller, Nakashima, Demirjian, 14.2M) reports the steps under consideration "include having the whistleblower testify from a remote location and obscuring the individual's appearance and voice, these officials said." [Axios](#) (10/7, Basu, 521K) says Trump "has repeatedly sought to undermine the credibility of the whistleblower whose allegations have helped set off an impeachment inquiry, suggesting on numerous occasions that the whistleblower is sort of a 'spy' or partisan actor and claiming that he deserves to 'meet' his accuser." [ABC News](#) (10/7, Siegel, Faulders, 2.97M) reports that Democrats' concern, sources tell them, "is that congressional Republicans close to the president could seek to reveal their identity."

[CNN](#) (10/7, Cohen, Raju, 83.16M) reports that it is "still unclear when the whistleblower might ultimately talk with the committee. But talks are underway looking at several options to attempt to prevent the whistleblower from being identified or having his or her name leaked to the press."

The [Washington Examiner](#) (10/7, Dunleavy, 448K) reports, "The first Ukraine whistleblower wrote a two-page memo one day after" the phone call between Trump and Ukraine President Volodymyr Zelensky "detailing secondhand information provided by a White House official [who] described the call as 'crazy,' 'frightening,' and 'completely lacking in substance related to national security,' according to the memo."

Report: Trump Threats Complicating Whistleblower Testimony. [Reuters](#) (10/3, Morgan, Hosenball, Landay) reports President Trump's public threats against the anonymous whistleblower "are complicating negotiations for the person to testify to Congress" and the charge of treason is "prompting concerns among Democrats on the US House of Representatives Intelligence Committee that testifying could raise the risk of exposure."

Reuters: US Authorities Are Protecting Whistleblower. [Reuters](#) (10/7, Hosenball) reports that US authorities "have taken security measures to protect" the whistleblower, "a source familiar with the case told Reuters." The "U.S. government source familiar with the whistleblower's case said federal authorities were taking precautions to

protect the official, but declined to say what measures had been put in place. The source also declined to say whether any specific threats had been made against the whistleblower."

Whistleblower's Attorney Representing Second Individual. In the lead story on [NBC Nightly News](#) (10/7, lead story, 2:11, Holt, 5.87M), Hallie Jackson reported on "new fallout from the emergence of a second whistleblower, this one with firsthand knowledge of that controversial call in July between President Trump and the leader of Ukraine, according to the attorney for the first whistleblower." On [ABC World News Tonight](#) (10/7, story 2, 2:50, Muir, 6.92M), Cecilia Vega reported, "The attorney who represents the original whistleblower is now also representing a second person, a member of the intelligence community who claims to have firsthand information" about the call.

Trump attorney Jay Sekulow said on [Fox News' Hannity](#) (10/7, 535K), "They are now talking about a second whistleblower, and my statement on that is, so what? We have already released a transcript. Is it really relevant what some other person who may or may not have heard the conversation thought about it?"

Appearing on [Fox News' Fox & Friends](#) (10/7, 831K), House Minority Leader McCarthy said, "All of the world knows more about this phone call" than the first whistleblower did when he filed his complaint based on "hearsay." McCarthy added, "We now have the transcript. Had the Speaker of the House...waited 48 hours, we wouldn't be where we are today and tearing this country apart." Appearing on [Fox Business' Mornings With Maria](#) (10/7), McCarthy said that in the past, when Congress moved towards impeaching a president, it had "an impeachment inquiry...because it is such an important thing. You are asking to remove" the "democratically...elected" president, and "you should not take lightly."

Zaid Founded Group That Actively Sought Administration Whistleblowers. [Breitbart](#) (10/6, Klein, 673K) reports that "at the beginning of Trump's presidency Zaid co-founded Whistleblower Aid, a small nonprofit that blasted advertisements around D.C. actively seeking whistleblowers during the Trump administration." Breitbart says the group "is heavily tied to far-left activist organizations and Democratic politics." Breitbart says Zaid describes himself in his Twitter profile as a "non-partisan" attorney "handling cases involving national security, security clearances, govt investigations, media, Freedom of Information Act, & whistleblowing." His profile and "much of the news media coverage about Zaid's role representing the so-called whistleblowers in the impeachment scandal" does not mention "that he co-founded Whistleblower Aid. That detail is also not mentioned in Zaid's bio on his attorney website."

Pompeo Acknowledges He Was On Trump's Call With Ukrainian President.

The [AP](#) (10/2, Lee) reports Secretary of State Pompeo "publicly acknowledged for the first time Wednesday that he was on the phone call in which" President Trump "pressed Ukraine's president to investigate" former Vice President Biden and his son, Hunter. Speaking at a news conference in Italy, Pompeo said, "I was on the phone call." The AP says Pompeo's "disclosure highlighted his earlier deflection of similar questions about the call, which is at the center of the impeachment inquiry by House Democrats." The [New York Times](#) (10/2, Horowitz, Pérez-Peña, 18.61M) says Pompeo "did not elaborate on the conversation and did not answer a question about whether anything in it had raised a red flag for him."

[Politico](#) (10/2, Forgey, 4.29M) reports that Pompeo "defended the substance of the conversation now at the heart of congressional Democrats' impeachment inquiry." To Politico, his "acknowledgment that he participated in the call, after dodging a question earlier this month about his knowledge of the conversation, draws him deeper into the political crisis consuming the White House, and is sure to provide fodder for Democrats scrutinizing whether his State Department played a role in Trump's attempts to solicit foreign interference in the 2020 election." The [Wall Street Journal](#) (10/2, Donati, Subscription Publication, 7.57M) also reports on Pompeo's comments.

Pompeo's acknowledgment that he was on the call drew criticism from House Foreign Affairs Chairman Eliot Engel, who told [CNN's Situation Room](#) (10/2, 650K) that the Secretary "needs to recuse himself. First of all, he listened in on that conversation. He told nobody about it. He went on numerous shows, didn't say a word. And finally he decided to confess. That's not the kind of straight shooter that we need. I think he's now part of the investigation. I don't think he can be part of a solution."

Schiff Says Pompeo Risks Obstruction Of Justice Charges. [Reuters](#) (10/2) reports that House Intelligence Chairman Adam Schiff on Wednesday "warned" Pompeo "not to stop diplomatic officials from testifying before congressional committees." Schiff said, "We are deeply concerned about Secretary Pompeo's effort now to potentially interfere with witnesses whose testimony is needed before our committee, many of whom are mentioned in the whistleblower complaint. ... And we want to make it abundantly clear that any effort by the secretary, by the President or anyone else to interfere with the Congress' ability to call before it relevant witnesses will be considered obstruction of the lawful functions of Congress."

Rep. André Carson (D-IN) said on [CNN's Situation Room](#) (10/2, 668K), "Secretary Pompeo, I've traveled with him, I served with him on the Intelligence Committee. He is someone who I believe in my heart is a patriot. However, I do think that he is being misled right now and he's proven

himself to be a bit naive with regards to President Trump. I think if he is a true patriot, he should be concerned about the preservation of our republic and he is not doing it now."

A [Washington Post](#) (10/2, 14.2M) editorial says Pompeo "stood by while President Trump and his personal lawyer twisted Ukraine policy to their own ends, and he enabled their vicious attack on" Marie Yovanovitch, "the State Department's ambassador in Kiev. Now he is trying to obstruct her and other professionals from telling their stories to Congress." The Post says House committee chairmen were correct that Pompeo was "intimidating Department witnesses in order to protect himself and the President." The Post adds that "one of those witnesses, former special envoy to Ukraine Kurt D. Volker, is due to testify on Thursday, and Ms. Yovanovitch has reportedly been scheduled for next week. They and other State Department professionals should not hesitate to tell Congress the truth about how Mr. Pompeo enabled the destruction of U.S. diplomacy."

Officials Say Trump Used Pence To Pressure Ukraine's Leader. The [Washington Post](#) (10/2, Miller, Jaffe, Parker, 14.2M) cites "current and former US officials" who said that President Trump "repeatedly involved Vice President Pence in efforts to exert pressure on the leader of Ukraine at a time when the president was using other channels to solicit information that he hoped would be damaging to a Democratic rival." The Post says, "Trump's deployment of Pence is part of a broader pattern of using both executive authority and high-ranking officials in his administration to advance his personal or political interests." According to "officials close to Pence," the Vice President "was unaware of Trump's efforts to press" Ukraine President Volodymyr Zelensky "for damaging information about [former Vice President Joe] Biden and his son."

CIA's General Counsel Made Criminal Reference On Whistleblower's Complaint About Trump Conduct.

[CNBC](#) (10/4, 3.62M) reports US officials familiar with the matter tell NBC News that, "weeks before the whistleblower's complaint became public, the CIA's top lawyer made what she considered a criminal referral to the Justice Department about the whistleblower's allegations that President Trump abused his office in pressuring the Ukrainian president." The move by the CIA's general counsel, Trump appointee Courtney Simmons Elwood, "meant she and other senior officials had concluded a potential crime had been committed, raising more questions about why the Justice Department later closed the case without conducting an investigation." The fact that she and other top Trump Administration political appointees "saw potential misconduct in the whistleblower's early account of alleged presidential abuses puts a new spotlight on the Justice Department's later decision to decline to open a criminal investigation — a decision that the Justice

Department said publicly was based purely on an analysis of whether the president committed a campaign finance law violation.”

Additional Commentary. [Yahoo! News](#) (10/7, Stableford, 12.82M) reports in a profile about the Whistleblower Protection Act of 1989, which “protects federal employees who report a possible violation of law, fraud, waste, abuse or unnecessary government expenditures against retaliation from superiors, including demotion or termination.”

The [AP](#) (10/7) reports about whistleblowers and the protections available to them. The article says that whistleblowers “have played an important role in rooting out government corruption and abuse, and they enjoy legal protections under U.S. laws,” because a whistleblower “exposes wrongdoing in a public or private sector organization in hopes of putting a stop to it.”

LA Times Analysis: Whistleblower Complaint A Sign The “Deep State” Is Fighting Back Against Trump. The [Los Angeles Times](#) (10/2, Biernan, Megerian, Stokols, 4.64M) reports in an analysis that the whistleblower complaint that prompted house Democrats impeachment inquiry is “the starkest example yet that [President] Trump has not prevailed” in his effort “to bend the vast federal bureaucracy to his whims and demands, pushing out dissenters at the top levels while molding a Cabinet that caters to his obsessions as well as his political agenda.” The Times says, “At least some of the civil servants,” who Trump “derisively calls the ‘deep state,’ are ‘fighting back.’”

WSJournal: Unverified Whistleblower Claims Don’t Supersede Executive Privilege. In an editorial, the [Wall Street Journal](#) (10/2, Subscription Publication, 7.57M) denounces what it sees as constitutional norms being trampled by Democrats in their impeachment inquiry. In particular, the Journal argues that it is astonishing that Democrats believe that as-of-yet unverified claims by a whistleblower entitle them to subpoena the President’s conversations with foreign leaders – which legally fall under executive privilege. Democrats are calling any pushback against their demands a “cover-up,” something the Journal casts as laughable given the fact that the White House is plagued by continuous leaks and has in fact released the transcript of the Trump-Zelensky call. Moreover, the Journal posits, if Democrats are successful in obtaining the information they seek it will mean no foreign leader can talk to a US president with any expectation of confidentiality.

Hoffman: Leakers Pose A Danger To National Security. In a column in the [Washington Times](#) (10/3, 492K), Daniel Hoffman writes, “A number of news networks faced criticism last month for running with a disputed story that the CIA had to exfiltrate a spy from Russia in part due to concerns about President Trump’s mishandling of classified information. It might surprise readers that, as a retired CIA

officer, I do not have much issue with the investigative journalists who pursued this story. My indignation is reserved for the leakers, without whose grave transgressions against our national security there would have been no story in the first place.” He argues, “There is absolutely no justification under any circumstances for exposing sensitive sources and methods. Those wishing to criticize President Trump are certainly free to do so, but they should steer clear of classified intelligence as their weapon of choice. Putting intelligence through a political meat-grinder risks significant long-term harm to our nation’s security.”

Former CIA Employee: Spy Exfiltration Story Raises Leakers Alarm. Daniel N. Hoffman, a “former chief of station with the Central Intelligence Agency,” highlights in a [Washington Times](#) (10/3, 492K) op-ed that a “number of news networks faced criticism last month for running with a disputed story that the CIA had to exfiltrate a spy from Russia in part due to concerns about President Trump’s mishandling of classified information.” But Hoffman argues that the ones who should be criticized are “the leakers, without whose grave transgressions against our national security there would have been no story in the first place.”

Former National Security Officials Praise Whistleblower In Letter. [CNN](#) (10/7, Cole, 83.16M) reports that 90 former US national security officials “wrote a letter Sunday praising the anonymous whistleblower whose recent complaint about President Donald Trump’s communications with Ukraine touched off a firestorm.” The signatories wrote, “While the identity of the whistleblower is not publicly known, we do know that he or she is an employee of the U.S. Government. As such, he or she has by law the right—and indeed the responsibility—to make known, through appropriate channels, indications of serious wrongdoing.”

Also reporting is [Newsweek](#) (10/7, 1.53M).

Yasso: Trump Has No Right To Face Whistleblower. In a [USA Today](#) (10/7, 10.31M), Constantine Cannon whistleblower attorney Noelle Yasso criticizes President Trump, who “says that ‘like every American,’ he deserves to meet his accuser (‘the so-called ‘Whistleblower’’) from the intelligence community” because he “is not entitled to ‘meet my accuser’ any more than the general public is entitled to rule on the whistleblower’s credibility.” She writes that the media needs to cease debating this idea in order to protect the process for future whistleblowers going forward.

Krotoszynski: Whistleblower Will Likely Be Revealed. In a [Los Angeles Times](#) (10/3, 4.64M) op-ed, University of Alabama School of Law Professor Ronald Krotoszynski Jr argues that the whistleblower will “not remain anonymous forever,” and he warns that the individual “is likely to be in for a rough time professionally, since existing protections for whistleblowers are completely inadequate.” He adds that while Congress “made an attempt to help shield government employees who report wrongdoing when it enacted the Whistleblower Protection Act of 1989,” the law “is

deeply flawed” because whistleblowers “are only protected if their claims are found to be serious and credible.”

Hall: Intelligence Officers Do Not Whistleblow Lightly. In a [Washington Post](#) (10/7, Hall, 14.2M) op-ed, former CIA intelligence officer Steven Hall argues that he “was never aware of a whistleblower anywhere inside the CIA or the broader intelligence community” over the course of his 30-year career because it “is a deeply uncomfortable, counterintuitive step for an intelligence officer to decide to become a whistleblower.” He adds that he should not have known because the system “is specifically structured to protect their anonymity,” and he criticizes President Trump’s attempts to “find out who alerted the intelligence community’s inspector general.”

Savage: Whistleblower Laws Unprepared For Trump. In a [New York Times](#) (10/3, 18.61M) op-ed, author Charles Savage argues that while Congress “has enacted a hodgepodge of laws covering various aspects of whistleblowing through approved channels,” the laws “were not written for, and do not cover, the highly unusual situation in which a president uses his public platform to denigrate and vaguely threaten a whistle-blower.” However, he adds that ICIG Atkinson is legally bound to protect the whistleblower’s identity as part of the Inspector General Act.

Stanger: America Needs Whistleblowers. In a [New York Times](#) (10/6, Stanger, 18.61M) column, author Dr. Alison Stanger argues that while President Trump “has redefined whistle-blowing to serve his private interests rather than the rule of law,” US whistleblowers continue to “expose illegal or unconstitutional acts that the powerful want to keep secret.” She calls on American to “focus on the content of the whistle-blower complaint, which the White House has not denied.”

Wehle: Inspector Generals Exist To “Call Out Abuse Of Power.” In an op-ed in [The Hill](#) (10/7, 2.98M), former Whitewater Investigation Associate Independent Counsel Kim Wehle argues that inspector generals are important because they “ensure that agencies are operating within the boundaries of the law and in compliance with government standards.” Wehle describes their specific responsibilities, and she includes an overview of their relationship with whistleblowers, who “are not spies or treasonous actors.”

Mueller: US Is In The “Golden Age Of Whistleblowers.” In a [Washington Post](#) (10/7, 14.2M) op-ed, author Tom Muller applauds the US culture of whistleblowing, and he writes that it is a “relief that a few brave souls still walk among us” because growing institutional corruption has “normalized fraud.” He discusses his research into the whistleblower community, and he writes highlights the “common factors” which pushed the interviewed whistleblowers to reveal their truths.

Stanger: Whistleblowers Are As American “As Apple Pie.” In a [Los Angeles Times](#) (10/8, 4.64M) piece, Laura King discusses the American tradition of

whistleblowing, which goes back to the Revolutionary War. King quotes whistleblower author Allison Stanger, who said, “Whistleblowing is really in America’s DNA – it’s as American as apple pie.” King adds that the symbol of a lonely individual “speaking truth to power is an enduring American archetype,” and their sacrifice “is codified in law, enshrined in history, immortalized in Hollywood movies and popular culture.”

IRS Whistleblower Alleges Attempted Interference In Trump Or Pence Tax Audits.

[NBC Nightly News](#) (10/3, story 3, 0:55, 6.07M) covered “a new report out tonight about a second government whistleblower, this time at the IRS.” NBC’s Hallie Jackson: “This new whistleblower complaint is from an IRS official who says he was told a Treasury Department appointee reportedly tried to interfere with the annual audit of the President or Vice President’s tax returns.”

The [New York Times](#) (10/3, Rappeport, 18.61M) reports the whistleblower “came forward to Congress in July with the complaint. ... Additional details about the specific allegations in the complaint remained unclear, including when the reported activity took place.” In August, House Ways and Means Chairman Richard Neal informed Treasury Secretary Mnuchin about the whistleblower. Mnuchin, “in a letter of response to Mr. Neal on Aug. 13, said he referred the matter to the Treasury Department’s inspector general for tax administration.”

The [Washington Post](#) (10/3, Stein, Hamburger, Dawsey, 14.2M) reports two Administration officials “described the IRS complaint as hearsay and suggested it was politically motivated, but they spoke on the condition of anonymity because of the sensitivity of the matter. Democrats who have reviewed it regard it as a deeply significant allegation that, if true, suggests that political appointees may have tried to interfere with the government audit process.”

Also reporting is [The Hill](#) (10/6, Jagoda, 2.98M).

Snowden Will Appear Via Video At Web Summit In Lisbon Next Month.

[Reuters](#) (10/2) reports fugitive US intelligence whistleblower Edward Snowden “will speak next month by video at Web Summit in Lisbon, billed by the organizers as the world’s largest annual tech conference.” Organizers of Web Summit “said it would be Snowden’s largest live audience to date and his first before a major audience since the release last month of his memoir.” The conference “said Snowden would take questions from a moderator onstage about his work for the NSA, from which he leaked a vast trove of classified secrets in 2013, resetting the world’s view of tech-enabled spying.” Web Summit “said it welcomed talks by security and privacy experts.” [The Hill](#) (10/2, Axelrod, 2.98M) reports Snowden’s appearance “will be streamed to the public, and organizers said they anticipate having 70,000 people attend the conference in person.”

Opinion: Edward Snowden's True Permanent Record Is One Of Lies. In a commentary in the [Washington Times](#) (10/8, 492K), Paul Davis writes, "Rather than reading Mr. Snowden's suspect memoir, I reread the 2016 House Intelligence Committee's bipartisan and unclassified report, 'Review of the Unauthorized Disclosures of Former National Security Agency Contractor Edward Snowden.'" According to the report's executive summary, Edward Snowden "perpetrated the largest and most damaging public release of classified information in US intelligence history." Contrary to his public claims that he "notified numerous NSA officials about what he believed to be illegal intelligence collection, the report notes that there is no evidence that Snowden took any official effort to report any legal or moral concerns to any US government oversight officials." Davis concludes, "In my view, Edward Snowden's true permanent record is one of lies, betrayal and aid and comfort to totalitarian regimes and terrorist organizations."

ICIG IN THE NEWS:

Democrats: ICIG Atkinson Corroborated Whistleblower's Complaint. [Politico](#) (10/4, 4.29M) reports that Michael Atkinson, the intelligence community's inspector general, on Friday "provided corroborating details to lawmakers...about [the] bombshell whistleblower complaint involving" President Trump call with Ukrainian President Volodymyr Zelensky. According to Politico, "Democrats who emerged from the ongoing classified hearing appeared satisfied with Atkinson's level of cooperation, indicating that he provided information corroborating the whistleblower's complaint centering on Trump's efforts to pressure Zelensky to investigate former Vice President Joe Biden."

Schiff: ICIG Was Correct To Deem Whistleblower Complaint As Urgent, Credible. [Reuters](#) (10/4, Beech) reports House Intelligence Committee Chairman Adam Schiff on Friday said in a statement that Inspector General Michael Atkinson "was correct in deciding a whistleblower complaint against President Donald Trump was urgent and credible." The [Washington Times](#) (10/4, Muñoz, Mordock, 492K) reports Schiff on Friday also "blasted Republican calls for him to recuse himself from the impeachment inquiry." Schiff said, "Republicans continued the president's strategy of deflection by making the absurd claim that because a whistleblower contacted the committee seeking guidance, the committee cannot conduct an investigation into the complaint." He added, "If that were true, no whistleblower could contact Congress and no committee could conduct an investigation."

[The Hill](#) (10/4, Marcos, Lillis, Miller, 2.98M) reports ICIG Atkinson testified Friday in a closed hearing to the House Intelligence Committee, and he "outlined the details of his probe into the complaint from an anonymous government

whistleblower at the heart of the Democrats' impeachment inquiry."

[NBC News](#) (10/4, 6.14M) reports House Intelligence Chairman Adam Schiff issued a statement after the hearing. He said, "While we cannot get into the substance, we explored with the IG through documents and testimony the reasons why he found the whistleblower complaint to be both urgent and credible."

[ABC News](#) (10/4, News, 2.97M) reports Atkinson "appeared on Capitol Hill last week to meet with the Senate Intelligence Committee, along with Acting Director of National Intelligence Joseph Maguire."

Also reporting are [The Hill](#) (10/4, Lillis, 2.98M), [Washington \(DC\) Post](#) (10/4, Harris, Bade, Demirjian, 14.2M), [New York Times](#) (10/4, A1, Schmidt, Goldman, 18.61M), [USA Today](#) (10/4, Jansen, 10.31M)

Atkinson "Promised" To Support Whistleblowers During Confirmation. The [Washington Post](#) (10/3, Marimow, Nakashima, 14.2M) reports that during his confirmation hearing in 2018, ICIG Atkinson "promised a robust program to encourage whistleblowers – one that 'validates moral courage without compromising national security and without retaliation.'" Trump "picked Atkinson for inspector general of the intelligence community in late 2017, and he was confirmed in May 2018."

CNN Rejects Two Trump Campaign Ads. The [New York Times](#) (10/3, Grynbaum, Hsu, 18.61M) reports CNN has "rejected a pair of provocative ads from President Trump's re-election campaign." A statement issued by CNN said one of the ads "contains assertions of fact about" a "whistleblower complaint that have been refuted by the Intelligence Inspector General." The [Washington Post](#) (10/3, Knowles, 14.2M) publishes a similar article.

Grassley, Johnson Urge ICIG To Probe Leaks Of Classified Info From Whistleblower Complaint. The [Daily Caller](#) (10/3, Ross, 716K) reports that Sens. Charles Grassley (R-IA) and Ron Johnson (R-WI) have written to Michael Atkinson, the intelligence community inspector general, to ask "whether he is investigating leaks of classified details of the whistleblower complaint against President Donald Trump, as well as leaks for news stories published about the Trump-Russia investigation." The senators "noted that classified information about a CIA whistleblower's complaint over a July 25 phone call between Trump and Ukraine's president leaked to the media in the weeks before the complaint was released." The Daily Caller adds "details of the complaint leaked out drip by drip to the press soon after" House Intelligence Chairman Adam Schiff "began discussing the mysterious complaint." [The Federalist](#) (10/3, Clark, 126K) says that "according to Grassley and Johnson, the ICIG has neither confirmed nor denied the existence of an investigation into the leaks," and the senators

"believe the IC should be just as transparent as the White House in releasing information regarding the whistleblower complaint."

Breitbart Analysis: Whistleblower Rules Did Not Change, But Form Did. In an analysis, [Breitbart](#) (10/3, Pollak, 673K) fact checks the claim that the President "lied when he said that the intelligence community changed the whistleblower rules to allow people to submit second-hand information." Breitbart declares the claim "false" because "even if the rules did not change, the online form did change to remove a first-hand information requirement – apparently to justify the complaint against Trump." Breitbart adds, "Trump thought – as others did – that meant the 'rules' had changed, but they probably had not. And it may not have mattered anyway, because the 'whistleblower' used the old form to submit the complaint."

CNN's Tapper: Whistleblower A Registered Democrat. Jake Tapper said on [CNN's The Lead](#) (10/3, 665K), "A source familiar with the whistleblower investigation tells me that the political bias referred to by the intelligence community Inspector General is that the whistleblower is a registered Democrat. That is the bias. The IG acknowledged the bias in his statement, though he said that didn't change the facts of the whistleblower complaint."

Report: Atkinson Noted Whistleblower's Democratic Registration As A "Possible Political Bias." The [Washington Examiner](#) (10/3, Halaschak, 448K) reports ICIG Atkinson included a mention of a "possible political bias" in his review of the whistleblower report because the complainant "is a registered Democrat." However, Atkinson concluded, "Although the ICIG's preliminary review identified some indicia of bias of an arguable political bias on the part of the complainant in favor of a rival political candidate, such evidence did not change my determination that the complaint relating to the urgent concern 'appears credible' particularly given the other information the ICIG obtained during its preliminary review."

The [Washington Examiner](#) (10/8, York, 448K) reports that there "is word of more evidence of possible bias on the whistleblower's part" after Atkinson "revealed that the whistleblower 'had a significant tie to one of the Democratic presidential candidates currently vying to challenge President Trump in next year's election.'"

Also reporting are [National Review](#) (10/3, 731K) and [CNN](#) (10/3, Tapper, Anchor, Correspondent, 83.16M).

Ratcliffe Says DOJ FISA Report On Alleged Abuses To Be Released Within Two Weeks.

The [Washington Examiner](#) (10/8, Chaitin, 448K) reports a Republican lawmaker "said he expects the release of the report by DOJ Inspector General Michael Horowitz on alleged FISA abuses by the DOJ and the FBI within two weeks." Rep. John Ratcliffe (R-TX), who is a member of the House Judiciary and Intelligence Committees, "made the declaration

on Fox News' Sunday Morning Futures when asked by anchor Maria Bartiromo about unreleased transcript material that GOP investigators have suggested was exculpatory evidence not given to the FISA court in applications targeting...Carter Page." Ratcliffe said, "Well, if there is a transcript, I think everyone would agree, based on what you just said, if there is a transcript of what you just related, that absolutely should have been provided to the FISA court. And the good news is, we'll get a definitive answer from the inspector general when this report gets issued in the next week or two about whether or not that was done."

Opinion: What To Expect From Horowitz's Report On Alleged FISA Abuses. In her column in the [Washington Examiner](#) (10/8, 448K), Kaylee McGhee writes, "Horowitz's report is important because it could confirm what many critics have been saying for years: The origins of the investigation into President Trump's 2016 campaign were unreliable, and the intelligence bureaucrats we trust with our national security have been unaccountable for too long." McGhee concludes, "FISA court abuses do indeed exist. And they point to a disturbing rot in the justice system: unelected political appointees taking power into their own hands to surveil and investigate political topics under the guise of national security. This goes beyond Trump, Mueller, and the rest. This is about a total lack of transparency and accountability in a government that is supposed to work for us. We need answers, and it looks like we're about to get them."

Graham Awaiting Report On FISA Warrant. Sen. Lindsey Graham (R-SC), on [Fox News' Sunday Morning Futures](#) (10/6, 1.18M), discussed the progress of the investigation into the FISA warrant against members of the 2016 Trump campaign. Graham said, "Horowitz, the Inspector General, has been looking at this for months, and he'll report back to me. I'm not going to do anything until he comes before the committee. He will tell us his view of the FISA warrant application, and whether it was off the rails, the counter-intelligence investigation, whether it was on up-and-up. ... Barr is being the Attorney General, trying to find out how the investigation against the Trump campaign began, that is the job he's doing exactly what he should be doing."

Ex-FISA Court Chief Expects "Very Fair" Surveillance Report From DOJ IG. The [Washington Examiner](#) (10/3, Chaitin, 448K) reports US District Judge John Bates, who was placed on the FISA court by Supreme Court Chief Justice John Roberts and was its presiding judge from 2009 to 2013, "says he expects a 'very fair' report from Justice Department Inspector General Michael Horowitz on alleged Foreign Intelligence Surveillance Act abuses by the DOJ and the FBI." Bates sat down "with Lawfare editor-in-chief Benjamin Wittes last week to [discuss](#) all things FISA, including the recently completed investigation into the application process to obtain warrants to electronically surveil onetime Trump campaign aide Carter Page." Though Bates "said he did not have any insider knowledge on the contents

of the report, which was given to the DOJ and FBI for a classification review two weeks ago, he laid out his expectations based on what he knows about Horowitz.”

Foreign Intelligence Surveillance Court Ruled FBI Surveillance Violated Privacy Rights.

The [Wall Street Journal](#) (10/8, Volz, Tau, Subscription Publication, 7.57M) reports the intelligence community disclosed Tuesday that the Foreign Intelligence Surveillance Court last year ruled that some FBI electronic surveillance activities violated the constitutional privacy rights of American subjects. US District Judge James Boasberg, who serves on the court, ruled that the Trump Administration failed to make a case that altering the program to protect privacy would hinder FBI counterterrorism operations.

The [New York Times](#) (10/8, Savage, 18.61M) reports FBI agents “carried out several large-scale searches for Americans who generically fit into broad categories – like they were F.B.I. employees or contractors – so long as agents had a reason to believe that someone within that category might have relevant information.” The [Washington Post](#) (10/8, Nakashima, 14.2M) reports, “In the most noteworthy violation disclosed Tuesday, the FBI in March 2017 conducted queries on databases using more than 70,000 email addresses or phone numbers of FBI employees or contractors.” The FBI “proceeded with the queries despite the advice of its general counsel, though it did not review the results.” In another incident, the FBI “made a series of queries using the emails or phone numbers of 57,000 individuals.”

ODNI Releases Section 702 Documents And Opinions. [Lawfare](#) (10/8) reports the Office of the Director of National Intelligence released “partially redacted documents related to the Foreign Intelligence Surveillance Court’s (FISC) authorization of the 2018 certifications under Section 702 of the Foreign Intelligence Surveillance Act (FISA).” The FISC initially approved “most parts of the certification, but ruled that other aspects of the FBI protocols concerning information regarding US persons were inadequate.” The Foreign Intelligence Surveillance Court of Review “partially affirmed the FISC’s decision.” The government then submitted “updated FBI querying procedures, which the FISC approved.”

OTHER IG NEWS:

Report Suggests DEA Authorized Large Increases In Production Of Opioids.

[Salon](#) (10/6, Tarlo, 88K) reports that amid the surge in fatal opioid overdoses across the US, the DEA “authorized large increases in the production of painkillers, the Justice Department’s inspector general said in a scathing [report](#) [PDF] issued Tuesday.” The office “described a DEA that was ‘slow to respond’ to the opioid crisis, which has taken more

than 400,000 lives over the past 20 years, according to government data.” The report said, “We found that the rate of opioid overdose deaths in the United States grew, on average, by 8 percent per year from 1999 through 2013 and by 71 percent per year from 2013 through 2017. ... Yet, from 2003 through 2013 DEA was authorizing manufacturers to produce substantially larger amounts of opioids.”

Gebelhoff: Hijacked Policymaking Process Contributed To Opioid Crisis. [Washington Post](#) (10/3, 14.2M) columnist Robert Gebelhoff highlights that Department of Justice Inspector General Michael Horowitz “issued a grim account this week of the Drug Enforcement Administration’s slow response to the opioid crisis.” But according to Gebelhoff, “there’s an essential element...missing from” the DOJ IG assessment. Gebelhoff argues that the “opioid scandal was not just a failure of an agency; it is the consequence of an industry clawing its way into our political system and hijacking the policymaking process.”

TIGTA Audit Finds Automobile Buyers “Improperly” Claimed \$70M In Credits.

[Bloomberg](#) (10/3, Beene, 4.73M) reports the Treasury Inspector General for Tax Administration (TIGTA) said in an audit released Thursday that tens of thousands of car buyers improperly claimed \$70 million in electric vehicle tax credits using ineligible vehicles during a five-year period ending in the 2018 processing year. Details “about how taxpayers improperly claimed the credits were mostly redacted, though the audit found that the Internal Revenue Service lacks an effective process to prevent improper claims under the program, which awards as much as \$7,500 for electric-car buyers.” The TIGTA “made four recommendations to the IRS, which agreed with the findings.” According to a summary of the audit, the IRS is planning to start a program to recover the improperly claimed credits.

Treasury IG Report: Seven Percent Of EV Tax Credit Claims Are Erroneous.

[Car and Driver](#) (10/9, Atiyeh, 9.22M) reports, “A U.S. Treasury Inspector General report first brought to light by Forbes found that 7 percent of taxpayers claiming credits for plug-in hybrids and battery-electric cars were in fact getting the tax break under false pretenses.” These included erroneously claiming the tax credits for leasing their car instead of buying it outright, claiming credit amounts above the dollar threshold permitted for their car, or by claiming the credits after the respective automakers “exceeded their sales thresholds that made their owners ineligible to receive the claimed amounts.” The IG report “concludes that U.S. taxpayers have subsidized the production and ownership of plug-in cars by more than \$1.4 billion.” In light of the report’s findings, the IRS “has agreed to” its recommendations “in audit procedures, and it will be sending notices to all 16,510 taxpayers who made ineligible

claims to the IRS by February 2021.” [Digital Trends](#) (10/8, Edelstein, 929K) also reported on this story.

US Charges 11 In Healthcare Scams. The [Dearborn \(MI\) Press and Guide](#) (10/7, Hotts) reports, “Eleven individuals – including a Dearborn Heights man – have been named in federal indictments accused of pocketing tens of millions of dollars in unrelated Medicare fraud schemes.” According to the Press and Guide, “The charges announced Friday were the result of investigations conducted by the Health Care Fraud Unit of the Criminal Division’s Fraud Section in conjunction with its Medicare Fraud Strike Force partners, a collaboration among the U.S. Attorney’s Office, the FBI, and U.S. Health and Human Services-Office of the Inspector General.” The Press and Guide adds, “The charges aggressively targeted schemes billing Medicare, Medicaid, and private insurance companies for medical procedures that were not needed or never provided, and prescription medications that often were never purchased or distributed to beneficiaries, officials said in a news release. ‘These offenders stole American taxpayers’ hard-earned money to line their own pockets,’ Special Agent in Charge Steve D’Antuono of the FBI’s Detroit Field Office, said in the release.”

HHS-OIG Says NIH Could Improve Efforts To Assess Researcher’s Financial Conflicts Of Interest. [GenomeWeb](#) (10/2) reports in continuing coverage that a new report from the Health and Human Services (HHS) Office of the Inspector General (OIG) “says NIH is doing better at assessing researchers’ financial conflicts of interest, but could improve even more.” Following a report “from 2008 that found the agency was barely monitoring the financial conflicts of interests of its grantees,” the new report “finds that the NIH was...able to provide data on the number and types of financial conflicts of interests among the researchers it funds.” Furthermore, the report “found that about 3 percent of the nearly 56,000 grants NIH awarded in 2018 had one or more investigators with a financial conflict of interest and, most commonly, this conflict involved equity interests.”

Minnesota DHS Spent \$3.7M On Dead Medicaid Recipients, HHS Audit Shows. The [AP](#) (10/2) reports an audit conducted by the Inspector General of the US Department of Health and Human Services “estimates that Minnesota made \$3.7 million in unallowed payments to managed care organizations from 2014 to 2016 for dead people who had been enrolled in Medicaid.”

According to the [Minneapolis Star Tribune](#) (10/1, Howatt, 1.04M), “DHS Commissioner Jodi Harpstead said the errors happened in the early days of a new computer system and that the agency began fixing the problems and

recovering overpayments from managed care organizations before the federal audit.” Nonetheless, the [St. Paul \(MN\) Pioneer Press](#) (10/2, Faircloth, 407K) says, “federal auditors recommended that Minnesota refund \$3.2 million to the federal government and work to recover the improper payments.”

Report Suggests DHS Drug Detection Devices Cannot Reliably Spot Fentanyl At Border. The [Washington Times](#) (10/4, Dinan, 492K) reported, “Homeland Security spent millions of dollars on drug detection devices for use at the border even though the detectors can’t reliably spot the type of deadly synthetic opioid fentanyl that is pouring across the border, the department’s inspector general said in a report this week.” The devices not only “fail to spot fentanyl at less than 10% purity – which is the level most commonly smuggled across the border – but Customs and Border Protection’s Office of Field Operations (OFO) didn’t even have guidelines on how to use or update the detectors, the inspector general said.” The report was released on Thursday and “was the second this week to find the federal government bungling the response to the opioid crisis.”

Report Faults Drug-handling Practices At National Lab [Associated Press](#) (10/4). “SANTA FE, N.M. (AP) — A government report says Los Alamos National Laboratory’s procedures for storing and tracking controlled substances used in experiments violated federal rules and might have left drugs unaccounted for. The report released by the U.S. Department of Energy’s office of inspector general said the New Mexico lab mislabeled drug purchases, failed to account for amounts used in experiments and kept substances long after research was complete.”

Whistleblower Accuses Huntington Ingalls Of Ignoring Navy’s Testing, Certification Requirements. The [Washington Post](#) (10/8, Gregg, 14.2M) report a whistleblower has “accused the country’s largest shipbuilder of ignoring the Navy’s testing and certification requirements, allegedly putting sailors’ lives at risk by degrading the stealth capabilities of U.S. nuclear submarines.” The whistleblower, Ari Lawrence, “held a senior role with Huntington Ingalls’s submarine division, Newport News Shipbuilding, until October 2017.” The complaint “accuses his former employer of assigning unqualified individuals to install an important hull coating, designed to shield the Navy’s Virginia-class nuclear submarines from sonar, and of falsifying records to cover up their mistakes.”

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October 18, 2019

By U.S. Mail & Email

Hon. Steve Linick, Inspector General
U.S. Department of State
Office of the Inspector General
SA-39
1700 North Moore Street
Arlington, VA 22209
steve.a.linick@stateoig.gov

*Re: Request for investigation regarding unconstitutional endorsement of religion
by Secretary Pompeo*

Dear Inspector General Linick:

On October 11, 2019, Secretary Mike Pompeo gave a proselytizing religious speech to the American Association of Christian Counselors on “Being a Christian Leader.”¹ Mr. Pompeo noted at the beginning of his speech that he was there because “I am the Secretary of State” and explained that he would be talking “not just [about] being a leader” but “about being a Christian leader.” The speech was filled with biblical quotations; endorsements of Christian beliefs and values, such as his “experience with God and my own personal faith in Christ”; and repeated statements about how his faith influences his job as Secretary of State. The Department then heavily promoted the speech on its website and currently hosts the text and video of the speech.²

We write to urge you to investigate Mr. Pompeo for delivering a proselytizing speech that endorsed Christianity in his official government capacity, as well as the Department’s use of its resources to promote the speech. Both actions violate the Establishment Clause of the First Amendment to the U.S. Constitution.

Church–state separation is a constitutional principle that ensures that government does not favor one religion over another or religion over nonreligion. It protects taxpayers from being forced to fund the religious activities, education, and proselytizing of others. And it ensures that all people have the right to choose their

¹ Mike Pompeo, *Being a Christian Leader*, U.S. Department of State, Oct. 11, 2019, <https://www.state.gov/being-a-christian-leader>.

² *Id.*

faith, or no faith at all, and that all are treated equally under the law regardless of their religious beliefs. Mr. Pompeo’s speech and the Department’s continuing promotion of it violate the fundamental American value of religious freedom, sending the message to non-Christians “that they are outsiders, not full members of the political community, and an accompanying message to [Christians] that they are insiders, favored members of the community.”³

The Establishment Clause prohibits government from taking any action that communicates “endorsement of religion.”⁴ Instead, government and all its officials and employees must, when acting in their official capacities, maintain “neutrality . . . between religion and nonreligion.”⁵ Public officials are constitutionally prohibited from presenting religious messages in the course of their duties, whether to employees or to members of the public.⁶ And the Department “may not promote or affiliate itself with any religious doctrine or organization.”⁷

While Mr. Pompeo is entirely free to engage in religious activities in his personal capacity, he must not use his official role as Secretary of State to promote his religion. In his role as Secretary, delivering a speech that enthusiastically endorses Christianity is a violation of the Establishment Clause.

What is more, the Department’s promotion of the speech and the event at which it was delivered are also violations. The government must not lend its name or imprimatur to endorse a religious event.⁸ “[I]f the [state]-sponsorship is known, that

³ *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309–10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

⁴ *Santa Fe*, 530 U.S. at 305.

⁵ *McCreary Cty. v. ACLU*, 545 U.S. 844, 860 (2005) (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)).

⁶ See, e.g., *Berry v. Dep’t of Soc. Servs.*, 447 F.3d 642, 657 (9th Cir. 2006) (state employee had no right to communicate religious messages to clients or to display religious items in plain view in his cubicle); *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1152–53 (4th Cir. 1991) (judge’s practice of opening court with a prayer violated Establishment Clause); *Hall v. Bradshaw*, 630 F.2d 1018 (4th Cir. 1980) (state violated Establishment Clause by distributing official maps that contained a “Motorists’ Prayer”); see also, e.g., *Milwaukee Deputy Sheriffs’ Ass’n v. Clarke*, 588 F.3d 523, 528–29 (7th Cir. 2009) (proselytizing presentations at meetings of sheriff’s department violated Establishment Clause); *Cooper v. U.S. Postal Serv.*, 577 F.3d 479, 493–94 (2d Cir. 2009) (prohibiting religious messages in lobby of contract postal unit); *Warnock v. Archer*, 380 F.3d 1076, 1080–81 (8th Cir. 2004) (disallowing school district from holding prayers at in-service trainings and faculty meetings); *Venters v. City of Delphi*, 123 F.3d 956, 970 (7th Cir. 1997) (Establishment Clause prohibits public employers from proselytizing their employees in the workplace).

⁷ *Cty. of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 590 (1989).

⁸ See, e.g., *Gilfillan v. City of Phila.*, 637 F.2d 924, 930 (3d Cir. 1980).

aid connotes the state approval of a particular religion, one of the specific evils the Establishment Clause was designed to prevent.”⁹

And lest there be any question, speeches by the Secretary and materials on the Department’s website are all government speech, not private speech,¹⁰ so the Department has both the right and the constitutional duty to ensure that they comply with Establishment Clause mandates.¹¹

We therefore urge you to initiate an investigation into violations of the Establishment Clause by Mr. Pompeo and the Department, and that you take steps to ensure that violations will not be repeated. If you have any questions, you may contact Ian Smith at (202) 466-3234 or ismith@au.org.

Sincerely,

(b) (6)

Richard B. Katskee, Legal Director
Ian Smith, Staff Attorney

⁹ *Id.*; see also *Doe v. Vill. of Crestwood*, 917 F.2d 1476, 1478–79 (7th Cir. 1990) (concluding that city may not hold Mass during town-sponsored festival because “[a] religious service under governmental auspices necessarily conveys the message of approval or endorsement”); *Gilfillan*, 637 F.2d at 930–31, 933–34 (concluding that Establishment Clause prohibited city’s collaboration with Archdiocese and its monetary support for Pope’s visit and Mass); *Newman v. City of E. Point*, 181 F. Supp. 2d 1374, 1381–82 (N.D. Ga. 2002) (concluding that, when city printed and distributed fliers advertising private prayer breakfast, “an objective observer would most certainly conclude that the [city] has endorsed religion, specifically Christianity”).

¹⁰ See *Garcetti v. Ceballos*, 547 U.S. 410, 421–23 (2006).

¹¹ *Evans-Marshall v. Bd. of Educ.*, 624 F.3d 332 (6th Cir. 2010) (school board did not act improperly in disciplining public-school teacher for in-class curricular speech); *Grossman v. S. Shore Pub. Sch. Dist.*, 507 F.3d 1097 (7th Cir. 2007) (guidance counselor had no right to make promotion of religion a part of her job description); *Lee v. York Cty. Sch. Div.*, 484 F.3d 687 (4th Cir. 2007) (teacher had no free-speech right to post religiously oriented materials on classroom bulletin board); *Berry*, 447 F.3d at 657 (state employee had no right to communicate religious messages to clients or to display religious items); *Daniels v. City of Arlington, Tex.*, 246 F.3d 500, 503–04 (5th Cir. 2001) (police officer had no right to wear cross pin on uniform); *Knight v. Conn. Dep’t of Pub. Health*, 275 F.3d 156, 165–66 (2d Cir. 2001) (state may restrict employee’s religious speech in response to legitimate Establishment Clause concerns); *Marchi v. Bd. of Coop. Educ. Servs. of Albany*, 173 F.3d 469, 476 (2d Cir. 1999) (school district had right to control conduct of teacher to ensure that he did not violate Establishment Clause); *Edwards v. Cal. Univ. of Pa.*, 156 F.3d 488, 491–93 (3d Cir. 1998) (Alito, J.) (professor at state university lacked free-speech right to choose classroom materials in contravention of university’s policies); *Peloza v. Capistrano Unified Sch. Dist.*, 37 F.3d 517, 522–23 (9th Cir. 1994) (school properly restricted teacher’s speech because allowing him to speak to students about religion during school day would have violated Establishment Clause); *Bishop v. Aronov*, 926 F.2d 1066, 1072–78 (11th Cir. 1991) (public university may restrict professor’s injection of religion into university courses); *Roberts v. Madigan*, 921 F.2d 1047, 1057–58 (10th Cir. 1990) (teacher lacked free-speech right to display religious poster and to keep Bible on his desk).

RE: memo on WBs

From: (b) (6)
To: Steve Linick (b) (6)
Cc: (b) (6)
Date: Thu, 20 Feb 2020 20:04:30 +0000
Attachments: Whistleblower Data.docx (25.47 kB)

Is this what you had in mind? I think in every case where the Department disagreed with us, we would not find their reasoning persuasive, but the statute gives the agency the right to make an independent determination.

From: Steve Linick (b) (6)
Sent: Wednesday, February 19, 2020 6:38 PM
To: (b) (6)
Cc: (b) (6)
Subject: memo on WBs

(b) (6)
As a follow up to our discussion, I'm looking for a memo that describes the number of substantiated WB cases and the department's/USAGM's actions on them. I'd like to understand the department's reasons for disagreeing with us and whether we think the explanations are persuasive or adequate. (Maybe this should be in the form of a chart). Obviously, the failure of the department/USAGM to take action on substantiated findings sends a message to managers that reprisal will be tolerated, and to the WBs that the system will not protect them. I'd like to look at a document by March 13.
tx

Contractor & Grantee Whistleblower Data Since 2014¹

	DOS	USAGM	Total
Number of Complaints	86	10	96
Number of Full Investigations	20	7	27
Number of Substantiated Complaints	8	3	11

Substantiated Cases USAGM:

Name	Agency Made a Determination?	Agency Agreed with OIG Conclusion?	Remedy Ordered
██████	Yes	Yes	Attorneys Fees; Other relief not ordered because the grantee had business reasons for the change in employee's duties
████	Yes	Yes	Attorneys Fees; Other relief not ordered because the grantee had business reasons for the change in employee's duties
████████	Yes	Yes	Attorneys Fees; Other relief not ordered because the grantee had business reasons for the change in employee's duties

Redactions made under Exemptions b(3)(b), b(6) and b(7)(C)

¹ 41 U.S.C. § 4712 was enacted in 2013 and became effective in 2014.

Substantiated Cases DoS:

Name	Agency Made a Determination?	Agency Agreed with OIG Conclusion?	Remedy Ordered
b(3)(b); b(6); b(7)(A); b(7)(C)	b(5); b(6); b(7)(A); b(7)(C)		
b(3)(b); b(6); b(7)(C)	Yes	(b) (5)	None
b(3)(b); b(6); b(7)(A); b(7)(C)	(b) (6), (b) (7)(C), (b) (7)(A), (b) (5)		
b(3)(b); b(6); b(7)(C)	Yes	Yes	DRL was ordered to rehire the whistleblower.
b(3)(b); b(6); b(7)(C)	Yes	(b) (5)	None
b(3)(b); b(6); b(7)(C)	Yes	(b) (5)	None
b(3)(b); b(6); b(7)(A); b(7)(C)	(b) (6), (b) (7)(A), (b) (7)(C), (b) (5)		
b(3)(b); b(6); b(7)(A); b(7)(C)	(b) (6), (b) (7)(A), (b) (7)(C), (b) (5)		

Other OIG Whistleblower Cases:

Type of Case	Number
PPD-19 (Retaliatory Security Clearance Actions)	3
Employee (FSO, Civil Servants, LES)	6

RE: (b) (5) Weekly

From: (b) (6)
To: Steve Linick (b) (6)
Cc: (b) (6)
Date: Wed, 11 Mar 2020 14:51:42 +0000
Attachments: 031120.docx (28.99 kB)

Here's the agenda for today. Can you please call me at 202-(b) (6)

Thanks,

(b) (6)

..>>

-----Original Appointment

From: Steve Linick (b) (6)

Sent: Thursday, February 13, 2020
e: (b) (6)

(b) (5)
When: (b) (3) (B), (b) (6)
Canada)

Eastern Time (US &

Where: IG office

(b)
(5)

Ongoing work

- (b) (5)
- 1) (b) (6), (b) (5)
(b) (5)
- (b) (5)
- 2) (b) (5), (b) (7)(A), (b) (7)(C)
(b) (6), (b) (5)
(b) (5), (b) (7)(A), (b) (6)
- 3) (b) (5)
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(b) (6), (b) (5)
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- 4) (b) (5)
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- 5) (b) (5)
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7) (b) (5)

(b) (6), (b) (5)

(b) (5)

8) (b) (5)

(b) (6), (b) (5)

(b) (5)

9) (b) (6), (b) (5), (b) (3) (B)

(b) (5), (b) (6)

(b) (5), (b) (6), (b) (3) (B)

10) (b) (5), (b) (3) (B)

(b) (5), (b) (3) (B)

(b) (6), (b) (5)

(b) (5), (b) (3) (B)

11) (b) (5), (b) (6), (b) (3)
(B)

(b) (6), (b) (5)

(b) (5)

12) (b) (5)

(b) (6), (b) (5)

(b) (5)

Contractor whistleblowers:

Name	Date Received	180 Days	360 Days (extension if granted)	Status	ESP Staff
(b) (3) (B), (b) (7) (A), (b) (6), (b) (7) (C)	(b) (7)(A), (b) (7)(C), (b) (5)			(b) (5), (b) (7)(A), (b) (7)(C)	(b) (6)

Other Cases:

Name	Type of Case	Date Received	Status	ESP Staff
(b) (3) (B), (b) (6), (b) (7)(A), (b) (7)(C)	(b) (5), (b) (7)(A), (b) (7)(C)	(b) (5), (b) (7) (A), (b) (7)(C)	(b) (5), (b) (7)(A), (b) (7) (C)	(b) (6)