



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

NOV 12 2019

The Honorable Richard Durbin
Vice Chairman
Subcommittee on Defense
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Tammy Baldwin
United States Senator
Washington, DC 20510

The Honorable Patrick Leahy
Vice Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Tom Udall
United States Senator
Washington, DC 20510

The Honorable Patty Murray
United State Senator
Washington, DC 20510

The Honorable Dianne Feinstein
United States Senator
Washington, DC 20510

Dear Senators Durbin, Leahy, Reed, Udall, Baldwin, Murray, and Feinstein:

Thank you for your letters of September 25, 2019, and November 5, 2019, requesting that the Department of Defense Office of Inspector General (DoD OIG) open an investigation into the DoD's delay in providing Ukraine Security Assistance Initiative funding. Your letters highlighted the critically important, independent, non-partisan oversight role that Inspectors General play in our Government. I agree and appreciate your keen interest in—and continued support of—our work and the work of the Inspector General community.

We agree that the issues you raised in your letters and the issues we discussed during our October 29, 2019, meeting are significant, and we are taking your requests very seriously. Presently, as we understand it, three separate House of Representatives Committees—the Committee on Oversight and Reform, the Permanent Select Committee on Intelligence, and the Foreign Affairs Committee—are investigating these issues. The reason for and the impact of the delay in Ukraine funding appears to be one of the key issues in the House of Representatives impeachment inquiry.

We also recognize that the impeachment inquiry is not a criminal proceeding. However, it is sufficiently serious—as well as related to the issues you have raised in your letters—that it is important for us to consider the impact on and overlap with the impeachment proceeding of any investigation we consider conducting.

Specifically, during our meeting, I shared my concerns about opening an investigation now into matters that could lead to the DoD OIG potentially interfering with, duplicating, or otherwise impacting the ongoing House investigation. It is clear that there would be overlap in key witnesses and similar documents to review in any potential DoD OIG investigation and the

House impeachment proceedings. We are also cognizant of the possibility that a trial on these issues potentially could ensue in the Senate, in which the issue of delay in Ukraine assistance could be further examined.

As we also discussed, Inspectors General are required to, and regularly do, consider the impact of our work on other proceedings and ongoing oversight by other entities, including criminal matters or congressional reviews. For example, we rarely would conduct an administrative inquiry when there is an ongoing criminal matter that could be impacted by our inquiry. In addition, we also seek not to duplicate or interfere with the efforts of other oversight entities, even if there is not a criminal proceeding, before initiating our own investigation.

As we discussed in our meeting, it is true that we—and I as the Department of Justice Inspector General for 11 years from 2000 to 2011—have conducted investigations that overlapped with congressional reviews. Normally, however, we initiated those investigations first and unsuccessfully asked Congress to defer its review until our investigation was completed. Moreover, as noted above, although the impeachment inquiry is not a criminal proceeding, it is not a typical congressional oversight investigation.

For these and several other reasons that we discussed, we do not believe we should begin an investigation at this time. That judgement could change, however, as circumstances evolve and the congressional inquiry proceeds.

Toward that end, we will certainly continue to consider your requests and will continue to assess whether the DoD OIG should open an investigation regarding DoD matters that are not under investigation by the three committees conducting the impeachment inquiry and that would not potentially overlap or interfere with their proceeding. I will also continue consulting with my Inspectors General community colleagues on these and other matters. In addition, at the conclusion of the impeachment proceeding, we would again consider investigating such DoD matters that have not been sufficiently addressed and that warrant additional scrutiny.

Again, thank you for your support of our work, for your confidence in our office, and for your willingness to discuss these issues with us directly.

Sincerely,



Glenn A. Fine
Principal Deputy Inspector General
Performing the Duties of the Inspector General