



Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

935 Pennsylvania Ave, NW, Room 7452, Washington, DC 20535 • IC_Complaints@ic.fbi.gov

Scott Dahl
Chair
Inspector General
Department of Labor

June 12, 2017

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings
Ranking Member
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable John Thune
Chairman
Senate Committee on Commerce, Science, and Transportation
512 Dirksen Senate Building
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Commerce, Science, and Transportation
512 Dirksen Senate Building
Washington, DC 20510

The Honorable Tim Murphy
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Diana DeGette
Ranking Member
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Re: Report of Investigation of David Smith, Deputy IG, Department of Commerce

Dear Chairmen and Ranking Members:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of serious administrative misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG). Pursuant to section 11(d)(8)(A) of the IG Reform Act of 2008 (Public Law 110-409), as amended by the IG Empowerment Act, the IC hereby forwards the report of investigation and our recommendation regarding David Smith, Deputy Inspector General for the Department of Commerce.

The Housing and Urban Development OIG conducted the investigation and prepared the attached report, which has been redacted to protect witnesses. The IC assessed the report, accompanying exhibits, and Smith's response to the report. The IC determined that the facts set forth in the report of investigation are supported by a preponderance of the evidence. The IC concluded that Smith engaged in substantial misconduct that undermines the integrity reasonably expected of a senior OIG official, based exclusively on his lack of candor to the HUD investigators and in his statements to the IC. Therefore, the IC recommends the imposition of appropriate discipline.

Also pursuant to section 11(d)(8)(A), the IC provided the HUD OIG report and our recommendation to the President and the Acting Executive Chairperson of CIGIE, Linda Springer, Senior Advisor, Office of Management and Budget. In addition, pursuant to the IC's Policies and Procedures, we provided the report and recommendation to the IG at the Department of Commerce and to Mr. Smith.

Sincerely,

(b) (6)

Scott Dahl
Chairman
Integrity Committee

Enclosure: Report of Investigation



Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

935 Pennsylvania Ave, NW, Room 7452, Washington, DC 20535 • IC_Complaints@ic.fbi.gov

Scott Dahl
Chair
Inspector General
Department of Labor

June 12, 2017

Linda M. Springer
Acting Executive Chair
Council of the Inspectors General on Integrity and Efficiency
Senior Advisor
Office of Management and Budget
1717 H Street, NW, Suite 825
Washington, DC 20006

Re: Report of Investigation Relating to David Smith, Deputy Inspector General

Dear Ms. Springer:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of serious administrative misconduct made against an Inspector General or a designated official within an Office of Inspector General (OIG). The statute also requires the IC to send an investigative report of the allegations and recommendations to “the Executive Chairperson of CIGIE and to the President.” Therefore, pursuant to Section 11(d)(8)(A) of the Inspector General Reform Act of 2008 (Public Law 110-409), as amended by the IG Empowerment Act, the IC hereby forwards the report of investigation and our recommendation regarding David Smith, Deputy Inspector General for the Department of Commerce.

The Housing and Urban Development OIG conducted the investigation and prepared the attached report, which has been redacted to protect witnesses. The IC assessed the report, accompanying exhibits, and Smith's response to the report. The IC determined that the facts set forth in the report of investigation are supported by a preponderance of the evidence. The IC concluded that Smith engaged in substantial misconduct that undermines the integrity reasonably expected of a senior OIG official, based exclusively on his lack of candor to the HUD investigators and in his statements to the IC. Therefore, the IC recommends the imposition of appropriate discipline.

In accordance with Section 11(d)(8)(B), please report to the IC on the final disposition of this matter, including what action was taken by the Inspector General of the Department of Commerce.

We also have sent the report and recommendation to the President, the Inspector General for the Department of Commerce, and the appropriate congressional oversight committees.

Sincerely,

(b) (6)

Scott Dahl
Chairman
Integrity Committee

Enclosure: Report of Investigation



Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

935 Pennsylvania Ave, NW, Room 7452, Washington, DC 20535 • IC_Complaints@ic.fbi.gov

Scott Dahl
Chair
Inspector General
Department of Labor

June 12, 2017

Ms. Peggy Gustafson
Inspector General
Department of Commerce
14th & Constitution Ave. NW
HCHB 7898-C
Washington, DC 20230

Re: Report of Investigation Relating to David Smith

Dear Inspector General Gustafson:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of serious administrative misconduct made against an Inspector General or a designated official within an Office of Inspector General (OIG).

Pursuant to the IC's Policies and Procedures, the IC hereby forwards the report of investigation and our recommendation regarding David Smith, Deputy Inspector General for the Department of Commerce.

The Housing and Urban Development OIG conducted the investigation and prepared the attached report, which has been redacted to protect witnesses. The IC assessed the report, accompanying exhibits, and Smith's response to the report. The IC determined that the facts set forth in the report of investigation are supported by a preponderance of the evidence. The IC concluded that Smith engaged in substantial misconduct that undermines the integrity reasonably expected of a senior OIG official, based exclusively on his lack of candor to the HUD investigators and in his statements to the IC. Therefore, the IC recommends the imposition of appropriate discipline.

Also pursuant to section 11(d)(8)(A), the IC will provide the HUD OIG report and our recommendation to the appropriate congressional oversight committees, the President, and the Acting Executive Chairperson of CIGIE, Linda Springer, who is responsible for reporting to the IC on the final disposition of the matter, including what action was taken by you as the agency head.

Sincerely,

(b) (6)

Scott Dahl
Chairman
Integrity Committee

Enclosure: Report of Investigation



Integrity Committee

Council of the Inspectors General on Integrity and Efficiency

935 Pennsylvania Ave, NW, Room 7452, Washington, DC 20535 • IC_Complaints@ic.fbi.gov

Scott Dahl
Chair
Inspector General
Department of Labor

June 12, 2017

Mr. Robert Fitzpatrick
Robert B. Fitzpatrick PLLC
1666 Connecticut Avenue, NW
Suite 230
Washington, DC 20009-5728

Re: Report of Investigation

Dear Mr. Fitzpatrick:

The Integrity Committee (IC) initiated an investigation into allegations of administrative misconduct involving your client, David P. Smith. The investigation under the IC's direction was conducted by the U.S. Housing and Urban Development Office of Inspector General (HUD OIG).

The HUD OIG provided a draft Report of Investigation (ROI) to Mr. Smith and an opportunity to review and respond to the ROI, both of which Mr. Smith did. The IC assessed the ROI, accompanying exhibits, and Mr. Smith's response. The IC determined that the facts set forth in the ROI are supported by a preponderance of the evidence. The IC concluded that Mr. Smith engaged in substantial misconduct that undermines the integrity reasonably expected of a senior OIG official, based exclusively on his lack of candor to the HUD investigators and in his statements to the IC. Therefore, the IC recommends the imposition of appropriate discipline.

Pursuant to the IC's Policies and Procedures, the IC has provided the ROI and recommendations to the Inspector General for the Department of Commerce, as the agency head. Pursuant to section 11(d)(8)(A) of the Inspector General Reform Act of 2008, as amended by the IG Empowerment Act, the IC has also provided the ROI and our recommendation to the appropriate congressional oversight committees, the President, and the Acting Executive Chair of CIGIE. A copy of the ROI is enclosed.

Sincerely,

(b) (6)

Scott Dahl
Chairman
Integrity Committee

Enclosure



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Scott Dahl
Chair
Inspector General
Department of Labor

June 12, 2017

The President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Re: Report of Investigation Relating to David Smith, Deputy Inspector General

Dear Mr. President:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of serious administrative misconduct made against an Inspector General or a designated official within an Office of Inspector General (OIG). The statute also requires the IC to send an investigative report of the allegations and recommendations to “the Executive Chairperson of CIGIE and to the President.” Therefore, pursuant to Section 11(d)(8)(A) of the Inspector General Reform Act of 2008 (Public Law 110-409), as amended by the IG Empowerment Act, the IC hereby forwards the report of investigation and our recommendation regarding David Smith, Deputy Inspector General for the Department of Commerce.

The Housing and Urban Development OIG conducted the investigation and prepared the attached report, which has been redacted to protect witnesses. The IC assessed the report, accompanying exhibits, and Smith's response to the report. The IC determined that the facts set forth in the report of investigation are supported by a preponderance of the evidence. The IC concluded that Smith engaged in substantial misconduct that undermines the integrity reasonably expected of a senior OIG official, based exclusively on his lack of candor to the HUD investigators and in his statements to the IC. Therefore, the IC recommends the imposition of appropriate discipline.

We also have sent the report and recommendation to the Acting Executive Chair of CIGIE, Linda M. Springer, Senior Advisor at the Office of Management and Budget, as well as to the appropriate congressional oversight committees.

Sincerely,

(b) (6)

Scott Dahl
Chairman
Integrity Committee

cc: Linda M. Springer, OMB

Enclosure: Report of Investigation



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

April 10, 2017

Scott Dahl
Chairman
Integrity Committee
935 Pennsylvania Ave, NW, Room 7452
Washington, DC, 20535

Chairman Dahl:

This information is being provided to you pursuant to the Integrity Committee's (IC) April 6, 2016, request for the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), Washington, DC, to conduct an independent, administrative investigation into an allegation of wrongdoing on the part of Acting Inspector General David Smith, U.S. Department of Commerce (DOC), OIG, Washington, DC.

Per the IC's guidance, a review has been conducted of Mr. Smith's response to HUD OIG's draft Report of Investigation (ROI). This review was conducted, in an attempt to determine whether or not Mr. Smith's response prompts changes to the ROI (e.g., if additional investigative steps are needed, the investigators wish to provide a response to his, any other information/action that might need to be corrected, etc.).

Subsequent to the review of Mr. Smith's response, it was determined, that given the scope of the investigation conducted by this office, Mr. Smith's response does not warrant any substantive changes to the attached final ROI.

Should you have any questions or need additional information, do not hesitate to contact me at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C)

Sincerely,

(b) (6), (b) (7)(C)

Enclosure



REPORT OF INVESTIGATION

CASE NUMBER: 2016SI0004711

FOR OFFICIAL USE ONLY



OFFICE OF INVESTIGATION



REPORT OF INVESTIGATION



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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

REPORT OF INVESTIGATION



CASE NUMBER: 2016SI0004711

REGION/OFFICE: Special Investigations Division

TITLE: DAVID SMITH

NARRATIVE:

SUBJECT IDENTIFICATION:

DAVID SMITH, ES-0340-00
Deputy Inspector General
U.S. Department of Commerce (DOC)
Office of Inspector General (OIG)
Washington, DC

BASIS FOR INVESTIGATION:

This investigation was initiated based upon notification from the Integrity Committee (IC) of the Council of Inspectors General on Integrity and Efficiency (CIGIE), Washington, DC. CIGIE requested that HUD OIG conduct an independent, administrative investigation into an allegation of wrongdoing on the part of SMITH. According to CIGIE, (b) (6), (b) (7)(C), DOC, OIG, Washington, DC, alleged that SMITH directed her, to create a memorandum regarding a telephone call that his (SMITH's) ex-wife made to the DOC OIG office, to inquire about SMITH's salary. SMITH is alleged to have reviewed and edited the memorandum and directed (b) (6), (b) (7)(C) to give him a copy. SMITH is further alleged to have removed a copy of the memorandum from the DOC OIG work space, without authorization, and improperly use it in connection with his personal divorce litigation (**Exhibit 1**).

RE: (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	DATE: November 7, 2016
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REPORT OF INVESTIGATION

CASE NUMBER: 2016SI0004711

POTENTIAL VIOLATIONS:

Potential Criminal Violations –

- Title 18 U.S. Code 1001 – Statements or entries generally.

Potential Administrative Violations –

- Title 5 Code of Federal Regulations (CFR) 2635.702 Use of public office for private gain.
- Title 5 CFR 2635.705 – Use of official time.
- DOC, Discipline, Table of Offenses and Penalties:
 - Conducting personal affairs while in duty status.
 - Unethical use of official authority or information.
 - Misrepresentation, falsification, or omission of material fact in connection with application, employment or any record, report, investigation or other proceeding.
 - Conduct demonstrating untrustworthiness or unreliability.
- DOC OIG Guide for Disciplinary Penalties, Section 8 Falsification (b) Falsification, misrepresentation, or omissions of a material fact.

SYNOPSIS:

This investigation established that SMITH provided false statements to the IC, in his letter to Chair Joseph S. Campbell, IC, CIGIE, Washington, DC, dated January 31, 2014. Specifically, on page 2 of his letter, SMITH stated, “I did not instruct (b) (6), (b) (7)(C) what to include in her recollection nor did I edit her statement.” However, during an interview with SID, SMITH admitted that he made edits and made recommendations on the content of the memorandum created by (b) (6), (b) (7)(C). During a separate interview with SID, (b) (6), (b) (7)(C) confirmed that SMITH reviewed, edited and directed her to give him a copy of the memorandum. (b) (6), (b) (7)(C) also acknowledged that there were, at least, two versions of the memorandum.

In addition, SMITH reported, “I asked (b) (6), (b) (7)(C) if she would voluntarily record her recollection of the conversation she had with the complainant.” This investigation also determined that to be a false statement. Independent witness interviews determined that SMITH directed (b) (6), (b) (7)(C) to create two separate memorandums, in order to document two separate telephone calls received from SMITH’s ex-wife in July and November of 2013. However, SMITH only mentions the memorandum dated July 26, 2013, in his letter to the IC.

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REPORT OF INVESTIGATION

CASE NUMBER: 2016SI000471I

Furthermore, this investigation determined that SMITH misused his position as the Deputy Inspector General for DOC OIG when he instructed (b) (6), (b) (7)(C) to create a memorandum, during normal business hours, that he reviewed, edited and removed from DOC in connection with his personal divorce litigation, a violation of 5 CFR 2635.702 (Use of public office for private gain) and 5 CFR 2635.705 (Use of official time).

DETAILS OF INVESTIGATION:

On May 18, 2016, SMITH was interviewed by SID (**Exhibit 2**). SMITH admitted that he asked (b) (6), (b) (7)(C) to create a memorandum to capture a telephone conversation she had with his (SMITH's) ex-wife. SMITH explained that he asked (b) (6), (b) (7)(C) three times if she mind creating the memorandum. SMITH added that he told (b) (6), (b) (7)(C) that the document was going to be used in his personal divorce proceeding. SMITH denied the allegation that he instructed (b) (6), (b) (7)(C) to create the document in question. SMITH stated that he told (b) (6), (b) (7)(C) "If you don't want to do it, no harm, no foul". According to SMITH, this was the only time he ever asked (b) (6), (b) (7)(C) or any employee, to do something, of a personal nature, on his behalf.

SMITH denied influencing the content in the memorandum. SMITH said, "I asked (b) (6), (b) (7)(C) to do me a personal favor". Regarding the content of the memorandum, SMITH denied having any input regarding the content. However, SMITH admitted that (b) (6), (b) (7)(C) gave him the original draft memorandum and asked him if it would suffice. SMITH related that he reviewed the memorandum and informed (b) (6), (b) (7)(C) that a portion of the memorandum that pertained to his (SMITH's) ex-wife's questions regarding "sequestration" was not necessary. SMITH continued that he also asked (b) (6), (b) (7)(C) to sign and date the memorandum, but denied making any other recommendations.

SMITH stated that he did not think it was appropriate for the IC to investigate this matter, because he believed it to be outside of their investigative purview. SMITH explained that he "self-reported" this matter to Chair Joseph S. Campbell, CIGIE, IC, Washington, DC, on January 31, 2014. SMITH continued that he received notification from the IC acknowledging that they received his letter and it was his interpretation that this matter was outside of their (IC) investigative scope.

SMITH stated that he had a conversation with (b) (6), (b) (7)(C) regarding the IC inquiry. SMITH continued that (b) (6), (b) (7)(C) went through a similar IC inquiry, and recommended that he (SMITH) self-disclose certain matters. According to SMITH, (b) (6), (b) (7)(C) provided him a "go-by", which had been successfully used in an IC inquiry. SMITH added that (b) (6), (b) (7)(C) continued to provide

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CASE NUMBER: 2016SI0004711

guidance to him, throughout the IC inquiry process. SMITH said (b) (6), (b) (7)(C) provided him with verbiage, that he (b) (6), (b) (7)(C) personally used, to self-disclose to the IC. SMITH explained that he was advised, by (b) (6), (b) (7)(C) that the IC is not likely to investigate matters that were self-reported.

During the course of the interview, SMITH reported that he discovered a folder in the vacated office of (b) (6), (b) (7)(C) DOC, OIG, Washington, DC, that contained materials relating to him (SMITH) and CIGIE. According to SMITH, he was in the office looking for materials unrelated to this allegation, when he discovered the folder. SMITH continued that he also found a second letter addressed to Campbell, from (b) (6), (b) (7)(C) dated February 25, 2014, within the folder. SMITH acknowledged that he read the letter, in its entirety, and after doing so, concluded that someone had influenced the contents of the letter. SMITH stated that he came to this conclusion based on his familiarity with (b) (6), (b) (7)(C) writing style. SMITH stated that it was his opinion that (b) (6), (b) (7)(C) wrote the second letter for two reasons: 1) because she was upset with the allegations made by his (SMITH's) ex-wife; and 2) because someone (at DOC OIG) influenced her. SMITH had no evidence to corroborate his claim.

SMITH was asked if he thought it was appropriate to review documents that were in support of formal allegation(s) against him. SMITH stated that as the Acting IG for DOC OIG, he considered all records in the DOC OIG office space DOC OIG property, subsequently, he was entitled to see and review the documents. SMITH was asked if that statement/philosophy also applied to the memorandum he personally asked (b) (6), (b) (7)(C) to create. After confirming that (b) (6), (b) (7)(C) wrote the memorandum in DOC OIG office space, during normal DOC OIG business hours, and at the request of a DOC OIG Senior Executive Staff member, SMITH said he did not intend for the letter to be official DOC OIG business. SMITH stated that he did not think the memorandum should be considered an official DOC OIG document, because he considered it to be a personal favor. SMITH repeated that this was the only time he ever asked (b) (6), (b) (7)(C) or any employee, to do him a personal favor. SMITH stated that he did not think it was inappropriate for him to ask (b) (6), (b) (7)(C) for this personal favor, because she was not pressured, by him, in any way.

On May 20, 2016, SID obtained and reviewed a copy of the court motion filed by SMITH, on October 25, 2013 (**Exhibit 3**). The motion was filed in the Circuit Court of the City of Alexandria, VA, Clerk of Courts Office, in relation to case number (b) (6), (b) (7)(C) ((b) (6), (b) (7)(C) v. DAVID PRAEGER SMITH), civil divorce. A review of the October 25, 2013, motion (case number (b) (6), (b) (7)(C) confirmed that SMITH submitted a letter, written by (b) (6), (b) (7)(C) dated July 26, 2013. SMITH provided the letter as part of the

REPORT OF INVESTIGATION

CASE NUMBER: 2016SI0004711

justification for a motion in his divorce proceedings. It was determined that SMITH also provided a copy of the same letter to the IC CIGIE, as part of his (SMITH's) formal written response to (b) (6), (b) (7)(C) allegations. On July 19, 2016, (b) (6), (b) (7)(C) was interviewed by SID (Exhibit 4). (b) (6), (b) (7)(C) confirmed the allegations. (b) (6), (b) (7)(C) explained that SMITH instructed her to write a memorandum regarding a telephone call she had with his ex-wife. (b) (6), (b) (7)(C) added that SMITH asked her, on two separate occasions, to write a memorandum regarding telephone calls made by SMITH's ex-wife. (b) (6), (b) (7)(C) acknowledged that the first telephone call took place in July 2013, and it was in regard to SMITH's salary. (b) (6), (b) (7)(C) added that a second telephone call took place in November 2013, which was also documented with a memorandum.

(b) (6), (b) (7)(C) advised SID that SMITH reviewed and edited the memorandum, dated July 26, 2013, and directed her to give him a copy. (b) (6), (b) (7)(C) stated that she discovered, at a later date, that SMITH had used the memorandum in connection with his personal divorce litigation. (b) (6), (b) (7)(C) was shown, and asked to review a copy of the memorandum in question, dated July 26, 2013, bearing what appeared to be her signature. (b) (6), (b) (7)(C) acknowledged that she prepared the memorandum, at the request of SMITH. (b) (6), (b) (7)(C) also acknowledged that there were, at least, two versions of the memorandum. (b) (6), (b) (7)(C) explained that the original memorandum she created was reviewed and edited by SMITH, at least once. (b) (6), (b) (7)(C) stated that she could not recall the edits made by SMITH, but she knew that there were one or two edits.

(b) (6), (b) (7)(C) confirmed that she received a telephone call from (b) (6), (b) (7)(C) SMITH's ex-wife, in July 2013. (b) (6), (b) (7)(C) acknowledged that (b) (6), (b) (7)(C) inquired about SMITH's furlough days, in respect to his pay. (b) (6), (b) (7)(C) advised that DOC OIG employees were not affected by the partial furlough, during that timeframe, so she (b) (6), (b) (7)(C) thought it was an "odd question". (b) (6), (b) (7)(C) related that she transferred the call to SMITH and later SMITH instructed her to write a statement documenting the conversation. (b) (6), (b) (7)(C) stated that she was under the impression that the document would serve as an official Memorandum to the File in the event other issues emerged in the future. (b) (6), (b) (7)(C) added that she was not aware of SMITH's plan to use the statement in his personal divorce proceeding. (b) (6), (b) (7)(C) stated that SMITH's use of the memorandum in his divorce proceeding was inappropriate.

(b) (6), (b) (7)(C) informed the RAs that she wrote a second memorandum, under similar circumstances in or around November 2013, to memorialize a second telephone call received from (b) (6), (b) (7)(C). However, when asked, (b) (6), (b) (7)(C) was not able to produce a copy of the second memorandum. (b) (6), (b) (7)(C) stated that she destroyed all of her DOC OIG records when she retired. (b) (6), (b) (7)(C) added that she did not think the records were worth maintaining, after she received a notification from the IC informing her that they were not going to investigate the

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REPORT OF INVESTIGATION

CASE NUMBER: 2016SI000471I

allegations against SMITH. (b) (6), (b) (7)(C) explained that she wrote a letter to the IC, clarifying some inconsistencies in a letter that he (SMITH) wrote to the IC. When asked to clarify, (b) (6), (b) (7)(C) stated that SMITH asked her to review a letter that he personally prepared for the IC to disclose information about inappropriate conduct on his behalf. (b) (6), (b) (7)(C) continued that she was given a few minutes to review the letter, before SMITH took it back. (b) (6), (b) (7)(C) advised that she did not feel comfortable confronting SMITH on the inconsistencies in his letter to the IC directly, because he was a Senior Executive Staff (SES) member.

As a result, (b) (6), (b) (7)(C) decided to speak to (b) (6), (b) (7)(C), regarding the situation. According to (b) (6), (b) (7)(C) encouraged her to write a letter clarifying the inaccuracies. (b) (6), (b) (7)(C) stated “encouragement coming from a Senior Executive is more of something you have to do”. (b) (6), (b) (7)(C) was asked if the same statement applied to SMITH. (b) (6), (b) (7)(C) confirmed, and stated that she considered SMITH’s instructions, to create the memorandums, to be directives and not requests.

(b) (6), (b) (7)(C) was asked to review a letter dated February 25, 2014, that was addressed to Chair Joseph Campbell, CIGIE, IC, Washington, DC, also bearing what appeared to be her signature. (b) (6), (b) (7)(C) acknowledged that she wrote the letter in order to clarify the inaccuracies in SMITH’s letter, at the request of (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) explained that she wrote the clarification letter to the IC, but admitted that (b) (6), (b) (7)(C) had input on the letter.

On September 21, 2016, (b) (6), (b) (7)(C) was interviewed by SID (Exhibit 5). (b) (6), (b) (7)(C) confirmed that he personally spoke to SMITH and (b) (6), (b) (7)(C) about the incident. (b) (6), (b) (7)(C) noted that (b) (6), (b) (7)(C), who is SMITH’s ex-wife, called DOC OIG on two separate occasions in 2013. (b) (6), (b) (7)(C) advised that the first telephone call occurred in the summer of 2013, and the second telephone call occurred in the fall of 2013. According to (b) (6), (b) (7)(C) on both occasions, SMITH instructed (b) (6), (b) (7)(C) to memorialize each telephone call with a memorandum to file (MTF). According to (b) (6), (b) (7)(C) the first time (b) (6), (b) (7)(C) called DOC OIG was to inquire about SMITH’s furlough days, in respect to his pay. (b) (6), (b) (7)(C) stated that he originally considered the call to be a personnel matter, so the call was transferred to SMITH without him (b) (6), (b) (7)(C) speaking to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) advised that in his opinion, the matter changed when SMITH came out of his office, and directed (b) (6), (b) (7)(C) to write a memorandum to memorialize the telephone call. (b) (6), (b) (7)(C) added when SMITH instructed a DOC OIG employee (b) (6), (b) (7)(C) to write an official memorandum memorializing the incident, it immediately changed the matter from a personnel telephone call, to an official DOC OIG matter. (b) (6), (b) (7)(C) stated that he told SMITH, “You made this official business, when you directed (b) (6), (b) (7)(C) to write the note.”

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(b) (6), (b) (7)(C) stated that he did not understand why (b) (6), (b) (7)(C) was asking questions about furlough status, since DOC OIG employees were not affected by the partial furlough, during that timeframe. (b) (6), (b) (7)(C) noted that he was aware of the fact that SMITH was going through a divorce, and the matter had become complicated. According to (b) (6), (b) (7)(C) he assumed that it was miscommunication that led to (b) (6), (b) (7)(C) making the telephone call to DOC OIG, to inquiry about furlough status. (b) (6), (b) (7)(C) confirmed that the purpose of (b) (6), (b) (7)(C) call, was to ascertain information of SMITH's furlough status, even though there was no mention of it in the memorandum.

(b) (6), (b) (7)(C) was asked if SMITH had any influence on the memorandum. (b) (6), (b) (7)(C) confirmed that SMITH influenced both memorandums created by (b) (6), (b) (7)(C) which were used to memorialize (b) (6), (b) (7)(C) telephone calls. (b) (6), (b) (7)(C) stated that he could not recall what was actually in the memorandum, because of the amount of time that has elapsed. (b) (6), (b) (7)(C) had no additional information to report regarding the first telephone call made by (b) (6), (b) (7)(C).

Regarding the second telephone call made by (b) (6), (b) (7)(C), to DOC OIG, (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) called to make a complaint against (b) (6), (b) (7)(C). According to (b) (6), (b) (7)(C) the matter was documented with a memorandum, but not investigated. (b) (6), (b) (7)(C) stated that he could not recall specifically what was in the memorandum, because of the time between the incident and the interview. (b) (6), (b) (7)(C) could not provide any additional information regarding the second incident / memorandum. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C). As a result of the issues that he (b) (6), (b) (7)(C) personally witnessed and the growing number of allegations being reported to him, (b) (6), (b) (7)(C) stated that he advised SMITH to self-disclose the matters to the IC. (b) (6), (b) (7)(C) noted that he had over 30 years in the Inspector General community, and he decided to recommend that the matter be referred to someone else to investigate, as he would any other matter.

(b) (6), (b) (7)(C) was asked if he provided guidance or a copy of documentation he (b) (6), (b) (7)(C) previously used in a CIGIE matter, to SMITH. (b) (6), (b) (7)(C) admitted that he provided guidance to SMITH, but he could not recall giving SMITH documentation, which he (b) (6), (b) (7)(C) successfully used in a previous IC inquiry. (b) (6), (b) (7)(C) acknowledged that he assisted SMITH with verbiage in his (SMITH's) report to the IC, because SMITH had an issue with his tone. According to (b) (6), (b) (7)(C) SMITH had a tendency of embellishing the truth, so he (b) (6), (b) (7)(C) helped SMITH through the process. (b) (6), (b) (7)(C) stated that he continued to provide guidance to SMITH, until he (SMITH) requested a transfer. (b) (6), (b) (7)(C) stated that SMITH requested a transfer, after he (b) (6), (b) (7)(C) started holding SMITH accountable for his (SMITH's) actions.

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Regarding the self-discloser letter, written by SMITH, to the IC, (b) (6), (b) (7)(C) stated that he asked SMITH if he allowed (b) (6), (b) (7)(C) the opportunity to review the letter. (b) (6), (b) (7)(C) noted that he told SMITH to have (b) (6), (b) (7)(C) review it, since she was mentioned in the letter. (b) (6), (b) (7)(C) stated that SMITH was not happy with the idea, but complied. (b) (6), (b) (7)(C) related that (b) (6), (b) (7)(C) immediately came to him (b) (6), (b) (7)(C), after having the opportunity to review SMITH's letter to the IC, with concerns regarding SMITH's truthfulness in the letter. (b) (6), (b) (7)(C) noted that (b) (6), (b) (7)(C) told him that SMITH lied about certain events that were being reported. (b) (6), (b) (7)(C) acknowledged that he advised (b) (6), (b) (7)(C) to write her own letter to the IC, in order to clarify any inconsistencies with SMITH's letter. (b) (6), (b) (7)(C) stated that he could not recall if he reviewed (b) (6), (b) (7)(C) letter, to the IC, before or after she submitted the letter. However, (b) (6), (b) (7)(C) reported that he does recall reading the letter at some point.

Since (b) (6), (b) (7)(C) mentioned incidences in which SMITH was less than forthcoming, (b) (6), (b) (7)(C) was asked, in his opinion, SMITH had an integrity issue. (b) (6), (b) (7)(C) stated that SMITH has an issue with "his honesty". (b) (6), (b) (7)(C) was then asked if SMITH was an honest person, at which point (b) (6), (b) (7)(C) responded "No". (b) (6), (b) (7)(C) stated that he has witnessed SMITH attempt to conceal the truth on several occasions. When asked to elaborate, (b) (6), (b) (7)(C) used the incident involving (b) (6), (b) (7)(C) as an example. (b) (6), (b) (7)(C) stated that it was clear that SMITH was attempting to use the telephone calls, made by (b) (6), (b) (7)(C), as examples of her harassing him at the work place. According to (b) (6), (b) (7)(C) SMITH told him that the court mandated SMITH to update (b) (6), (b) (7)(C) periodically on changes in his job (salary, location, etc.). (b) (6), (b) (7)(C) also noted that (b) (6), (b) (7)(C) reported that SMITH was committing time and attendance fraud. (b) (6), (b) (7)(C) stated even though he took corrective actions with SMITH, to resolve the time and attendance issue, it is still an example of SMITH's lack of integrity.

On September 26, 2016, (b) (6), (b) (7)(C) was interviewed by SID (Exhibit 6). (b) (6), (b) (7)(C) advised that he worked at DOC OIG from November 2010, to April 2016. (b) (6), (b) (7)(C) stated that he was one of four individuals assigned to DOC OIG's front office, for part of his tenure with DOC OIG. (b) (6), (b) (7)(C) advised that (b) (6), (b) (7)(C), and SMITH were also assigned to DOC OIG's front office, during the time in question. (b) (6), (b) (7)(C) informed the RAs that he had conversations with (b) (6), (b) (7)(C) on a daily bases, regarding a number of topics. According to (b) (6), (b) (7)(C) he and (b) (6), (b) (7)(C) spoke a number of times about the reported incident.

(b) (6), (b) (7)(C) reported that he was made aware of the telephone calls, made by (b) (6), (b) (7)(C), and the memorandums that were created by (b) (6), (b) (7)(C) to memorialize the incidents. When asked to explain, (b) (6), (b) (7)(C) advised that he was aware of at least two incidents in which (b) (6), (b) (7)(C) called DOC OIG, that were memorialized with official memorandums. (b) (6), (b) (7)(C) noted that SMITH instructed (b) (6), (b) (7)(C) on both occasions, to create an official memorandum in order to memorialize the telephone calls. (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) advised him that the first

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time (b) (6), (b) (7)(C) called DOC OIG was to inquire about SMITH's furlough days, in respect to his pay. (b) (6), (b) (7)(C) explained that he did not understand why (b) (6), (b) (7)(C) was asking questions about furlough status, since DOC OIG employees were not affected by the partial furlough, during that timeframe. (b) (6), (b) (7)(C) noted that he was aware of the fact that SMITH was going through a divorce, and the matter had become complicated. According to (b) (6), (b) (7)(C) the second telephone call made by (b) (6), (b) (7)(C), to DOC OIG, occurred a few months after the first call was placed. (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) called to make a complaint against (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) advised that he was later told, by either (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) about the purpose of (b) (6), (b) (7)(C) call. (b) (6), (b) (7)(C) stated that he was told that (b) (6), (b) (7)(C) had an issue with (b) (6), (b) (7)(C) professionalism.

After being asked, (b) (6), (b) (7)(C) stated that he considered the matter to be official DOC OIG business for three reasons, (b) (6), (b) (7)(C) explained:

- The first reason was because the front office staff decided to treat (b) (6), (b) (7)(C) like any other citizen that called DOC OIG, attempting to obtain information or make a complaint. (b) (6), (b) (7)(C) stated that it was determined it would be in everyone's best interest to treat (b) (6), (b) (7)(C) like anyone else from the general public. As a result, (b) (6), (b) (7)(C) would not be provided any more or less information than anyone else in the general public.
- The second reason was because (b) (6), (b) (7)(C) was instructed to create the record, by a DOC OIG executive. (b) (6), (b) (7)(C) stated that the request came from (b) (6), (b) (7)(C) direct supervisor, during normal business hours, and official government equipment was used.
- The third reason is based on the legal definition provided by the U.S. Archives. (b) (6), (b) (7)(C) advised that he was assigned to work employee misconduct investigations, before his departure from DOC OIG in April 2016. While working on an employee misconduct investigation, he (b) (6), (b) (7)(C) conducted research on an official government record, through the U.S. Archives. (b) (6), (b) (7)(C) stated based on the definition of an official record, provided by the U.S. Archives, on their official website (www.archives.gov) alone, he would define the memorandums as official DOC OIG records.

[Agent's Note: The U.S. Archives, Records Manager (www.archives.gov) defines a record as all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the U.S. Government under Federal law or in connection with the transaction of public business and preserved or appropriate for

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preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them (44 U.S. Code 3301).]

After being asked, if SMITH had any influence on the memorandums, (b) (6), (b) (7)(C) stated that he was certain that SMITH influenced what was written in the memorandums. (b) (6), (b) (7)(C) acknowledged that he did not have first-hand knowledge that SMITH influenced what was written in the memorandums, because the conversations were between SMITH and (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) continued that he came to this conclusion based on his personal review of the memorandums and what was reported to him by (b) (6), (b) (7)(C) regarding the reason why (b) (6), (b) (7)(C) called. (b) (6), (b) (7)(C) stated that he was advised that (b) (6), (b) (7)(C) called the first time (July 2013) to inquire about SMITH's furlough days, in respect to his pay. (b) (6), (b) (7)(C) stated that there was no mention of the furlough days and SMITH's pay in the memorandum dated in July 2013. (b) (6), (b) (7)(C) advised that (b) (6), (b) (7)(C) had no reason to mask the reason why (b) (6), (b) (7)(C) called. According to (b) (6), (b) (7)(C) SMITH was the only person who would have benefited from hiding the true purpose of (b) (6), (b) (7)(C) call.

Regarding the self-discloser letter, written by SMITH, to the IC, (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) asked him to review a letter she wrote to the IC in order to clarify the inaccuracies in a self-discloser letter written by SMITH, which also went to the IC. (b) (6), (b) (7)(C) acknowledged that he made edits to the document, but could not recall any specifics. At the conclusion of the interview, (b) (6), (b) (7)(C) was asked if SMITH had any integrity issues. (b) (6), (b) (7)(C) without hesitation, stated that SMITH "is a liar". (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) concluded that SMITH should not be in a position of trust within the government.

On October 3, 2016, SID requested an interview of (b) (6), (b) (7)(C), via email, to confirm the true purpose of the telephone call(s), in question (Exhibit 7). SID received a response to their request from a (b) (6), (b) (7)(C), who declined to participate in any discussions concerning SMITH. In an effort to determine if (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) were one in the same, SID made contact with (b) (6), (b) (7)(C) on October 5, 2016, via telephone, for confirmation (Exhibit 8). (b) (6), (b) (7)(C) confirmed that she is the ex-wife of SMITH, remarried, and assumed the name (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) also confirmed receiving and declining SID's request for an interview. In addition, (b) (6), (b) (7)(C) confirmed that she did not want to participate in any discussions concerning SMITH.

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CASE NUMBER: 2016SI0004711

DISPOSITION:

This investigation confirmed that SMITH directed (b) (6), (b) (7)(C) to create a memorandum regarding a telephone call that his ex-wife made to his office, inquiring about his salary. Further, SMITH admitted to reviewing the memorandum, giving guidance regarding the memorandum and directing (b) (6), (b) (7)(C) to give him a copy. Finally, SMITH removed a copy of the memorandum from the DOC OIG work space, without authorization, and improperly used it in connection with his personal divorce litigation. The results of this investigation are being provided to the IC CIGIE for action deemed appropriate.

EXHIBITS:

1. Investigation into complaint number IC841 referral, IC CIGIE, dated April 6, 2016.
2. Memorandum of Interview, Interview of DAVID SMITH, dated May 18, 2016.
3. Memorandum of Activity, Review of court documentation, dated May 20, 2016.
4. Memorandum of Interview, Interview of (b) (6), (b) (7)(C), dated July 19, 2016.
5. Memorandum of Interview, Interview of (b) (6), (b) (7)(C), dated September 21, 2016.
6. Memorandum of Interview, Interview of (b) (6), (b) (7)(C), dated September 26, 2016.
7. Memorandum of Activity, Request for an interview (b) (6), (b) (7)(C)), dated October 3, 2016.
8. Memorandum of Activity, Telephone conversation with (b) (6), (b) (7)(C)), dated October 5, 2016.

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From: Robert B. Fitzpatrick <rfitzpatrick@robertbfitzpatrick.com>
Sent: Friday, March 03, 2017 12:49 PM
To: IC Complaints; (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: IC #841 - Rebuttal
Attachments: (b) (6), (b) (7)(C) Character Reference_signed.pdf; (b) (6), (b) (7)(C) Reference Letter.pdf; IC #841 Rebuttal Final.pdf

Integrity Committee Working Group & Honorable Scott Dahl, Chairman:

My firm represents Mr. David Smith in relation to the proceedings associated with reference number IC #841.

Attached please find Mr. Smith's rebuttal to the draft report authored by the investigators in this matter as well as two letters of reference provided by Mr. Smith's colleagues.

All the best.

Robert ("Bob") B. Fitzpatrick



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Rebuttal of Mr. David Smith

I. Response to Draft Report

In the synopsis of the draft report, the investigators claim to have determined that I provided false statements to the IC in my letter to Chair Joseph S. Campbell, dated January 31, 2014. The report goes further to say that during my interview, I admitted to making edits and recommendations on the content of the memorandum created by (b) (6), (b) (7)(C). These statements are based on an erroneous interpretation of the facts and the investigators interpretation of what I said in response to their questions.

In the details of the investigation section of the draft, paragraph seven, the investigators state “It was determined that SMITH also provided a copy of the same letter [memorandum] to the IC CIGIE, as part of his (SMITH’s) formal written response to (b) (6), (b) (7)(C) allegations.” This is simply not possible. My self-disclosure to the IC CIGIE was made on January 31, 2014, while (b) (6), (b) (7)(C) allegations were made to the IC CIGIE in a letter dated February 25, 2014, almost one month after my self-disclosure to the IC CIGIE. In addition, I knew nothing of (b) (6), (b) (7)(C) letter or allegations until after the IC mentioned a February 2014 letter in its determination to conduct an investigation in its letter dated April 18, 2016. In an e-mail to the IC on April 19, 2016, I stated I did not know about the previous complaint, had not been given a chance to address the complaint and requested a copy of the complaint, which was subsequently denied. Again, it is not possible to have submitted a copy of the memorandum in my letter of January 31, 2014 to (b) (6), (b) (7)(C) allegations that were not submitted until February 25, 2014, almost one month after my self-disclosure.

Secondly, my self-disclosure was in response to a complaint filed with the DOC OIG hotline by my ex-wife in November 2013, a copy of which I provided to the investigators. The complaint concerned the (b) (6), (b) (7)(C) memorandum that was part of a court filing, along with numerous other examples, to show contempt of court on behalf of my ex-wife, for which penalties could be a fine (to the court) of up to \$250 and/or incarceration for contempt, neither of which would have conveyed any direct benefit to me. The investigators obtained a copy of the court filing I made, which contained a copy of the (b) (6), (b) (7)(C) memorandum my ex-wife referenced in the complaint and which was provided to my ex-wife as part of the court filing and is the only (b) (6), (b) (7)(C) memorandum my ex-wife could be familiar with. Therefore, my self-disclosure was addressing the complaint submitted by my ex-wife, not (b) (6), (b) (7)(C) and my statements in the self-disclosure were about the (b) (6), (b) (7)(C) memorandum in the court filing documents, which did not contain the portion of my ex-wife’s call concerning sequestration. I stand by my original statement in my self-disclosure of January 31, 2014.

During my interview with the investigators, I admitted that (b) (6), (b) (7)(C) provided me a draft copy of her recollection of the July 23, 2013 phone call from my ex-wife. I also admitted that I told (b) (6), (b) (7)(C) I did not need the second portion of the memorandum regarding sequestration,

because that was not something that had come up before in my court appearances with my ex-wife, like the salary question, and would not have been considered harassment (i.e. calling my work to ask for salary information she had already been made aware of). Whether or not the removal of the second portion of the draft memorandum is considered an edit is immaterial and in no way impacts the first portion, since only the first portion regarding my salary was included in the court filing and made known to my ex-wife and became the basis of her complaint, which was addressed by my January 31, 2014 self-disclosure. In fact, in (b) (6), (b) (7)(C) letter to the IC, dated February 25, 2014, in the middle of the fourth paragraph, (b) (6), (b) (7)(C) states “In Mr. Smith’s letter to CIGIE’s Integrity Committee, he noted that he did not edit the statement that I wrote. While this may be technically true, Mr. Smith reviewed the document and suggested that I edit it according to his recommendation.” As (b) (6), (b) (7)(C) states, it is technically true that I did not edit her statement, that portion that was included in the court filing and in my January 31, 2014 letter to the IC CIGIE. As I admitted to the investigators, I told (b) (6), (b) (7)(C) I did not need the portion of the draft statement regarding sequester, which she removed. I did not direct her to remove the sequester portion, but again, that portion of the (b) (6), (b) (7)(C) memorandum was never filed with the court, was not made available to my ex-wife, was not part of the complaint filed by my ex-wife and was, therefore, not a matter pertinent to my self-disclosure.

During my interview by the investigators, I was not asked if I felt I had influenced (b) (6), (b) (7)(C) final memorandum that was the subject of my ex-wife’s complaint. The investigators asked me if I edited the (b) (6), (b) (7)(C) final memorandum, to which I replied no. The investigators asked me if I directed (b) (6), (b) (7)(C) to draft the memorandum, to which I replied (as quoted in their draft report) “I asked (b) (6), (b) (7)(C) is [sic] she would voluntarily record her recollection of the conversation she had with the complainant.” I told the investigators I asked her three times to do me a personal favor, but only if she wouldn’t mind, which is noted in the draft report. In addition, in (b) (6), (b) (7)(C) letter of February 25, 2014, (b) (6), (b) (7)(C) also states in the fourth paragraph of her letter that “He then asked me to write a statement to document the conversation I had with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). The investigators then asked me if, because I was her direct supervisor, my asking was actually directing (b) (6), (b) (7)(C) to write a statement and I replied no, because that was not the nature of our professional relationship. (b) (6), (b) (7)(C) always took pride in the fact she (b) (6), (b) (7)(C) worked for him and was tasked by him. In addition, the draft report states in paragraph eight of the details of investigation statement that “(b) (6), (b) (7)(C) acknowledged that she prepared the memorandum, at the request of SMITH.” The investigators never asked me if I influenced the content of the (b) (6), (b) (7)(C) memorandum. The statement in paragraph two under details of investigation that I denied influencing the memorandum is the investigators’ interpretation of my answers to their questions about editing.

As for the draft report’s statement that “Independent witness interviews determined that SMITH directed (b) (6), (b) (7)(C) to create two separate memorandums ...” the witness interviews with (b) (6), (b) (7)(C) pertaining to the conversations between (b) (6), (b) (7)(C) and myself are pure hearsay. (b) (6), (b) (7)(C) even states in his interview that (b) (6), (b) (7)(C) and Smith were the only parties to the

conversations. My statement during the interview and (b) (6), (b) (7)(C) written statement to the IC in her February 25, 2014 letter both affirm that I asked (b) (6), (b) (7)(C) not directed. As previously stated, the reason the July 26, 2013 (b) (6), (b) (7)(C) memorandum is the only memorandum mentioned in my self-disclosure to the IC is because that is the only (b) (6), (b) (7)(C) memorandum referred to in my ex-wife's complaint, which is what I addressed in my self-disclosure to the IC CIGIE.

The investigators' draft report also claims to have determined I violated 5 CFR 2635.705 (Use of official time) by conducting personal business on official time, an allegation that is not supported by the facts. My time sheet and Earnings and Leave statement for 2013 pay period 14, which encompasses the dates of July 14 through July 27, 2013, reflect regular time worked of 76 hours and four hours of Leave Without Pay (LWOP). The actual hours I worked that week were 83.75 hours, as I recorded on my time card spreadsheet. Obviously, I worked more hours that pay period than I claimed reimbursement for on my time sheet and was ultimately paid for.

Under the details of investigation section (paragraph two), as previously explained, the memorandum being discussed is the (b) (6), (b) (7)(C) final memorandum that was filed with the court, only contained the first portion of the (b) (6), (b) (7)(C) draft memorandum that pertained to my ex-wife's inquiry into my salary, and addressed in my self-disclosure to the IC CIGIE. It is not the (b) (6), (b) (7)(C) draft memorandum which contained a second portion about sequester. Obviously, if I told (b) (6), (b) (7)(C) I did not need the second portion of the draft memorandum regarding sequester and she removed that portion, I influenced the content; however, that does not equate to editing the first portion of the (b) (6), (b) (7)(C) final memorandum, which was the only portion referenced in the complaint from my ex-wife that I self-disclosed. Again, as previously stated, the investigators did not ask me if I influenced the (b) (6), (b) (7)(C) memorandum or its contents; the investigators asked me if I edited the (b) (6), (b) (7)(C) final memorandum which only contained the first portion of the draft memorandum, to which I replied no. I do not consider asking (b) (6), (b) (7)(C) to sign and date the final memorandum to be an edit as it did not alter the contents of the statement recapping the portion of her recollection of my ex-wife's inquiry into my salary.

In paragraph three, I disagree with the first part of the investigators' statement that "...he did not think it was appropriate for the IC to investigate this matter..."; however, I do agree with the second part of the investigators' statement that "... he believed it to be outside of their investigative purview." My ex-wife's complaint involved a personal matter in my private life that I felt had no bearing or impact on my professional life. Based on guidance and wording from (b) (6), (b) (7)(C) I included a statement in the first paragraph of my self-disclosure about this complaint not meeting the IC's threshold standards, but I was reporting it anyway out of an abundance of caution. That statement does not say I thought it was inappropriate for the IC to investigate it. I also disagree with the investigators' statement that I received notification from the IC acknowledging its receipt of my self-disclosure and "...it was his interpretation that this matter was outside of their (IC) investigative scope." The fact is I received a letter from the IC, signed by Joseph S. Campbell, dated March 6, 2014 stating the IC had reviewed my self-reporting referral dated January 31, 2014 and that "The IC determined the allegations do not

meet the threshold standard necessary for further review. Therefore, the IC closed the complaint and will take no further action on this matter.” I did not make the determination the self-disclosed matter was outside the IC’s investigative scope; it was the IC that made the determination the self-disclosed matter was outside its own investigative scope.

I disagree with the investigators’ statement in the last sentence of paragraph four, which misquoted what I said. The statement reads “SMITH explained that he was advised, by (b) (6), (b) (7)(C) that the IC is not likely to investigate matters that were self-reported.” What (b) (6), (b) (7)(C) advised me was to self-report the complaint filed by my ex-wife, but he said the IC was unlikely to investigate it because it was of a personal nature. I never said to the investigators, nor do I believe today, that the IC is unlikely to investigate self-reported matters. This same misquote also appears in Exhibit 2, second paragraph, followed by an allegation the investigators make that is not supported by fact and that I strongly object to. The allegation is “Based on the information SMITH reported, it appeared SMITH conspired with (b) (6), (b) (7)(C) to circumvent the IC inquiry process.” That statement is not true and is not supported by the true facts. If (b) (6), (b) (7)(C) and I wanted to “circumvent the IC inquiry process,” all we would have had to do is not self-disclose the complaint from my ex-wife in the first place and the IC CIGIE would never have known about the complaint. I followed the requirements by self-disclosing a complaint against me as a designated staff member.

Paragraph five accurately reflects that I believed someone in OIG influenced (b) (6), (b) (7)(C) to write her letter of February 25, 2014. Although I had no evidence to corroborate this claim at the time of my interview, based on the investigators’ interview of (b) (6), (b) (7)(C) she stated she was encouraged by (b) (6), (b) (7)(C) to write the letter and the letter was edited by (b) (6), (b) (7)(C)

According to paragraph eight of the investigators’ draft report, in addition to acknowledging (b) (6), (b) (7)(C) prepared the memorandum “...at the request of SMITH.”, (b) (6), (b) (7)(C) acknowledges there were two versions of the memorandum, one of which was the original [draft]. According to the report, “(b) (6), (b) (7)(C) stated that she could not recall the edits made by SMITH, but she knew that there were one or two edits.” The “edit” made between the original [draft] version and the final version was the removal of the second portion of the draft memorandum concerning sequester.

Paragraph nine states (b) (6), (b) (7)(C) encouraged (b) (6), (b) (7)(C) to write a letter clarifying the inaccuracies contained in my self-disclosure to the IC CIGIE, which is (b) (6), (b) (7)(C) letter of February 25, 2014, that was edited by (b) (6), (b) (7)(C) The letter was not intended to just correct what (b) (6), (b) (7)(C) perceived as “inaccuracies” in my self-disclosure, but, as the last sentence of the first paragraph states “The purpose of this letter is to provide additional facts concerning this and other related issues.” The second paragraph does not relate to the (b) (6), (b) (7)(C) memorandum or my self-disclosure. The third paragraph does not relate to the content of the (b) (6), (b) (7)(C) memorandum either, but is merely a different recollection of where I was when I was notified my ex-wife was on the phone. The fourth paragraph does characterize our conversation as my asking her to

document her recollection of the phone call with my ex-wife, but differs on her recollection of whether or not I told her the purpose I intended to use the memorandum for. Paragraph five is not completely accurate in its characterization of sequester. The entire federal government was under sequestration, which was a measure passed by Congress to reduce federal spending by cutting budgets, and OIG was impacted by the budget cuts. In order to avoid potential furloughs to staff, (b) (6), (b) (7)(C) imposed strict spending rules, significantly curtailed spending on supplies, travel and training to mission essential only, and directed a review of all contracts. Payroll was the largest expense of OIG and (b) (6), (b) (7)(C) wanted to ensure mandatory furloughs did not become necessary as a result of the budget cuts from sequestration. In a July 6, 2011 e-mail from (b) (6), (b) (7)(C) to then Deputy IG Dahl, (b) (6), (b) (7)(C) states “While I don’t have a problem with management training, if this information is confirmed, it doesn’t seem appropriate for the management to spend such a significant amount of their training budget on themselves and then turn around and tell the staff that they can’t receive training because there is no funding.” Therefore, I was taking LWOP in exchange for the government paying the registration fee, travel and per diem for the Association of Government Accountants Professional Development Conference in July to maintain my required continuing professional education credits for my CPA license and in accordance with GAO requirements for government auditors. (b) (6), (b) (7)(C) went on to state “I mentioned this concern to a colleague but took no further action.” This does not agree with (b) (6), (b) (7)(C) statement in her letter to investigators dated August 7, 2016, in which (b) (6), (b) (7)(C) states “Given that the travel budget and salaries were two different budgets, I brought this to the attention of (b) (6), (b) (7)(C) [REDACTED]”

Paragraph 11, concerning (b) (6), (b) (7)(C) interview, fifth sentence, states “According to (b) (6), (b) (7)(C) on both occasions, SMITH instructed (b) (6), (b) (7)(C) to memorialize each telephone call with a memorandum to file (MTF). According to (b) (6), (b) (7)(C) the first time (b) (6), (b) (7)(C) called DOC OIG was to inquire about SMITH’s furlough days, in respect to his pay.” (b) (6), (b) (7)(C) admits he did not talk to (b) (6), (b) (7)(C). In addition, (b) (6), (b) (7)(C) was not present during the conversation between (b) (6), (b) (7)(C) and me, so his statements are hearsay. According to the only two parties present for the conversation, (b) (6), (b) (7)(C) and me, (b) (6), (b) (7)(C) July 23rd call related to two separate and distinct subjects – my salary and sequester – not furlough days in respect to my pay. Secondly, I never used the term “memorandum to file” in my conversation with (b) (6), (b) (7)(C) nor does (b) (6), (b) (7)(C) use that term in describing the memorandum. Also, the (b) (6), (b) (7)(C) final memorandum is not marked as a “Memorandum to File” as (b) (6), (b) (7)(C) requested on all MTFs. (b) (6), (b) (7)(C) having worked for (b) (6), (b) (7)(C) for many years, would have known to mark a “Memorandum to File” as such. (b) (6), (b) (7)(C) goes on to advise the investigators “...that in his opinion, the matter changed when SMITH came out of his office, and directed (b) (6), (b) (7)(C) to write a memorandum to memorialize the telephone call.” Again, (b) (6), (b) (7)(C) was not present for the conversation and cannot reliably state whether (b) (6), (b) (7)(C) was directed or asked to write a memorandum; therefore, whatever he has to say about the conversation is hearsay. In addition, (b) (6), (b) (7)(C) has no first-hand knowledge on which to base his statement that “...when SMITH instructed a DOC OIG employee (b) (6), (b) (7)(C) to write an official

memorandum...”, nor could he have classified the recollection of (b) (6), (b) (7)(C) conversation with my ex-wife as a “Memorandum to File.”

In paragraph 12, again, (b) (6), (b) (7)(C) recounting of the conversation between (b) (6), (b) (7)(C) and me regarding the memorandum is pure hearsay. (b) (6), (b) (7)(C) was not present to witness the conversation, nor was he privy to the (b) (6), (b) (7)(C) draft memorandum.

In paragraph 13, (b) (6), (b) (7)(C) recounts a second call from my ex-wife who apparently wanted to complain about (b) (6), (b) (7)(C). I did not take the call – my ex-wife would not have wanted to speak with me. I doubt (b) (6), (b) (7)(C) took the call, since my ex-wife would not have wanted to complain about (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C). Apparently, (b) (6), (b) (7)(C) took the call because he knew what the call was about and “According to (b) (6), (b) (7)(C) the matter was documented with a memorandum, but not investigated.” During my interview, I told the investigators I did not recall asking (b) (6), (b) (7)(C) to document a second call. Since my ex-wife’s call was a complaint against (b) (6), (b) (7)(C) it was not a matter of harassment or other violation of the Marital Separation Agreement I would have filed with the court. (b) (6), (b) (7)(C) stated the matter was documented with a memorandum, which was probably written by (b) (6), (b) (7)(C). The fact it was not investigated contradicts (b) (6), (b) (7)(C) statement made during his interview that “the front office staff decided to treat (b) (6), (b) (7)(C) like any other citizen that called DOC OIG, attempting to obtain information or make a complaint.” Complaints received from any other citizen are forwarded to the OIG hotline intake unit, recorded in the hotline database, and discussed at the weekly hotline log meeting. My ex-wife’s complaint against (b) (6), (b) (7)(C) was not treated like a complaint from any other citizen. Further, (b) (6), (b) (7)(C) said “...he could not recall specifically what was in the memorandum, because of the time between the incident and the interview.” That indicates he at least saw the memorandum, if he did not write it himself. That would seem to contradict (b) (6), (b) (7)(C) writing the memorandum and providing it to me. (b) (6), (b) (7)(C) also states that “As a result of the issues that he (b) (6), (b) (7)(C) personally witnessed and the growing number of allegations being reported to him, (b) (6), (b) (7)(C) stated that he advised SMITH to self-disclose the matters [plural] to the IC.” During my interview, I provided the investigators with a draft copy of my self-disclosure that (b) (6), (b) (7)(C) had written edits on. That draft spoke of only one matter, the complaint filed by my ex-wife with the DOC OIG hotline regarding the (b) (6), (b) (7)(C) final memorandum. If (b) (6), (b) (7)(C) advised me to self-disclose “matters,” then why were there no written comments from (b) (6), (b) (7)(C) on the draft self-disclosure concerning other matters?

The documentation (b) (6), (b) (7)(C) provided me as an example of a self-disclosure letter that he was asked about in paragraph 14 was a self-disclosure he made in the late summer or early fall of 2013 to the IC CIGIE. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) statement in paragraph 16 that "...SMITH told him that the court mandated SMITH to update (b) (6), (b) (7)(C) periodically on changes in his job (salary, location, etc.)" is inaccurate. The court's mandates are clearly spelled out in the Marital Separation Agreement and the Divorce Decree, neither of which require I update my ex-wife on changes in my job location, phone number or salary. Income was communicated annually, in May, through an exchange of tax returns, W-2s and 1099s. What I told (b) (6), (b) (7)(C) in explaining how my ex-wife's phone call was harassing me at work was that in a court appearance earlier in the year (February 2013), before the first phone call, the judge asked me what my job title was, where I worked, and what my salary was. I relayed this information to (b) (6), (b) (7)(C) when he showed me the complaint from my ex-wife. I did not say the court mandated that I update my ex-wife periodically on changes in my job.

(b) (6), (b) (7)(C) recollection of the incidents around the phone calls and (b) (6), (b) (7)(C) memorandum are hearsay, as he admits he was not present for the conversations between (b) (6), (b) (7)(C) and me. (b) (6), (b) (7)(C) characterization of the memorandum as an "official memorandum" is not accurate, nor is his statement "...that SMITH instructed (b) (6), (b) (7)(C) on both occasions, to create an official memorandum in order to memorialize the telephone calls." As previously stated during my interview and in (b) (6), (b) (7)(C) February 25, 2014 letter, I asked (b) (6), (b) (7)(C) to document her recollection of my ex-wife's July 23 phone call. Official memorandums are written on OIG letterhead, addressed to a particular individual (by name or title), and follow a particular format – all of which (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C), would know and automatically do for official memorandums. The July 26, 2013 document prepared by (b) (6), (b) (7)(C) does not have the characteristics of an official memorandum. (b) (6), (b) (7)(C) description of my ex-wife's first phone call is as inaccurate as (b) (6), (b) (7)(C) – "inquire about SMITH's furlough days, in respect to his pay." Again, according to the only two parties present for the conversation, (b) (6), (b) (7)(C) and me, (b) (6), (b) (7)(C) July 23rd call related to two separate and distinct subjects – my salary and sequester – not furlough days in respect to my pay.

In paragraph 18, (b) (6), (b) (7)(C) lays out three reasons as to why "...he considered the matter to be official DOC OIG business..." each of which are not accurate. As previously stated above, my ex-wife was not treated like any other citizen. I was one of four people in the front office staff through June 2014 and I was not involved in any such decision. If such a decision were made, it obviously was not made before my ex-wife's first phone call, because no one foresaw the first call. If the decision was made after the first call and before the second call, (b) (6), (b) (7)(C) would have routed the complaint call directly to the hotline, just as all other complaint calls to the front office were handled, so apparently she was not included in nor informed of the decision to treat my ex-wife as any other citizen. Instead, the call was taken by (b) (6), (b) (7)(C) who did not refer the call or the complaint to the hotline intake unit, which any other citizen's complaint call would have been. The only time my ex-wife was treated like any other citizen was when she

called on November 7, 2013 to file a hotline complaint against me. Obviously, my ex-wife was not treated like any other citizen for the first initial call asking about my salary and sequester or the call to complain about (b) (6), (b) (7)(C) therefore, that reasoning for treating the matter as official business does not pertain to this investigation or the allegations against me.

(b) (6), (b) (7)(C) second reason is based on hearsay. He admits he was not present during the conversations between (b) (6), (b) (7)(C) and me and admits he has no first-hand knowledge of those conversations. My self-disclosure to the IC CIGIE, my interview with investigators, and (b) (6), (b) (7)(C) February 25, 2014 letter to the IC CIGIE characterize my request to (b) (6), (b) (7)(C) as an “ask,” not instruction to (b) (6), (b) (7)(C). The second sentence in (b) (6), (b) (7)(C) second reason states “(b) (6), (b) (7)(C) stated that the request came from (b) (6), (b) (7)(C) direct supervisor ...” – a request, not an instruction.

To (b) (6), (b) (7)(C) third reason, with all due respect, (b) (6), (b) (7)(C) is not an attorney, despite the erroneous title cited for him in Exhibit 2, page two, fourth paragraph (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) was a (b) (6), (b) (7)(C) and has an economic degree and no legal experience. The definition (b) (6), (b) (7)(C) cites and is reproduced in the draft report by the investigators “defines a record as all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the U.S. Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them (44 U.S. Code 3301).” I disagree that the record of a phone call from an employee’s ex-wife regarding his salary and sequester questions provide “evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government” or provide any “informational value of the data in” the phone call message – a message regarding a personal matter.

Paragraph 19 reporting on (b) (6), (b) (7)(C) statements regarding the memorandums is opinion and hearsay and he provides no documentary evidence and states his information is based on what (b) (6), (b) (7)(C) told him. As previously stated, in writing, by (b) (6), (b) (7)(C) the first call my ex-wife made was in regard to my salary and sequester, not “SMITH’s furlough days, in respect to his pay.” His opinion that “SMITH was the only person who would have benefited from hiding the true purpose of (b) (6), (b) (7)(C) call” when he did not even properly recount the purpose of my ex-wife’s call only discounts his opinion from an evidentiary standpoint.

I disagree with some of the conclusions reached in the disposition section of the investigators’ draft report. (b) (6), (b) (7)(C) February 25, 2014 letter states I asked her to document the July 23, 2013 phone call from my ex-wife, my January 31, 2014 self-disclosure to the IC CIGIE and my interview by the investigators. The only contradictory information is from two other persons who were not present during the conversations between (b) (6), (b) (7)(C) and me, so their statements are hearsay. (b) (6), (b) (7)(C) complaint filed in late 2015, more than two years after the

original conversations, contradicts her original statement with no explanation for why her statement changed. I disagree that the investigation confirmed that I “directed” (b) (6), (b) (7)(C) to create a memorandum documenting a phone call from my ex-wife made to the office inquiring about my salary. I also disagree with the conclusion that I removed the July 26, 2013 memorandum from the office “without authorization”, because the evidence does not support the conclusion that the memorandum was an official record or correspondence. It was a personal favor recording a conversation about a personal matter that has nothing to do with policies, procedures or operations of the government office. For the same reason, I disagree with the conclusion that the memorandum was improperly used – as a personal memorandum and not official correspondence, it was not inappropriate or improper to use the memorandum in a personal matter. If the memorandum in question was an official memorandum, then there would be no discussion about whether (b) (6), (b) (7)(C) was asked, directed or instructed to document the conversation and one of the potential violations cited by the investigators, Title 5 CFR 2635.705 – Use of official time, would not be in the report.

One important fact the investigators left out of their report that I relayed to them is the fact that, on April 30, 2014, after the IC CIGIE closed my January 31 self-disclosure and (b) (6), (b) (7)(C) February 25 complaint, (b) (6), (b) (7)(C) removed me as (b) (6), (b) (7)(C) supervisor, citing this matter. Removing or reducing an employee’s supervisory responsibilities is considered an adverse personnel action – discipline. That fact should be included in the report for consideration by the Integrity Committee.

II. Response to Exhibits

Exhibit 2, which is the investigators’ recounting of their interview with me, is based on their interpretation of the notes they took and not a verbatim transcript or recording of what was asked or my replies. During my interview by the investigators, I was not asked if I felt I had influenced (b) (6), (b) (7)(C) final memorandum that was the subject of my ex-wife’s complaint. The investigators asked me if I edited the (b) (6), (b) (7)(C) final memorandum, to which I replied no. The investigators asked me if I directed (b) (6), (b) (7)(C) to draft the memorandum, to which I replied (as quoted in their draft report) “I asked (b) (6), (b) (7)(C) is [sic] she would voluntarily record her recollection of the conversation she had with the complainant.” I told the investigators I asked her three times to do me a personal favor, but only if she wouldn’t mind, which is noted in the draft report. In addition, in (b) (6), (b) (7)(C) letter of February 25, 2014, (b) (6), (b) (7)(C) also states in the fourth paragraph of her letter that “He then asked me to write a statement to document the conversation I had with (b) (6), (b) (7)(C).” The investigators then asked me if, because I was her direct supervisor, my asking was actually directing (b) (6), (b) (7)(C) to write a statement and I replied no, because that was not the nature of our professional relationship. In addition, the draft report states in paragraph eight of the details of investigation statement that “(b) (6), (b) (7)(C) acknowledged that she prepared the memorandum, at the request of SMITH.” The investigators never asked me if I influenced the content of the (b) (6), (b) (7)(C) memorandum. The statement in paragraph three that I

denied influencing the memorandum is the investigators' interpretation of my answers to their questions about conversations between [REDACTED] and me and is not factually correct.

Exhibit 3 paragraph three – To avoid confusion, the copy of the [REDACTED] memorandum submitted with the court documents and provided to IC Chair Joseph S. Campbell in my January 31, 2014 letter was part of my formal written response to the complaint filed in November 2013 by my ex-wife. My January 31, 2014 self-disclosure letter was not in response to any filings by [REDACTED]

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

III. The Independent Witnesses Relied Upon by the Investigators Were Unreliable

a. Interview of (b) (6), (b) (7)(C)

In the draft report, the investigators refer to independent witness interviews and the investigators base their findings and determinations upon the information obtained from these independent witnesses, one of which was (b) (6), (b) (7)(C).

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

[Redacted text block]

(b) (6), (b) (7)(C)

[Redacted text block]

Many of (b) (6), (b) (7)(C) statements during his interview with investigators are based on hearsay, misrepresentations of conversations he and I had, or opinion not supported by fact or evidence. He also has reason to not be truthful and forthcoming in his statements about me because of the significant debt I assigned to him. (b) (6), (b) (7)(C) has been shown to not be truthful in his responses to investigators, even when under oath. (b) (6), (b) (7)(C) should not be considered a reliable witness.

b. Interview of (b) (6), (b) (7)(C)

The other independent witness statements the investigators base their findings and determinations upon was (b) (6), (b) (7)(C), who was hired by the employee (b) (6), (b) (7)(C) had a romantic relationship with. (b) (6), (b) (7)(C) career progression was entirely dependent on remaining in the good graces of (b) (6), (b) (7)(C), and as (b) (6), (b) (7)(C), he would do whatever (b) (6), (b) (7)(C) tasked him with.

(b) (6), (b) (7)(C)

[Redacted text block]

(b) (6), (b) (7)(C) [Redacted]

(b) (6), (b) (7)(C) worked in the front office as (b) (6), (b) (7)(C), starting as a (b) (6), (b) (7)(C) and reached the full performance level for that position as a (b) (6), (b) (7)(C). Rather than lose (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) created a position within (b) (6), (b) (7)(C) for a (b) (6), (b) (7)(C) management analyst, which (b) (6), (b) (7)(C) was subsequently promoted into. (b) (6), (b) (7)(C) remained in that position until he left Commerce OIG (b) (6), (b) (7)(C) for a position with (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) [Redacted]

(b) (6), (b) (7)(C) [Redacted]

(b) (6), (b) (7)(C) [Redacted]

(b) (6), (b) (7)(C)

[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

Many of (b) (6), (b) (7)(C) statements during his interview with investigators are based on hearsay or opinion and are not supported by fact or evidence. He also has reason to not be truthful and forthcoming in his statements about me because (b) (6), (b) (7)(C). In addition, (b) (6), (b) (7)(C) statement about treating my ex-wife as any other citizen would be treated is contradicted by the actions of (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) has misrepresented the facts (b) (6), (b) (7)(C) and should not be considered a reliable witness.

IV. Important Questions Not Asked During The Investigation

According to the draft report, during (b) (6), (b) (7)(C) interview, she told the investigators that when IC CIGIE declined to investigate the complaint letter she sent, dated February 25, 2014, (b) (6), (b) (7)(C) thought the matter was closed and disposed of her records. The following questions should have been asked of (b) (6), (b) (7)(C)

1. If (b) (6), (b) (7)(C) felt the matter was closed, why did she refile her complaint with IC CIGIE in December 2015, (b) (6), (b) (7)(C) ?
2. Did anyone, including (b) (6), (b) (7)(C), ask you to refile the complaint?
3. Did anyone, including (b) (6), (b) (7)(C), provide input, edit, or influence the content of your December 2015 complaint?
4. Did you speak with anyone, including (b) (6), (b) (7)(C), about the December 2015 complaint or the subsequent investigation?
5. Why did your February 25, 2014 complaint about the July 26, 2013 memorandum change so much in your December 2015 complaint? Why did you first report it as SMITH “asking” and the second time report it as SMITH “directing?”
6. Did anyone, including (b) (6), (b) (7)(C), provide input, edit, or influence your letter of August 7, 2016? Did you share that letter with anyone, including (b) (6), (b) (7)(C) ?
7. If you believe the July 26, 2013 memorandum in which you documented your phone call with (b) (6), (b) (7)(C) was an official document, why did you destroy the copy you had after being told IC CIGIE would not investigate your complaint instead of maintaining it in the files?
8. Do you still have contact with (b) (6), (b) (7)(C) ? How often do you speak with them? Your comments about SMITH’s integrity are very similar to (b) (6), (b) (7)(C). Did either one of them coach you on what to say or suggest you say anything regarding SMITH having integrity issues or manipulating people?

According to the draft report, during (b) (6), (b) (7)(C) interview, he told the investigators that (b) (6), (b) (7)(C) second call was to make a complaint against (b) (6), (b) (7)(C) and “the matter was documented with a memorandum, but not investigated.” The following question should have been asked of (b) (6), (b) (7)(C)

1. According to (b) (6), (b) (7)(C) statements, a decision was made by the front office staff “to treat (b) (6), (b) (7)(C) like any other citizen that called DOC OIG, attempting to obtain information or make a complaint.” If this is true, why was no investigation conducted into (b) (6), (b) (7)(C) complaint against (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

According to the draft report, during (b) (6), (b) (7)(C) interview, when asked to elaborate on a previous statement that (b) (6), (b) (7)(C) had “witnessed SMITH attempt to conceal the truth on several occasions,” he told the investigators that the incident involving (b) (6), (b) (7)(C) was an example. The following questions should have been asked of (b) (6), (b) (7)(C)

1. Can you (b) (6), (b) (7)(C) provide any other examples?
2. What action did you take as a result of “SMITH’s attempt[s] to conceal the truth?”

According to the draft report, (b) (6), (b) (7)(C) responses to the investigators’ questions during the interview were nearly identical to answers provided by (b) (6), (b) (7)(C) The following questions should have been asked of (b) (6), (b) (7)(C)

1. Did you (b) (6), (b) (7)(C) or, to your knowledge, anyone else, including (b) (6), (b) (7)(C) ask (b) (6), (b) (7)(C) to refile her complaint in December 2015?
2. Did you (b) (6), (b) (7)(C) or, to your knowledge, anyone else, including (b) (6), (b) (7)(C) provide input, edit, or influence the content of (b) (6), (b) (7)(C) December 2015 complaint?
3. Did you (b) (6), (b) (7)(C) or, to your knowledge, anyone else, including (b) (6), (b) (7)(C) talk about (b) (6), (b) (7)(C) December 2015 complaint or the subsequent investigation?
4. Did you (b) (6), (b) (7)(C) or, to your knowledge, anyone else, including (b) (6), (b) (7)(C) provide input, edit, or influence (b) (6), (b) (7)(C) letter to the investigators dated August 7, 2016? Did (b) (6), (b) (7)(C) share that letter with anyone, including (b) (6), (b) (7)(C) or you?
5. Do you still have contact with (b) (6), (b) (7)(C) ? How often do you speak with them? Your comments about SMITH’s integrity are very similar to (b) (6), (b) (7)(C) and your comment about whether or not SMITH should be in a position of trust in the federal government is nearly identical to (b) (6), (b) (7)(C) Did either one of them coach you on what to say or suggest you say anything regarding SMITH having integrity issues or

manipulating people? Did you share your conversation with the investigators with either (b) (6), (b) (7)(C) ?

According to the draft report, during (b) (6), (b) (7)(C) interview, he told the investigators that a decision was made by the front office staff “to treat (b) (6), (b) (7)(C) like any other citizen that called DOC OIG, attempting to obtain information or make a complaint.” The following questions should have been asked of (b) (6), (b) (7)(C)

1. Who of the front office staff was involved in making that decision?
2. If that decision was made, why was no investigation conducted into (b) (6), (b) (7)(C) second call making a complaint against (b) (6), (b) (7)(C)

According to the draft report, during (b) (6), (b) (7)(C) interview, he told the investigators that “he came to this conclusion based on his personal review of the memorandums.” (b) (6), (b) (7)(C) also “stated that he considered the matter to be official DOC OIG business for three reasons.” The following questions should have been asked of (b) (6), (b) (7)(C)

1. If the matter was official business, and you did see the memorandums personally, why were they not kept in the official files along with other official correspondence?
2. (b) (6), (b) (7)(C) claims to have destroyed her documentation of the matter after IC CIGIE declined to investigate. Were (b) (6), (b) (7)(C) copies of the memorandums the only office copy? If so, should (b) (6), (b) (7)(C) be charged with destroying government records against record retention policy? Or was this truly a personal matter?

(b) (6), (b) (7)(C)

According to the draft report, (b) (6), (b) (7)(C) responses to the investigators’ questions during the interview were nearly identical to answers provided by (b) (6), (b) (7)(C) The following questions should have been asked of (b) (6), (b) (7)(C)

1. Did you (b) (6), (b) (7)(C) or, to your knowledge, anyone else, including (b) (6), (b) (7)(C) ask (b) (6), (b) (7)(C) to refile her complaint in December 2015?
2. Did you (b) (6), (b) (7)(C) or, to your knowledge, anyone else, including (b) (6), (b) (7)(C) provide input, edit, or influence the content of (b) (6), (b) (7)(C) December 2015 complaint?

3. Did you [(b) (6), (b) (7)(C)] or, to your knowledge, anyone else, including [(b) (6), (b) (7)(C)] talk about [(b) (6), (b) (7)(C)] December 2015 complaint or the subsequent investigation?
4. You admit to editing [(b) (6), (b) (7)(C)] February 25, 2014 complaint to IC CIGIE. What edits did you provide?
5. In the February 25, 2014 complaint about the July 26, 2013 memorandum, that you edited, it stated that SMITH “asked” [(b) (6), (b) (7)(C)] to document the phone call; however, you stated that, even though you had no first-hand knowledge of the conversation between [(b) (6), (b) (7)(C)] and SMITH, SMITH “directed” [(b) (6), (b) (7)(C)] to document the phone call. Why now, with no first-hand knowledge of their conversation, did you say SMITH “directed” [(b) (6), (b) (7)(C)] to document the phone call?
6. Did you [(b) (6), (b) (7)(C)] or, to your knowledge, anyone else, including [(b) (6), (b) (7)(C)] provide input, edit, or influence [(b) (6), (b) (7)(C)] letter to the investigators dated August 7, 2016? Did [(b) (6), (b) (7)(C)] share that letter with anyone, including [(b) (6), (b) (7)(C)] or you?
7. Do you still have contact with [(b) (6), (b) (7)(C)]? How often do you speak with them? Your comments about SMITH’s integrity are very similar to [(b) (6), (b) (7)(C)] and your comment about whether or not SMITH should be in a position of trust in the federal government is nearly identical to [(b) (6), (b) (7)(C)]s. Did either one of them coach you on what to say or suggest you say anything regarding SMITH having integrity issues or manipulating people? Did you share your conversation with the investigators with either [(b) (6), (b) (7)(C)]?

[(b) (6), (b) (7)(C)]

[(b) (6)]

Date: March 3, 2017

David Smith
 Deputy Inspector General
 Office of the Inspector General
 United States Department of Commerce

(b) (6), (b) (7)(C)

January 17, 2017

RE: Case IC#841

To Whom It May Concern:

I have been honored to know Dave Smith for more than 4 years, and I am pleased to provide this Character Reference Letter on his behalf. Honesty and integrity are the hallmarks of Dave's interactions with me and my staff and he is a credit to the position he holds.

I have worked on a regular basis with Dave (b) (6), (b) (7)(C)

. In that role, I have regularly met with Dave in-person and over the phone. I have also interacted frequently with members of his staff. Dave has always treated me and my staff with courtesy and respect. His ability to communicate easily and effectively has enabled him to establish a good working relationship with many leaders and staff members throughout the Department.

Dave has led his staff to produce insightful audit, review and investigative reports that have proved valuable to the Department of Commerce leadership. Dave has been an asset to the Office of Inspector General at the Department of Commerce. I look forward to continuing to work with him.

Sincerely,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FEB 02 2017

Bob Fitzpatrick
c/o Robert B. Fitzpatrick PLLC
1666 Connecticut Ave., N.W., Suite 230;
Washington, D.C. 20009

Dear Mr. Fitzpatrick:

(b) (6), (b) (7)(C)

I first met Mr. Smith in 2015, (b) (6), (b) (7)(C)

In all my dealings with Mr. Smith, I have found him to be polite, professional, honest, and an individual of the utmost integrity. I have coordinated with Mr. Smith on several highly sensitive and difficult matters. While Mr. Smith is often in a position of pushing hard and forcefully defending the work of his Office, I have never heard him raise his voice, express anger, threaten, or exhibit any unprofessional behavior. To the contrary, Mr. Smith has always calmly and deliberately debated facts and demonstrated a willingness to listen to my perspective, even in the most adversarial of contexts.

I have also watched as Mr. Smith has built strong trust relationships with me and others (b) (6), (b) (7)(C), as well as those in other bureaus of the Department of Commerce. I have specifically discussed Mr. Smith with senior leadership of the Department and several of its bureaus. (b) (6), (b) (7)(C)

. Universally, Mr. Smith is considered a straight shooter, an honest broker, and a trusted agent. I have never heard anyone from these bureaus describe any instance in which Mr. Smith exhibited inappropriate behavior.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

In short, Mr. Smith has made a positive impact on the Department in his roles as Acting Inspector General and Deputy Inspector General, and established important trust relationships with senior leadership throughout the Department. I look forward to continuing to work with him and his Office in the coming years.

Respectfully submitted,

(b) (6), (b) (7)(C)



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

September 19, 2017

Mr. Dustin Brown
Acting Executive Chairperson
Council of the Inspectors General on Integrity and Efficiency
1717 H Street, N.W., Suite 825
Washington, D.C., 20006

VIA FIRST CLASS U.S. MAIL

SUBJECT: Integrity Committee Investigation, IC#841

Dear Mr. Brown:

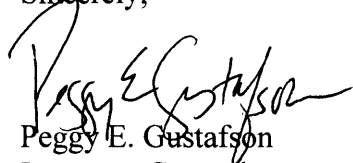
Section 11(d)(8)(B) of the Inspector General Act of 1978, 5 U.S.C. App., as amended, requires the Executive Chairperson of the Council of Inspectors General on Integrity and Efficiency (CIGIE) to report to the CIGIE Integrity Committee the final disposition of Integrity Committee investigations, including what action was taken by the President or the agency head. In order to help effectuate this Section 11(d)(8)(B) reporting requirement, please consider this letter the Department of Commerce Office of Inspector General's (DOC OIG's) notification to you of our actions related to a matter brought to my attention in a June 13, 2017 letter from the Integrity Committee.

Specifically, on June 13, 2017, the DOC OIG received a letter from the Integrity Committee that enclosed the report of investigation into a complaint that was lodged against Deputy Inspector General, David Smith. Mr. Smith is a high-level employee within the agency, and the entirety of the allegations contained in the Integrity Committee investigation pertained to the period preceding my appointment to the position of Inspector General for DOC OIG. Accordingly, as the Integrity Committee is already aware, DOC OIG partnered with an independent OIG to review the allegations and make recommendations as to what, if any, action should be taken in response to the Integrity Committee's findings. Based on the recommendation that the DOC OIG received from the independent OIG, no adverse action will be taken against Mr. Smith in response to the Integrity Committee's June 13, 2017 letter.



If you or the Integrity Committee members would like to receive additional information or have any questions about this determination or the process, I would be happy to have a member of my Office of Counsel meet with you to discuss the matter. The Office of Counsel may be reached at (202) 482-5992.

Sincerely,



Peggy E. Gustafson
Inspector General

cc: The Honorable Scott Dahl, Chairman, Integrity Committee