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**REPORT ON ALLEGATIONS REGARDING
STATE DEPARTMENT INSPECTOR GENERAL
HOWARD KRONGARD**

PREPARED FOR
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I. EXECUTIVE SUMMARY

On September 18, the Committee initiated an investigation into the activities of the State Department Inspector General Howard Krongard. The investigation was triggered by seven current and former officials in the Inspector General's office who expressed concerns about Mr. Krongard's conduct and his failure to investigate credible reports of wasteful spending and procurement fraud, especially in Iraq and Afghanistan.

During the Committee's investigation, the Committee interviewed or took the deposition of 13 current or former officials, all of whom raised questions about Mr. Krongard or his actions. The officials who criticized Mr. Krongard's performance included the Deputy Inspector General, the Assistant Inspector General for Investigations, the Assistant Inspector General for Audits, the Counsel to the Inspector General, the Deputy Assistant Inspector General for Investigations, and the Deputy Assistant Inspector General for Audits. Mr. Krongard's conduct was also criticized by lower-ranking officials, including special agents-in-charge, special agents, and auditors.

The criticisms of Mr. Krongard by these officials were wide-ranging. The officials expressed concerns about (1) Mr. Krongard's inadequate oversight of the construction of the Baghdad Embassy, (2) his failure to work with the Justice Department on an investigation of Blackwater for arms smuggling, (3) his refusal to pursue charges of procurement fraud relating to a DynCorp contract, (4) his intervention in the investigation of Kenneth Tomlinson, (5) his lack of independence in auditing the State Department's financial statements; and (6) his abusive management style. In the face of all of these concerns, the Committee was told that the Office of the Inspector General is "bleeding people right and left."

Mr. Krongard's actions in investigating allegations of labor trafficking during the construction of the Baghdad Embassy were described as "an embarrassment," "ludicrous," and "an affront ... to our profession." His failure to investigate "alleged corruption of a State Department official overseeing contract performance" was called "not a sound and prudent decision." His investigators told the Committee that his decision to personally interview a "person of interest" and a "subject of investigation" over the objections of his staff and the Justice Department led the Justice Department to ask him to recuse himself from future actions involving the Embassy.

According to information provided to the Committee by the Justice Department, Mr. Krongard's unusual conduct has "impacted" the Department's criminal investigation of Blackwater, "added multiple layers to our investigative efforts," and resulted in "a cumbersome and time-consuming investigative process." Mr. Krongard's personal involvement in the Blackwater case is itself suspect, given that his brother serves on Blackwater's advisory board.

Mr. Krongard has blamed many of his decisions on lack of funding. But the Committee was told that his office had \$2 million in unused funds at the end of the fiscal year. The former Deputy Assistant Inspector General for Audits said the message was "[w]e have to spend, spend, spend, spend, spend. And they went through, and they bought furniture."

A. Oversight of the Baghdad Embassy

The information provided to the Committee raises significant questions about the failure of Mr. Krongard to provide responsible oversight of the construction of the Baghdad Embassy, which is being built by First Kuwaiti Trading & Contracting Company. According to Special Agent Ronald Militana: “as the First Kuwaiti issues would come up, it was common knowledge that we didn’t investigate those. ... We knew it came from the front office that we weren’t going to investigate First Kuwaiti.”

According to the information obtained by the Committee:

- Between April 2006 and July 2007, the Inspector General’s office received multiple allegations of waste, fraud, and abuse involving the construction of the Embassy. According to one internal e-mail, these allegations involved “billing for work done improperly or incompletely, theft of materials and labor and alleged corruption of a State Department official overseeing contract performance.” Another e-mail described the allegations as “contract fraud and ... public ... corruption” involving a senior State Department official.
- In response to a January 2007 request from the Justice Department for assistance in investigating the allegations, Mr. Krongard directed his staff to “stand down on this and not assist.” This prompted one investigator to write in an internal e-mail: “Wow, as we all [k]now that is not the normal and proper procedure.” John DeDona, the Assistant Inspector General for Investigations, agreed, writing: “This is not good. ... This is not a sound and prudent decision.”
- The Justice Department renewed its requests for assistance in May, June, and July 2007. On each occasion, Mr. Krongard prevented his investigators from providing assistance to the Justice Department.
- Mr. Krongard rejected the recommendations of his own staff — including the recommendation of the Deputy Inspector General — that auditors monitor the construction of the Embassy while it is being built. According to Mark Duda, the Assistant Inspector General for Audits, an audit conducted “in real-time” would have added “a lot of value” because “if there’s some faulty craftsmanship ... it’s better to go in ... and build the thing correctly and get what we paid for.”
- In August and September 2007, Mr. Krongard rejected the advice of his staff and the Justice Department and met with two State Department officials who were a “person of interest” and a “subject of investigation” in the Justice Department’s investigation. As a result of this action, investigators say that the Justice Department has now asked Mr. Krongard to recuse himself from any further activity relating to the Embassy.

There is one allegation involving the Embassy that Mr. Krongard did investigate. On a trip to Iraq with Deputy Inspector General Bill Todd in August 2006, Mr. Krongard personally examined allegations that First Kuwaiti was engaged in labor trafficking. Mr. Todd told the

Committee that Mr. Krongard's cursory investigation, which involved interviewing six employees pre-selected by First Kuwaiti and touring the construction site with armed guards, was "very unorthodox." Patti Boyd, the Deputy Assistant Inspector General for Audits, called Mr. Krongard's investigation "an embarrassment to the community" and said it would "never pass muster ... in any IG organization." Mr. DeDonna, the Assistant Inspector General for Investigations, described Mr. Krongard's investigative approach as "ludicrous," and Brian Rubendall, a Special Agent-in-Charge, said it was "an affront ... to our profession."

In recent communications, Mr. Krongard has informed the Committee that his office is now investigating the allegations involving the Baghdad Embassy. Mr. Krongard, however, did not initiate this new investigation until after his office learned of the Committee's inquiries.

B. Oversight of Blackwater

On September 18, 2007, Chairman Waxman wrote Mr. Krongard to raise concerns that he "impeded efforts by ... investigators to cooperate with a Justice Department probe into allegations that a large private security contractor was smuggling weapons into Iraq."¹ In his response, Mr. Krongard revealed that the Justice Department investigation was being conducted by the U.S. Attorney's Office in North Carolina, which led to the disclosure that the allegations involved Blackwater.

The Justice Department has provided information to the Committee about the interactions between the Justice Department and Mr. Krongard and his office. According to this information, the Justice Department attorneys handling the case met with Mr. Krongard to discuss their request for assistance on July 31, 2007. During this meeting, Mr. Krongard expressed several reservations about assisting the Justice Department, including his concern about "the potential impact of the investigation on the Department of State's efforts in connection with the war in Iraq." Mr. Krongard also took multiple unusual actions that impacted the investigation. According to the Justice Department:

At this juncture, we cannot determine all of the ramifications of the IG's conduct, but some of his actions have certainly impacted the investigation. For reasons that remain unclear, the line IG agents, who have broad power to obtain documents and other evidence relevant to any investigation they are conducting, have been forced to funnel requests within their own agency through a congressional and public relations official. This is not the usual practice. The IG also issued a statement, without advance coordination with Department attorneys, confirming the existence of this investigation, which is inconsistent with our law enforcement interests. Finally, the case agent has been tasked with other significant investigations, contrary to Mr. Krongard's representation in our July meeting.

The Justice Department further informed the Committee that as a result of Mr. Krongard's actions, "we have been obliged to engage in a cumbersome and time-consuming

¹ Letter from Chairman Henry A. Waxman to Inspector General, U.S. Department of State, Howard J. Krongard (Sept. 18, 2007).

investigative process that relies primarily upon our communications with State officials, rather than the investigative efforts of IG agents”; that “the process dictated by the IG’s decision has added multiple layers to our investigative efforts”; and that “as of November 9, 2007, Department attorneys have not yet received the other materials that were requested of the Department of State through the State IG agents.”

There is also evidence that Mr. Krongard’s involvement in this investigation may be an improper conflict of interest due to the position that his brother holds as a member of Blackwater’s “Worldwide Advisory Board.” On July 26, 2007, Erik Prince, the head of Blackwater, sent a letter to Mr. Krongard’s brother, Alvin “Buzzy” Krongard, inviting him to serve on Blackwater’s board. Soon thereafter, Mr. Krongard instructed his Congressional and Public Affairs Director, whom he described as his “alter ego,” to maintain “situational awareness” of the criminal investigation. Since then, Mr. Krongard has received updates about the status of the investigation and given instructions on how to proceed.

C. Oversight of DynCorp

The Committee has received evidence that Mr. Krongard impeded the investigation and potential criminal prosecution of two cases of procurement fraud relating to the State Department’s \$1 billion contract with DynCorp to train Iraqi and Afghanistan police forces by refusing to authorize necessary travel.

One case involved allegations that a Jordanian subcontractor paid over \$70,000 in bribes to DynCorp purchasing officials. The other case involved evidence that hundreds of computers purchased by a DynCorp subcontractor for use in Afghanistan and Iraq could contain counterfeit hardware and software that left them vulnerable to monitoring by terrorist elements. According to the information received by the Committee, the investigators working for the Inspector General determined in each case that travel to Jordan and Afghanistan was essential to developing a criminal prosecution. In each case, these travel requests were repeatedly denied by Mr. Krongard.

In the case of the counterfeit computers, the refusal to authorize travel led the investigators to officially close the case in January 2007. In the case of the procurement bribes, Mr. Krongard ultimately approved travel in August 2007, a year after the case was referred for criminal investigation. By this point, the police training facility implicated in the bribery charges had been closed and its records were in the process of being removed. The case is now inactive.

D. Investigation of Kenneth Tomlinson

According to information received by the Committee, Mr. Krongard improperly alerted Kenneth Tomlinson, the head of the Broadcasting Board of Governors, about an investigation into Mr. Tomlinson’s conduct. In July 2005, members of Congress wrote Mr. Krongard to request that he investigate allegations that Mr. Tomlinson, a close associate of White House advisor Karl Rove, was “double-dipping” by seeking compensation for the same hours from both the Broadcasting Board of Governors and from the Board of the Corporation for Public Broadcasting, which he also ran. According to the information provided to the Committee, Mr.

Krongard faxed to Mr. Tomlinson the letter from the members and an attached letter from a whistleblower who previously worked for the Broadcasting Board of Governors.

In interviews and depositions, Mr. Krongard's staff criticized his conduct. The Counsel to the Inspector General told the Committee: "if you are given a request to investigate, you would almost never share that with a subject at the beginning. ... [I]t's just not something you would do." Special Agent Peter Lubeck, who was responsible for the Tomlinson investigation, told the Committee that Mr. Krongard's actions may have led to the destruction of documents, stating:

[W]hat happened as a result of this, two of the witnesses were observed shredding documents related to this case. They were told to cease and desist shredding documents. When I interviewed the two witnesses, they said, "Oh, we were just housecleaning." ... [T]hat, to me, is troublesome.

E. Annual State Department Audits

Under the Chief Financial Officers Act, Mr. Krongard is required to submit an audit of the State Department's financial statements every year on November 15. If Mr. Krongard had complied with this timetable, the State Department would have received unfavorable audit opinions: a "qualified opinion" in 2005 and a "disclaimer of opinion" in 2006. In both years, however, Mr. Krongard granted the State Department additional time to complete the financial audits. These accommodations allowed the State Department to replace the original unfavorable opinions with more desirable "clean opinions."

Mr. Krongard's actions were criticized by the Deputy Inspector General, the Assistant Inspector General for Audits, the Deputy Assistant Inspector General for Audits, the Supervisory Auditor, and the Counsel to the Inspector General. Mark Duda, the Assistant Inspector General for Audits, told the Committee that Mr. Krongard's actions "gives the appearance that OIG is not being independent." Bill Todd, the Deputy Inspector General, told the Committee that the accommodations were wrong because "if you spend enough time and money, you can make any terrible system clean." Patti Boyd, the Deputy Assistant Inspector General for Audits, told the Committee that Mr. Krongard acted "almost like he was the State's advocate."

F. The Office Environment

A common theme in the interviews and depositions conducted by the Committee was dismay over the manner in which Mr. Krongard treats his staff. According to the officials who spoke with the Committee, Mr. Krongard's behavior caused a hostile working environment, low office morale, and a high attrition rate of employees. One official said that Mr. Krongard has three modes of behavior: "diplomatic, condescending and volcanic eruption." He enjoyed "sandbagging" employees at meetings and called his own office a "banana republic." According to one official, Mr. Krongard described himself as an "equal opportunity abuser."

The consequence of Mr. Krongard's abusive style of leadership was high turnover in the office. Since Mr. Krongard became the Inspector General in 2005, the Assistant Inspector

General for Investigations, the Deputy Assistant Inspector General for Investigations, the Deputy Assistant Inspector General for Audits, the head of the Office for Information Technology, and the Counsel to the Inspector General have all resigned. A budget official told the Committee: the office is “bleeding people left and right. ... [W]e used to talk about how can we pay for everybody, and now ... we have to bolt the doors.”

G. The Office Budget

In defending a number of his actions, particularly his decisions not to send investigators to Iraq or Afghanistan, Mr. Krongard has cited budget shortages in his office. A number of the officials that the Committee interviewed or deposed agreed that the office does not have sufficient funding to perform vigorous oversight. The Committee was also told, however, that the office has had available funds that have not been fully or wisely used.

According to two officials, in past years the Office of Inspector General has entered the final months of the fiscal year with a surplus of funds. Patti Boyd, who was the Deputy Inspector General for Audits, told the Committee that this summer, she and other senior officials received an e-mail that said the office had \$2 million in excess funds that had to be spent before September 30, 2007, or be returned to the Treasury. According to Ms. Boyd:

[L]ast year we were restricted from travel. ... Now it's, oh, my gosh, we have \$2 million. We have to spend, spend, spend, spend, spend. And they went through, and they bought furniture.

Budget information provided to the Committee shows that in both fiscal year 2006 and fiscal year 2007, the investigations division had unused travel funds that investigators were not allowed to spend. In fiscal year 2007, which ended on September 30, the investigations division was allowed to spend only \$76,300 of the \$205,600 allocated for travel and other investigative expenses. Brian Rubendall, the Assistant Special Agent-in-Charge of Fraud Investigations, expressed frustration at these restrictions on travel, informing the Committee: “You can't investigate any case from behind your desk, particularly not halfway around the world.”

H. Interference with the Committee's Investigation

The Committee's investigation of the allegations concerning Mr. Krongard was hindered by the actions of Mr. Krongard and his staff. Officials in the Office of the Inspector General informed the Committee that they were told by Terry Heide, the Director of Congressional and Public Affairs, that they could lose their jobs and have no whistleblower protections after they talked with the Committee. They told the Committee that they considered her statements to be “threatening,” “a form of intimidation,” and intended to discourage them from providing full and accurate testimony. In her deposition, Mr. Heide acknowledged making many of these statements, but said that she had no intent to intimidate, and that Mr. Krongard had not directed her to make them.

The investigation was also impeded by Mr. Krongard's refusal to provide the Committee with relevant documents. On November 7, 2007, the Committee issued a subpoena to Mr.

Krongard for documents relating to the Baghdad Embassy and other matters. The due date of the subpoena was November 9. Mr. Krongard has yet to comply fully with the subpoena.

II. OVERSIGHT OF THE BAGHDAD EMBASSY

The U.S. Embassy in Baghdad is the largest and most expensive U.S. Embassy ever built. The \$600 million contract to build the Embassy was awarded to First Kuwaiti Trading and Contracting Company in 2005. On July 26, 2007, when the Committee held a hearing on the progress of the Embassy, Maj. Gen. Charles Williams (Ret.), the Director of Overseas Building Operations for the State Department, testified that “the project is on schedule and on budget” and that “[w]e have received numerous accolades as to the extremely high quality of construction.”²

The Embassy did not open on time in September due to serious construction problems. Some of these problems were outlined in a letter that Chairman Waxman sent Secretary of State Condoleezza Rice on October 9, 2007. They include hundreds of violations of the contract specifications, fire safety codes, and regulations, as well as significant problems in the electrical wiring. A fire inspection report concluded: “the entire installation is not acceptable.”³

At the time of the Committee’s July 26 hearing, Mr. Krongard’s office had received multiple reports of construction problems at the Embassy. The evidence received by the Committee indicates that Mr. Krongard did not investigate these allegations. He also did not disclose these reports during his testimony or correct General Williams’ testimony that the Embassy would be completed on time. When one member asked whether there “is any waste, fraud, or abuse in the construction of the U.S. Embassy in Iraq,” General Williams said “no” and Mr. Krongard remained silent.⁴

A. Allegations Involving the Embassy

During the construction of the Embassy, the Office of the Inspector General received regular reports of waste, fraud, and abuse by First Kuwaiti and State Department employees involved in the Embassy construction project. Through its hotline, the Office of the Inspector General received: (1) a complaint regarding the award of the contract, received in April 2006; (2) a complaint relating to construction issues, received in December 2006; (3) allegations that State Department officials were engaged in fraud, received in January 2007; (4) further allegations that State Department officials were engaged in fraud, received in March 2007; (5)

² House Committee on Oversight and Government Reform, Testimony of State Department Overseas Building Operations Director Maj. Gen. Charles Williams (Ret.), *Hearings on Allegations of Waste, Fraud, and Abuse at the New U.S. Embassy in Iraq* (July 26, 2007).

³ U.S. Department of State, Office of Overseas Building Operations, Fire Protection Division, *Trip Report for Director Williams: Fire System Commissioning Trip - Baghdad NEC* (Sept. 4, 2007).

⁴ House Committee on Oversight and Government Reform, *Hearings on Allegations of Waste, Fraud, and Abuse at the New U.S. Embassy in Iraq* (July 26, 2007).

and a complaint related to both contracting and construction, received in July 2007.⁵ On December 12, 2006, the Inspector General's office was advised by letter of "allegations that First Kuwaiti had defrauded the State Department through a variety of schemes."⁶ On December 18, the individual repeated the allegations in an e-mail directly to Mr. Krongard.⁷ A December 22 e-mail from Mr. Krongard shows that he personally spoke with this individual.⁸

In addition, the Inspector General's office received multiple reports of problems at the Embassy from other government agencies. One internal e-mail sent in January 2007 reported that the Justice Department was seeking help from the Inspector General in investigating "billing for work done improperly or incompletely, theft of materials and labor and alleged corruption of a State Department official overseeing contract performance."⁹ Another internal e-mail sent a month later said that the Special Inspector General for Iraq Reconstruction had sought information regarding First Kuwaiti, noting that "the allegations are basically contract fraud and public ... corruption" implicating a senior State Department official.¹⁰

The Inspector General's office also learned from the Department of Justice about allegations regarding faulty wiring at the Embassy guard camp at the beginning of 2007, months before faulty wiring at the camp was blamed for an electrical fire at the camp.¹¹

Other indications of problems came from officials working with the Special Inspector General for Iraq Reconstruction (SIGIR), who were assisting the Justice Department. According to one internal e-mail sent in May 2007, an official working with SIGIR warned that "things were going to blow up" at the Embassy and "important folks are involved."¹²

Despite these allegations, Mr. Krongard did not allow his staff to open any investigations. According to Ronald Militana, a career investigator in the Inspector General's office:

[A]s the First Kuwaiti issues would come up, it was common knowledge that we didn't investigate those. ... It came from the front office. We knew it came from the front office that we weren't going to investigate First Kuwaiti.¹³

⁵ House Committee on Oversight and Government Reform, *Transcribed Interview of Ronald Militana*, (Oct. 10, 2007), at 39-45 (hereinafter "Militana Interview"); House Committee on Oversight and Government Reform, *Transcribed Interview of John DeDona*, (Oct. 9, 2007), at 56 (estimating a half dozen allegations) (hereinafter "DeDona Interview").

⁶ E-Mail from Pamela Caudill to John DeDona (Jan. 22, 2007) (Bates No. 2987-2988).

⁷ *Id.*

⁸ E-Mail from Howard Krongard to Ralph McNamara (Dec. 22, 2006).

⁹ E-Mail from Pamela Caudill to John DeDona, *supra* note 6.

¹⁰ E-Mail from Ronald Militana to Timothy Marcum (Feb. 13, 2007).

¹¹ DeDona Interview at 63-64.

¹² E-Mail from Ralph McNamara to John DeDona (May 18, 2007).

¹³ Militana Interview at 32.

When Mr. Krongard's deputy informed John DeDona, the Assistant Inspector General for Investigations, that the Embassy allegations could not be investigated due to a lack of resources, Mr. DeDona responded in an internal e-mail that his view was that "the lack of resources, and ability to discharge our mission is intentional."¹⁴ Mr. DeDona continued:

I, and my other supervisors, have endeavored to get our folks out of the penny-ante cases that they had been working, and to focus on allegations received that not only warrant our work, but would also be useful to the department. Unfortunately, under the current regime, the view within INV is to keep working the BS cases within the beltway, and let us not rock the boat with other more significant investigations.¹⁵

B. Refusal to Assist the Department of Justice

On multiple occasions, the Justice Department sought assistance of the Inspector General in investigating allegations involving fraud and corruption in the construction of the Embassy. It appears, however, that these requests were regularly rejected by Mr. Krongard.

On January 18, 2007, the Department of Justice requested assistance with an investigation into allegations of financial irregularities and construction problems at the new Baghdad Embassy.¹⁶ According to John DeDona, the Assistant Inspector General for Investigations, the Justice Department was "seeking assistance in obtaining contract files, contract records, payment invoices, inspection reports, a lot of the initial administrative work that could be done here in the States."¹⁷

On January 22, 2007, Mr. DeDona informed the Deputy Inspector General, Bill Todd, of Justice's request.¹⁸ The next day, Mr. Krongard directed Mr. DeDona and Mr. Todd to "stand down on this and not assist."¹⁹

Investigative staff within the Inspector General's office could not understand why Mr. Krongard would refuse to assist the Justice Department, the agency with authority to prosecute criminal activity. One investigator stated:

Wow, as we all [k]now, that is not the normal and proper procedure. When looking at the IG act, DOJ and PCIE guidelines, and the OIG community as a whole, we are supposed to work under the direction of USAO/DOJ. ... I am

¹⁴ E-Mail from John DeDona to William Todd (Jan. 29, 2007).

¹⁵ *Id.*

¹⁶ E-Mail from John DeDona to William Todd (Jan. 22, 2007) (Bates No. 2987).

¹⁷ DeDona Interview at 68.

¹⁸ E-Mail from John DeDona to William Todd, *supra* note 16.

¹⁹ E-Mail from William Todd to John DeDona (Jan. 26, 2007).

stunned. ... I hope you documented the orders that were provided to you.
Wow.²⁰

Mr. DeDona appealed the decision to Mr. Todd, stating:

This is not good, and I cannot argue against them. Ralph attended the National Procurement Task Force Meeting yesterday and DOJ was stressing assistance from the investigative agencies with DOJ. ... I have always viewed myself as a loyal soldier, but hopefully you sense my frustration in my voicemail yesterday. This is not a sound and prudent decision.²¹

According to the Justice Department, its attorneys called Mr. Krongard personally “to discuss our request for investigative assistance with respect to the First Kuwaiti investigation.” They asked for “assistance in conducting an interview of a potential witness” and “assistance in locating contract documents and locating and interviewing witnesses.” According to the Justice Department, “Mr. Krongard said that OIG couldn’t assist because this was not the sort of thing OIG did,” that there were “other pending matters involving First Kuwaiti,” and that “he believed it would be a conflict for the OIG to be investigating those complaints and conducting a law enforcement investigation.” In March, Mr. Krongard did designate an auditor, rather than an investigator, to make some documents available to the Justice Department. However, he selected an auditor who was leaving the office permanently in two weeks, and she was not allowed to transfer the matter to another member of the audit staff.²²

In May 2007, the Justice Department again approached the Office of the Inspector General for assistance in obtaining documents related to First Kuwaiti and the Embassy.²³ In addition to the documents requested in January, the Justice Department was now also seeking invoices and inspection records that would indicate whether the supposedly blast-proof walls in the Embassy had been constructed properly.²⁴ According to Mr. DeDona, Mr. Krongard first instructed him to work with the Justice Department “to hone ... down” the request.²⁵ Before any documents could be provided to the Justice Department, however, both Mr. DeDona and the agent he assigned to help collect documents were removed from the effort.²⁶

According to the Justice Department, in late June 2007, Department representatives met with Inspector General and SIGIR representatives to request additional documents pertaining to

²⁰ E-Mail from Timothy Marcum to John DeDona, et al. (Jan. 25, 2007).

²¹ E-Mail from John DeDona to William Todd (Jan. 25, 2007).

²² House Committee on Oversight and Government Reform, *Transcribed Interview of Patti Boyd*, (Oct. 23, 2007) at 101-103 (hereinafter “Boyd Interview”).

²³ DeDona Interview at 77.

²⁴ *Id.* at 80.

²⁵ *Id.* at 79.

²⁶ *Id.* at 80-81.

“another First Kuwaiti contract which was related to, but not part of the new embassy project.” According to the Justice Department, they were later advised that “Mr. Krongard believed the related contract was outside the scope of the investigation parameters previously discussed with him and he wanted to talk to with the Department about the matter.”

On July 5, 2007, the Justice Department requested assistance in getting a copy of two cables mentioned in a front-page article in the *Washington Post* regarding construction problems at the Embassy guard camp.²⁷ In response, Ronald Militana and another agent contacted the Office of Overseas Building Operations (OBO) to obtain the cables requested by the Justice Department.²⁸ Within a few hours, Mr. Todd, the Deputy Inspector General, told Mr. DeDona to inform his investigators to stop these inquiries. In an e-mail to the agents, Mr. DeDona described his conversation with Mr. Todd:

OBO apparently called into the Front Office and asked why [the agent] was asking about ... cables. I mentioned that the AUSA ... based on a WP article ... inquired about the cable that was mentioned. I was again advised that while we want to help ... anything beyond pointing him in the right direction ... is to be approved by the IG.²⁹

Justice Department attorneys called Mr. Krongard in July 2007. According to the Justice Department, Mr. Krongard told the attorneys that “the OIG staff was no better versed than the Department of Justice regarding how the Department of State is organized,” that the Justice Department’s requests were “very burdensome,” and that “his people were spending inordinate amounts of time trying to respond to Department of Justice requests.”

Chairman Waxman wrote to Mr. Krongard on September 18 to seek an explanation for his refusal to cooperate with the Justice Department investigation. According to the Justice Department, “Beginning in early October, OIG agents began assisting in our civil ongoing investigation.”

C. Postponement of Audit of Embassy Construction

The Office of the State Department Inspector General has three main components: investigations, which “conducts investigations of criminal, civil, and administrative misconduct”; audits, which “conducts and coordinates audits and program evaluations”; and inspections, which conducts regular examinations of embassies around the world.³⁰ As an alternative to an investigation of criminal or civil misconduct, which would be handled by the investigations division, some senior officials in Mr. Krongard’s office proposed that the audit division conduct an audit of the ongoing construction of the Embassy. This too was rejected by Mr. Krongard,

²⁷ E-Mail from the Justice Department to John DeDona (July 5, 2007).

²⁸ Militana Interview at 94-95.

²⁹ E-Mail from John DeDona to Ronald Militana and Bryan Tenney (July 5, 2007).

³⁰ U.S. Department of State, Office of Inspector General (online at <http://oig.state.gov>) (accessed Nov. 13, 2007).

who said that any construction audit would have to be postponed until after the Embassy was completed.³¹

Mr. Krongard's deputy, Mr. Todd, recommended against delaying the construction audit. He told the Committee that he would have preferred to have auditors and civil engineers present throughout the construction process to ensure that problems were corrected along the way.³² Mr. Todd acknowledged that, in hindsight, having auditors on the ground might have prevented some of the problems with the fire system and the electrical system now present in the new Embassy.³³

Mark Duda, the Assistant Inspector General for Audits, echoed Mr. Todd's concerns, stating that the auditors could "add a lot of value by going in real-time" rather than waiting for the construction to be finished before performing the audit.³⁴ According to Mr. Duda, the continuing allegations being sent to the Inspector General's office indicated that the new Embassy was a "major risk area."³⁵ Mr. Duda stated:

[I]f there's some faulty craftsmanship or so forth, in my mind, it's better to go in, possibly delay the 24-month deadline and build the thing correctly and get what we paid for, as opposed to finding that out after the fact. ... [I]f we do phase two and we do find that the quality of the construction wasn't there, then we're finally discovering it after the fact, and it is typically more expensive to fix something like that. And in the meantime, it could jeopardize people's lives.³⁶

In April 2007, Mr. Krongard did authorize the audit division to conduct a review of the award of the construction contract to First Kuwaiti. Almost immediately after beginning this work, however, the auditors found matters they determined should be referred to the investigations office because they involved potential criminal activity. Specifically, the auditors received allegations that one of the subcontracts had been awarded improperly and that a State Department official may have been involved.³⁷ Contrary to standard practice, Mr. Krongard directed that any referral must first be sent through him.³⁸ Mr. Duda stated that the auditors had never before been told to inform the front office prior to passing along indicators of fraud to the

³¹ House Committee on Oversight and Government Reform, *Deposition of Mark Duda*, (Sept. 26, 2007) at 33-35. (Mr. Krongard took the position that a contemporaneous audit might impede the progress of construction.) (hereinafter "Duda Deposition").

³² House Committee on Oversight and Government Reform, *Deposition of William Todd*, (Oct. 12, 2007) at 215 (hereinafter "Todd Deposition").

³³ *Id.* at 217.

³⁴ Duda Deposition at 48.

³⁵ *Id.* at 34-35.

³⁶ *Id.* at 34.

³⁷ *Id.* at 134.

³⁸ *Id.* at 65-66, 88.

investigations office.³⁹ Erich Hart, the Counsel for the Inspector General, told the Committee that he agreed that the evidence uncovered by the auditors should have been referred to the investigations unit.⁴⁰

Mr. Krongard did not approve the referral of the potential criminal activity. According to Mr. Duda, Mr. Todd informed him that Mr. Krongard wanted the auditors, not the investigators, to handle the matter.⁴¹ It was not until September 11, after the Committee began its inquiry, that Mr. Krongard referred the allegations to the investigations unit.

D. Meetings with a “Person of Interest” and a “Subject of Investigation”

In August 2007, Mr. Krongard met with a State Department official implicated in potential criminal activity by the audit of the Embassy contract. This individual was also a “person of interest” in the Justice Department’s investigation. One day after the individual was interviewed by the auditors, Mr. Krongard arranged a special meeting to speak with the individual personally.⁴² According to Mr. Todd, Mr. Krongard indicated that he wanted to speak with the individual because he had information relevant to the Baghdad embassy project.⁴³

During his deposition, Mr. Todd advised Mr. Krongard not to have the meeting.⁴⁴ He also said that he:

And [Mr. Krongard] said, “Until they’re a subject, why can’t I meet with them?”
And I said, “Because of the appearance of it.” And he said, “Bill, I’ve got to do my job.” So he met with them.⁴⁵

Mr. Hart, the Acting Counsel at the Office of Inspector General, also stated during his deposition that he would not have met with the individual.⁴⁶

Three days after meeting with Mr. Krongard, the individual failed to show up at a subsequent meeting with the auditors and an investigator.⁴⁷ They were later informed that the

³⁹ *Id.* at 65-66.

⁴⁰ House Committee on Oversight and Government Reform, *Deposition of Erich Hart*, (Oct. 3, 2007) at 78-79 (hereinafter “Hart Deposition”).

⁴¹ Duda Deposition at 66-67. According to Mr. Duda, he was able to persuade Mr. Krongard after “repeated attempts” to allow a criminal investigator to provide some assistance to the audit team in August 2007. Duda Deposition at 134-135.

⁴² *Id.* at 153-154; Todd Deposition at 200; Hart Deposition at 103-104.

⁴³ Todd Deposition at 200.

⁴⁴ *Id.* at 200; Hart Deposition at 80-81.

⁴⁵ Todd Deposition at 200.

⁴⁶ Hart Deposition at 83.

⁴⁷ Militana Interview at 97-98; Duda Deposition at 153.

individual had returned to the Middle East. The individual has not returned to the United States, nor has the individual made himself available for a follow-up meeting.⁴⁸

Mr. Krongard engaged in similar conduct involving a “subject of investigation” when he arrived in Iraq in September 2007. According to Mr. Todd, Mr. Krongard was aware at the time he left for Iraq that this individual was a “person of interest” in the Justice Department investigation.⁴⁹ When Mr. Krongard arrived in Iraq, Mr. Todd learned that the individual’s status had changed to “subject of investigation,” and he informed Mr. Krongard of this fact. Mr. Todd also advised Mr. Krongard not to meet with the individual, stating that “it would be questioned by our investigators and would, you know, give people cause to comment.”⁵⁰ Mr. Todd also requested that the Department of Justice speak directly with Mr. Krongard to ensure that he did not taint the investigation.⁵¹ The Department of Justice advised Mr. Krongard that he should not conduct any witness interviews while in Baghdad.⁵²

Despite these warnings, Mr. Krongard went through with the meeting and spent several hours with this individual.⁵³ Upon his return, Mr. Krongard met with investigators, who had finally been assigned to the Embassy case. The investigators were so concerned that Mr. Krongard’s information might taint their investigation that they specifically asked Mr. Krongard not to tell them anything he had learned.⁵⁴ According to one investigator, Mr. Krongard explicitly acknowledged this concern.⁵⁵ Nevertheless, Mr. Krongard later sent one of these investigators an e-mail outlining the substance of his conversation with the individual.⁵⁶

As a result of Mr. Krongard’s meetings with these individuals, the Department of Justice has requested that Mr. Krongard recuse himself from any activity relating to the Embassy investigation.⁵⁷ It is not known whether Mr. Krongard has recused himself, as requested.

⁴⁸ *Id.* at 98.

⁴⁹ Todd Deposition at 204.

⁵⁰ *Id.* at 206-207.

⁵¹ *Id.* at 205-206.

⁵² *Id.* at 206-207.

⁵³ House Committee on Oversight and Government Reform, *Transcribed Interview of Brian Rubendall*, (Oct.11, 2007) at 125 (hereinafter “Rubendall Interview”); Todd Deposition at 205; Militana Interview at 107.

⁵⁴ Militana Interview at 113-114.

⁵⁵ *Id.* at 115.

⁵⁶ *Id.* at 114-116.

⁵⁷ *Id.* at 178-179; Rubendall Interview at 158.

E. Denial of Travel to Iraq

In May 2005, early in the construction of the Embassy, the Office of Overseas Building Operations (OBO) informed the Office of the Inspector General of potential problems with a contract to clear mines and other explosives from the construction site at the Baghdad Embassy. The contract for site preparation was held by the architectural firm Davis Brody Bond and involved work on ten task orders by multiple subcontractors. The OBO officials alleged that one subcontractor, the Berger Group, failed to arrange for proper site surveying and clearing.⁵⁸ In addition, OBO alleged that a contracting officer may have authorized payment to the subcontractor despite its failure to fulfill the terms of the contract.⁵⁹

A year later, in June 2006, the case was assigned to Special Agent Ronald Militana. During a preliminary inquiry, Mr. Militana learned that multiple live munitions had been found during the construction of the Embassy and that there were allegations that the Berger Group had failed to clear the site as required in its contract.⁶⁰ On multiple occasions, Mr. Militana requested authorization to travel to Baghdad to conduct witness interviews and perform site inspections. Each time, however, Mr. Krongard denied the request.⁶¹

Mr. Krongard's refusal to approve travel to Iraq for investigation effectively ended the investigation. According to Mr. Militana, the investigation was closed "based on the inability to go to Iraq to conduct an investigation."⁶²

F. Allegations of Human Trafficking and Labor Abuses

Mr. Krongard personally investigated one set of allegations relating to the construction of the Embassy. The investigative techniques he used in this matter, which involved allegations of criminal labor trafficking by First Kuwaiti, were derided in interviews and depositions by his senior staff, including the Deputy Inspector General, the Assistant Inspector General for Investigations, and the Deputy Assistant Inspector General for Audits.

According to the Deputy Inspector General, Bill Todd, allegations of illegal trafficking were "coming over the transom" from "a number of different sources" in 2006.⁶³ The

⁵⁸ U.S. State Department, Office of Overseas Building Operations, Internal Review and Operations Research, *IROR Report of A&E Work by Davis Brody Bond in Baghdad*, (Oct. 28, 2005).

⁵⁹ *Id.*

⁶⁰ U.S. Department of State, Office of the Inspector General, *Case Activity Report for Case # 06029* (Sept. 7, 2006).

⁶¹ DeDona Interview at 40.

⁶² Militana Interview at 23-24.

⁶³ Todd Deposition at 109.

allegations came from, among other sources, the State Department's Global Trafficking in Persons Office and complaints received over the hotline.⁶⁴

Several officials told the Committee that that the Assistant Inspectors General under Mr. Krongard conferred by e-mail to discuss whether the allegations should be addressed by the investigations group, the audit group, or the inspections group. When Mr. Krongard learned of these discussions, he sent an e-mail that told them, in effect, "cease and desist all work, I'm taking care of this."⁶⁵ According to Mr. Todd's account, "The investigators were told to stand down because other entities were looking at it."⁶⁶

Mr. Krongard instead chose to conduct a personal inquiry into the allegations. In September 2006, while on a trip with Mr. Todd to Iraq, Mr. Krongard visited the Embassy work site to investigate the allegations personally.⁶⁷ Prior to the trip, Mr. Krongard had not told Mr. Todd that they would be investigating the labor abuse issue.⁶⁸ Other senior staff in the Inspector General's office did not learn of Mr. Krongard's investigation until May 2007, when Mr. Krongard released a public report describing his findings.⁶⁹ This report concluded: "Nothing came to my attention evidencing any Trafficking in Persons violations or human rights abuses."⁷⁰ Mr. Krongard testified at the Committee's July 26 hearing, "I tested the credibility of the allegations, I looked at what was said, and I thought that I did an appropriate job, and I think today I did an appropriate job."⁷¹

During his investigation, Mr. Krongard interviewed six employees who had been pre-selected by First Kuwaiti.⁷² No translators were provided; the only interviewees made available spoke some English.⁷³ No reports of interviews were drafted. The only documentation of the investigation consisted of handwritten notes by Mr. Krongard, none of which identified the witnesses by name and two of which did not even describe them by nationality or position.⁷⁴ After the six interviews, Mr. Krongard and Mr. Todd walked around the site accompanied by an official from OBO and armed guards. During this tour, they viewed some facilities and living

⁶⁴ DeDona Interview at 82-83.

⁶⁵ *Id.* at 84-85; Boyd Interview at 37; Hart Deposition at 75-76.

⁶⁶ Todd Deposition at 110.

⁶⁷ *Id.* at 112.

⁶⁸ *Id.* at 109.

⁶⁹ DeDona Interview at 42.

⁷⁰ Howard J. Krongard, *Memorandum: Construction Workers Camp at the New Embassy Compound, Baghdad* (April 30, 2007).

⁷¹ *Hearings on Allegations of Waste, Fraud, and Abuse at the New U.S. Embassy in Iraq*, *supra* note 4.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Howard Krongard's Notes of Investigation, produced to the Committee (Sept. 7, 2007).

quarters and asked questions of some workers they encountered, but they retained no notes from those inspections or conversations.⁷⁵

Mr. Krongard's approach was intensively criticized during the Committee's interviews and depositions. The decision by the Inspector General to investigate the allegations personally was apparently unprecedented. None of the officials who spoke with the Committee had ever heard of an inspector general personally conducting such an inquiry.⁷⁶

Mr. Todd, who accompanied Mr. Krongard to the First Kuwaiti work site, told the Committee: "I believe then and I believe now and I will believe tomorrow that this is very unorthodox. I would never do it."⁷⁷ Mr. Todd characterized Mr. Krongard's inquiry as "the furthest thing from an investigation" and said that it "didn't comply with any standards."⁷⁸

Erich Hart, Counsel to the Inspector General and a former military prosecutor, testified that he did not think that Mr. Krongard was qualified to do a report on the trafficking on his own: "[T]he allegations are criminal allegations. And those are the type of allegations that you want a trained investigator to do, because you don't want to inadvertently ruin a future case."⁷⁹

Patti Boyd, who was the Deputy Assistant Inspector General for Audits, said: "[T]hat [report] would never pass muster in my organization and in any IG organization that I have ever worked in."⁸⁰ She added: "I think it's an embarrassment to the community."⁸¹

John DeDona, the Assistant Inspector General for Investigations, had similar views, stating: "to hear that they were allowed to pick the people to be interviewed I thought was ludicrous."⁸² Brian Rubendall, a Special Agent-in-Charge in the investigations group called the report "an affront that is, you know, in the way it was conducted, to our profession."⁸³

Mr. Todd testified that after their visit to the construction site, he told Mr. Krongard, "We've got to do more."⁸⁴ As a result, Mr. Krongard asked the Multi-National Force — Iraq

⁷⁵ Todd Deposition at 120-123.

⁷⁶ House Committee on Oversight and Government Reform, *Transcribed Interview of Pete Lubeck*, (Oct. 4, 2007) at 120 (hereinafter, "Lubeck Interview"); DeDona Interview at 89; Boyd Interview at 110-112; Hart Deposition at 35.

⁷⁷ Todd Deposition at 116.

⁷⁸ *Id.* at 112.

⁷⁹ Hart Deposition at 48-49.

⁸⁰ Boyd Interview at 110-112.

⁸¹ *Id.* at 131-132.

⁸² DeDona Interview at 85.

⁸³ Rubendall Interview at 49-50.

⁸⁴ Todd Deposition at 123.

(MNF-I) Inspector General to conduct a re-inspection of the facility.⁸⁵ When the Justice Department expressed an interest in a possible criminal investigation and prosecution in November 2006, however, Mr. Krongard barred his staff from communicating with a Justice Department prosecutor. In an e-mail, Mr. Krongard wrote: “This is something I am working on. Please do not do anything without talking to me.”⁸⁶ Mr. DeDona asked for, but did not get, permission to contact the Justice Department prosecutor.⁸⁷

G. Initiation of an Investigation

Documents obtained by the Committee show that by September 4, 2007, the Office of the Inspector General became aware that the Committee was investigating his office.⁸⁸ Within a week, the Inspector General reversed his previous position, authorizing his staff on September 11 to open an investigation into the various actions of the Embassy contractor, First Kuwaiti.⁸⁹

III. OVERSIGHT OF BLACKWATER

The September 18, 2007, letter from Chairman Waxman to Mr. Krongard described allegations from current and former officials in the Office of the Inspector General that Mr. Krongard interfered with a Justice Department investigation into evidence that a large private security company was smuggling weapons into Iraq.⁹⁰ Mr. Krongard subsequently revealed that the Justice Department attorneys handling the matter were based in North Carolina, which led to widespread reporting that the security contractor was Blackwater.⁹¹

Information provided to the Committee by the Justice Department, as well as the interviews, depositions, and documents obtained by the Committee, appear to substantiate the allegations that Mr. Krongard’s actions impeded the Justice Department’s investigation. There is also evidence that suggests that Mr. Krongard had a conflict of interest in the matter because his brother serves on Blackwater’s advisory board.

⁸⁵ *Id.* at 125. The results of this inspection, which found indications of abusive hiring practices but no evidence of labor abuses on site, was eventually appended to Mr. Krongard’s April 2007 memorandum.

⁸⁶ E-Mail from Howard Krongard to Mark Duda and OIG-Iraq-Coordination (Nov. 16, 2006).

⁸⁷ E-Mail from John DeDona to William Todd (Nov. 20, 2006); E-Mail from John DeDona to Erich Hart (Nov. 17, 2006).

⁸⁸ E-Mails from Erich Hart to Terry Heide (Sept. 4, 2007) (Bates No. 2570).

⁸⁹ Lubeck Interview at 113-114; Militana Interview at 97.

⁹⁰ Letter from Chairman Henry A. Waxman to Inspector General Howard Krongard, *supra* note 1.

⁹¹ *Statement by Howard J. Krongard*, Associated Press (Sept. 18, 2007).

A. Mr. Krongard's Actions

On March 1, 2007, Ronald Militana, a special agent in the investigations unit of the Inspector General's office, opened an investigation into allegations that Blackwater was smuggling arms into Iraq. Mr. Militana sought and received the approval of the Special Agent-in-Charge.⁹² Mr. Militana interviewed State Department employees and met with counsel for Blackwater.⁹³ He also consulted with an Assistant U.S. Attorney from the Justice Department on June 26 about a potential criminal prosecution.⁹⁴

On June 27, 2007, John DeDona, Mr. Militana's supervisor and the head of the investigations unit within the Inspector General's office, provided an e-mail update on the matter to Mr. Krongard and his deputy, Mr. Todd.⁹⁵ Mr. Krongard responded to this e-mail in an unusual manner, writing: "Please do not treat anything in the email below as having been seen by me, advised to me, or understood or approved by me. If there is something significant in the message below, please come and tell me about it."⁹⁶

Two weeks later, in consultation with Justice Department attorneys, Mr. Militana attempted to obtain contracts and other Blackwater-related documents from State Department officials. According to Mr. Militana, these documents were "a key component of our investigation without which we will not be able to proceed with any degree of efficacy."⁹⁷ On July 10, 2007, Mr. DeDona again e-mailed Mr. Krongard to inform him that Mr. Militana "will be obtaining copies of" the Blackwater contracts with the State Department and had requested other relevant documents.⁹⁸ The next day, Mr. Krongard sent the following email to Mr. DeDona:

This is the first I have been told of an INV investigation into these particular contracts. INV is directed to stop IMMEDIATELY any work on these contracts until I receive a briefing from the AUSA regarding the details of this investigation. SA Militana, ASAIC Rubendall, and any others involved are to be directed by you not to proceed in any manner until the briefing takes place.⁹⁹

⁹² Militana Interview at 117-118; E-Mail from Ronald Militana to Brian Rubendall (Sept. 19, 2007).

⁹³ Militana Interview at 117; E-Mail from Richard Jereski to Ron Militana (Mar. 21, 2007).

⁹⁴ Militana Interview at 117; E-Mail from John DeDona to Howard Krongard (June 27, 2007).

⁹⁵ E-Mail from John DeDona to Howard Krongard and William Todd (June 27, 2007).

⁹⁶ E-Mail from Howard Krongard to John DeDona (June 27, 2007).

⁹⁷ E-Mail from Ron Militana to Terry Heide (Aug. 13, 2007).

⁹⁸ E-Mail from John DeDona to Howard Krongard (July 10, 2007).

⁹⁹ E-Mail from Howard Krongard to John DeDona (July 11, 2007).

As a result of Mr. Krongard's directive, Mr. Militana had to cancel a July 11 meeting with a State Department official to receive relevant contracts. He was also forced to call another official to inform her that she should not proceed with his document request.¹⁰⁰ Mr. Militana stated that this was the only case he has had in which Mr. Krongard demanded a briefing from the U.S. Attorney before his investigators could proceed.¹⁰¹

According to Brian Rubendall, the Assistant Special Agent-in-Charge handling the investigation: "there was absolutely no justifiable investigative, management, OIG or any kind of reason for us to stop that investigation. None."¹⁰²

On July 31, 2007, Justice Department attorneys traveled to Washington to brief Mr. Krongard personally on the Blackwater case.¹⁰³ One of the individuals present at the briefing was Terry Heide, the Congressional and Media Relations Director for Mr. Krongard. The Justice Department officials asked that Ms. Heide be excused because she was not involved in the investigation. According to the Justice Department, Mr. Krongard "identified the official as his 'alter ego' and expressed the view that she should remain in the meeting." At some point during the meeting, however, Ms. Heide left the briefing so that there could be a discussion of information subject to the rules of grand jury secrecy.

At the meeting, Mr. Krongard cited numerous reasons his investigators should not be involved in the investigation. According to the Justice Department, Mr. Krongard "indicated his strong concerns about the participation of multiple agencies and the potential impact of the investigation on the Department of State's efforts in connection with the war in Iraq." He also expressed "significant reservation about the viability of the investigation based upon the complexity and scale of the contracts as well as the limited resources of his office."

According to Special Agent Militana, Mr. Krongard stated at one point that the Justice Department was "wasting his time with this investigation."¹⁰⁴

Ultimately, the Justice Department prosecutors "convinced" Mr. Krongard to allow Mr. Militana to participate in the investigation.¹⁰⁵ However, after the meeting, Mr. Krongard assigned Ms. Heide, his Congressional and Public Affairs Director, the role of collecting the documents that the Justice Department attorneys and the investigators needed for the

¹⁰⁰ Militana Interview at 121; E-Mail from Ronald Militana to Paul Desilets (Aug. 6, 2007); E-Mail from Judith Morsey to Ronald Militana (July 11, 2007).

¹⁰¹ Militana Interview at 120.

¹⁰² Rubendall Interview at 136.

¹⁰³ E-Mail from John DeDona to Howard Krongard et al. (July 30, 2007).

¹⁰⁴ Militana Interview at 122.

¹⁰⁵ Militana Interview at 122-125.

investigation.¹⁰⁶ According to Ms. Heide, one explanation for her unusual role in the investigation was so that she could maintain “situational awareness” of the investigation.¹⁰⁷

This arrangement created a number of obstacles to the investigation. According to the Justice Department:

During the two weeks following the meeting with Mr. Krongard, Department attorneys asked the assigned IG agent whether he had obtained any of the requested documents. On multiple occasions, the agent reported that he had made no progress and finally he advised that he was not permitted to obtain the requested documents directly. Instead, he reported that he was required to rely on Mr. Krongard’s congressional and public relations official to obtain the documents and forward them to him for provision to the attorneys.

Consequently and contrary to our understanding from the meeting with Mr. Krongard, we have been obliged to engage in a cumbersome and time-consuming investigative process that relies primarily on communications with State officials, rather than the investigative efforts of IG agents.

According to the Justice Department, these actions had an impact on the investigation:

At this juncture, we cannot determine all of the ramifications of the IG’s conduct, but some of his actions have certainly impacted the investigation. For reasons that remain unclear, the line IG agents, who have broad power to obtain documents and other evidence relevant to any investigation they are conducting, have been forced to funnel requests within their own agency through a congressional and public relations official. This is not the usual practice. The IG also issued a statement, without advance coordination with Department attorneys, confirming the existence of this investigation, which is inconsistent with our law enforcement interests. Finally, the case agent has been tasked with other significant investigations, contrary to Mr. Krongard’s representation in our July meeting that we would have his full time efforts on this matter.

The Justice Department also informed the Committee: “the process dictated by the IG’s decision has added multiple layers to our investigative efforts. As of November 9, 2007, Department attorneys have not yet received the other materials that were requested of the Department of State through the State IG agents.”

B. Mr. Krongard’s Apparent Conflict of Interest

There is evidence that Mr. Krongard’s actions in the Blackwater investigation may have violated conflict of interest guidelines because of the affiliation that Mr. Krongard’s brother,

¹⁰⁶ Militana Interview at 126; DeDona Interview at 101-102; E-Mail from Ron Militana to John DeDona and Ralph McNamara (Aug. 1, 2007).

¹⁰⁷ Heide Deposition at 38.

Alvin “Buzzy” Krongard, has with Blackwater. Buzzy Krongard is the former Executive Director of the CIA. He left the CIA in October 2004.

On July 26, 2007, Blackwater’s CEO and founder, Erik Prince, sent a letter to Buzzy Krongard inviting him to serve on the Blackwater’s Worldwide Advisory Board. As Mr. Prince stated in his letter, this exclusive invitation was a “stellar opportunity” for Buzzy Krongard to help mold Blackwater’s future:

As the most comprehensive professional military, law enforcement, security, peacekeeping, and stability operations company in the world, being a member of the Blackwater Advisory Board will provide you with a stellar opportunity to continue to support security, peace, and freedom. Your experience and insight would be ideal to help our team determine where we are and where we are going.¹⁰⁸

Mr. Prince’s letter went on to explain the “main purpose” of the board:

The main purpose of the Blackwater Worldwide Advisory Board is to provide leadership advice about the path the company should follow. Other areas of interest include advice on PR strategy, specific programmatic expertise and external relationships.¹⁰⁹

On September 5, 2007, Mr. Prince sent Buzzy Krongard an e-mail stating: “Welcome and thank you for accepting the invitation to be a member of the Blackwater Worldwide Advisory Board.”¹¹⁰

During this same time period, Howard Krongard was meeting with the Justice Department attorneys and his own investigators about the criminal investigation into allegations of weapons smuggling involving Blackwater. The July 31, 2007, meeting between Mr. Krongard and the Justice Department attorneys took place just five days after Mr. Prince invited Buzzy Krongard to serve on Blackwater’s board.

After the July 31 meeting, Mr. Krongard received regular updates about the course of the investigation. Ms. Heide stated that she updated Mr. Krongard on the Blackwater investigation periodically, both in conversations and by e-mails on August 8 and August 14, after which Mr. Krongard personally instructed her on how to proceed.¹¹¹ Mr. Rubendall and Mr. Militana both stated that they personally briefed Mr. Krongard in late September 2007 on the status of the Blackwater investigation.¹¹²

¹⁰⁸ Letter from Erik Prince to Alvin “Buzzy” Krongard (July 26, 2007).

¹⁰⁹ *Id.*

¹¹⁰ E-Mail from Erik Prince to Alvin “Buzzy” Krongard (Sept. 5, 2007).

¹¹¹ Heide Deposition at 101-103; E-Mail from Howard Krongard to Terry Heide (Aug. 8, 2007); E-Mail from Terry Heide to Howard Krongard (Aug. 14, 2007).

¹¹² Rubendall Interview at 32-33.

These actions by Howard Krongard would appear to violate the conflict of interest guidelines applicable to inspectors general. According to the standards set by the President’s Council on Integrity and Efficiency, which oversees the conduct of inspector generals, an inspector general has special obligations when he or she has a “personal impairment to independence” in an investigation. The standards define a “personal impairment to independence” as having an “immediate or close family member who is a director or officer of the entity being inspected or is in a position with the entity to exert direct and significant influence over the entity or the program being inspected.”¹¹³ Under these standards, siblings constitute an “immediate or close family member.”¹¹⁴ The standards impose on an inspector general with such an impairment a requirement of recusing himself or herself or “notifying the appropriate officials within their respective ... organizations.”¹¹⁵

There is no evidence in the record that Mr. Krongard took either of these steps. To the contrary, according to Deputy Inspector General Bill Todd, Mr. Krongard has explicitly denied any ties between Blackwater and his brother Buzzy. In his deposition before the Committee, Deputy Inspector Todd engaged in the following interchange:

Q: Do you know whether Mr. Krongard has any relationship with Blackwater or any individuals affiliated with Blackwater?

A: I asked him about it. He says no.

Q: He says he has no connection to Blackwater at all?

A: He said he has no connection whatsoever.

...

Q: Do you know whether his brother, Buzzy Krongard, is affiliated with Blackwater in any way?

A: I have no knowledge of that. I asked him that.

Q: And what did he say?

A: Absolutely not.¹¹⁶

IV. OVERSIGHT OF DYNCORP

The Committee has received evidence that Mr. Krongard blocked the investigation and potential criminal prosecution of procurement fraud in two cases involving the State Department’s \$1 billion contract with DynCorp to train Iraqi and Afghanistan police forces. In each case, Mr. Krongard’s persistent refusal to approve travel to the region by his investigators appears to have stymied the investigative effort.

¹¹³ President’s Council on Integrity and Efficiency (PCIE), *Quality Standards for Inspections* (Jan. 2005) at 5.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Todd Deposition at 271.

A. Counterfeit Computers in Afghanistan and Iraq

On September 11, 2006, the State Department's Bureau of International Narcotics and Law Enforcement (INL) briefed Special Agent Ron Militana about the discovery of laptop computers purchased for the police training program in Afghanistan with counterfeit hardware and pirated software. Because DynCorp purchased all of these computers through the same subcontractor, INL officials were concerned that more of the 800 laptop computers in Afghanistan and 1,200 laptops in Iraq had similar problems.¹¹⁷ INL officials were also concerned that the pirated software constituted a serious security breach because the computers were procured locally in Iraq and Afghanistan and could be vulnerable to monitoring by terrorist elements.¹¹⁸

After receiving the information from INL, Special Agent Ronald Militana conducted a preliminary investigation and identified the location of 105 computers that DynCorp identified as containing suspect hardware or software.¹¹⁹ He made arrangements for the Bureau of Diplomatic Security's Office of Computer Investigations and Forensics to examine seized computers for counterfeit hardware and pirated software as well as any potential vulnerabilities to information security.¹²⁰ In addition, Mr. Militana identified an Assistant U.S. Attorney who was willing to consider criminal prosecution.¹²¹ Finally, Mr. Militana had secured the assistance of the Embassy's Regional Security Office to provide security and transportation to the remote sites while in Afghanistan.¹²²

On October 12, 2006, Assistant Inspector General for Investigations John DeDona wrote to Deputy Inspector General Bill Todd summarizing the investigation and requesting permission for Mr. Militana to travel to Afghanistan to take custody over the computers. On October 16, Mr. DeDona sent the request on to Mr. Krongard, stating:

I would like to get Militana to Kabul as soon as possible so he can establish chain of custody for the computers being replaced. INV needs to control the handling of these computers to further this investigation. Ron has had contact with the RSO in Kabul so INV could get assistance (second presence) that way, to avoid having to send two INV agents.¹²³

¹¹⁷ U.S. Department of State, Office of the Inspector General, *Preliminary Activity Report* Rept. # 06-NEA-032 (Jan. 31, 2007).

¹¹⁸ *Id.*

¹¹⁹ E-Mail from Ronald Merriman to Ronald Militana (Oct. 2, 2006).

¹²⁰ E-Mail from Steven Beltz to Ronald Militana (Oct. 10, 2006).

¹²¹ E-Mail from G. Bradley Weinsheimer to Ronald Militana (Oct. 17, 2006).

¹²² E-Mail from Timothy Marcum to John DeDona (Nov. 3, 2006).

¹²³ E-Mail from John DeDona to Howard Krongard (Oct. 16, 2006).

When Mr. Krongard was briefed by Mr. DeDona on the travel proposal, he stated, “why don’t we have DS do this; you know, they’re capable, they are there.”¹²⁴ On October 18, Mr. Krongard personally contacted Joe Morton, Director of Diplomatic Security, to ask for assistance in collecting the computers. On October 19, Mr. Krongard informed Mr. DeDona that according to Mr. Morton:

DS does have plenty of law enforcement assets in Kabul to take the first step of establishing chain of custody for the computers in question and getting them back here. I think this is the quickest, most efficient and least intrusive on the Embassy way to accomplish what you have suggested.¹²⁵

On October 24, Mr. DeDona submitted a formal request for assistance to Diplomatic Security to secure the 105 computers from Afghanistan. In response, Diplomatic Security agreed to provide only forensics assistance in analyzing the computers, which Mr. Militana had already arranged.

Because Diplomatic Security was unable to seize the computers, Mr. DeDona submitted a second travel request to Mr. Krongard on October 27.¹²⁶ The request stated that “DS assistance in this area with personnel in country was unavailable.”¹²⁷

On October 30, Mr. Krongard rejected the second travel request, directing his investigators to try again to obtain the assistance of Diplomatic Security.¹²⁸ On October 30, Mr. DeDona contacted Diplomatic Security again.¹²⁹ The next day, Diplomatic Security told Mr. DeDona that he would have to contact a different Diplomatic Security division, the criminal investigations division.¹³⁰ The chief of this division, Robert O’Bannon, told Special Agent-in-Charge Tim Marcum that it would be more appropriate for the Inspector General’s office to take custody of the computers. Mr. Marcum informed Mr. DeDona of this on November 2:

O’Bannon advised that INV should have an agent on the ground in Afghanistan when this all takes place for investigative purposes. Assisting in collection of computers, interviewing, and having a presence in country would elicit phone calls and in person information from those who are in the know as to what actually happened.¹³¹

¹²⁴ Todd Deposition at 74-75.

¹²⁵ E-Mail from Howard Krongard to John DeDona (Oct. 19, 2006).

¹²⁶ E-Mail from John DeDona to Douglas Quiram (Oct. 25, 2006); E-Mail from John DeDona to Howard Krongard (Oct. 27, 2006).

¹²⁷ E-Mail from John DeDona to Howard Krongard (Oct. 27, 2006).

¹²⁸ Howard Krongard Meeting Notes (Oct. 30, 2006).

¹²⁹ E-Mail from John DeDona to Howard Krongard (Oct. 30, 2006).

¹³⁰ E-Mail from Douglas Quiram to John DeDona (Oct. 31, 2006).

¹³¹ E-Mail from Timothy Marcum to John DeDona (Nov. 3, 2006).

Mr. Marcum wrote to Mr. DeDona again on November 8, stating:

O'Bannon and RSO do not have, nor want to commit the DS resources that would be **necessary** to collect the computers, (agents travel logistics, security, financial funds). ... He feels this would put a huge strain on DS assets in country. ... His comment back to me was, well it sounds like you had it all planned out and INV should be on the ground handling this matter, not DS.¹³²

On November 15, the criminal investigations liaison branch recommended that Diplomatic Security decline assistance based on a shortage of DS resources:

The RSO in Kabul reports that he doesn't have the ability to dedicate his personnel resources for this task. There is also a concern that it would be better for the integrity of the investigation that the OIG actually randomly select and seize these computers themselves. In addition to the amount of time spent seizing these computers, it is also possible that our agents could be called upon to testify in any trial.¹³³

In his deposition with the Committee, Bill Todd, the Deputy Inspector General, confirmed that Diplomatic Security did not provide the assistance that the Inspector General's office requested.¹³⁴ According to a case summary delivered to Mr. Krongard, "at the direction of the Director (Morton), [DS personnel] were advised that DS could not secure the questioned computers on behalf of OIG."¹³⁵

After Diplomatic Security failed to take custody of the counterfeit computers, Deputy Assistant Inspector General for Investigations Ralph McNamara made an attempt to have the U.S. Army Criminal Investigations Division take custody of the computers in December 2006.¹³⁶ On January 4, 2007, however, the Army reported that it would not seize the computers, citing resource concerns and "operational issues."¹³⁷

Following the failure of the investigators to take custody of the computers in Afghanistan, the Assistant U.S. Attorney who had agreed to consider prosecuting the case informed Mr. Militana that "he would not take a criminal case without [a law enforcement officer] collecting the computers as evidence."¹³⁸ According to a report of the investigation, "Due to the inability of INV to seize evidence and the resulting declination to prosecute the case

¹³² E-Mail from Timothy Marcum to John DeDona (Nov. 8, 2006) (emphasis in original).

¹³³ E-Mail from Stephen Sexton to Timothy Marcum (Nov. 15, 2006).

¹³⁴ Todd Deposition at 75-76.

¹³⁵ Memorandum by Ronald Militana, *Case Title: DynCorp (Afghan Computers)* (undated) (contains handwritten notations by Howard Krongard).

¹³⁶ DeDona Interview at 122.

¹³⁷ E-Mail from Ralph McNamara to John DeDona (Jan. 4, 2007).

¹³⁸ E-Mail from Timothy Marcum to Ralph McNamara (Jan. 4, 2007).

by the United States Attorney's Office, no further activity is anticipated." The investigation was officially closed on January 31, 2007.¹³⁹

Regarding Mr. Krongard's decision to reject multiple travel requests by his own investigators, Erich Hart, the Counsel to the Inspector General, stated to the Committee:

What the investigators would say, and I support them in this, is that Iraq and Afghanistan are two of our hottest issues in the Department. ... It's Howard's call to use the Inspector General. But there was a feeling that, you know, we should be jumping on these things. And the Department of Justice felt that we should be jumping on these things. They should be our top priority.¹⁴⁰

B. Bribery Allegations in Jordan

On August 17, 2006, the Audit Division of the Office of the Inspector General referred a fraud case to the Investigations Division relating to the DynCorp police training contract. A State Department official had received evidence that a Jordanian company bribed a DynCorp purchasing agent in order to be selected as a vendor of equipment for a large DynCorp police training facility in Jordan. The State Department official provided the Office of the Inspector General with details of the allegation, as well as copies of over \$70,000 in checks that had been deposited by family members of the DynCorp purchasing agent.¹⁴¹

Following this referral, investigators contacted State Department contract officials regarding the allegation.¹⁴² In October 2006, Mr. DeDona briefed Mr. Krongard on the case and requested that an investigator travel to Jordan. According to Mr. Todd, this travel request was denied. Instead, Mr. Krongard told Mr. DeDona first to gather more facts.¹⁴³ However, investigators had already conducted a preliminary investigation prior to requesting travel.¹⁴⁴

Following Mr. Krongard's denial of travel, investigators contacted the U.S. Embassy in Jordan to see if the Jordanian government would be interested in prosecuting this case.¹⁴⁵ On

¹³⁹ *Preliminary Activity Report* Rept. # 06-NEA-032, *supra* note 117.

¹⁴⁰ Hart Deposition at 62.

¹⁴¹ E-Mail from Timothy Marcum to Robert Goodrich (Oct. 3, 2006).

¹⁴² E-Mail from Bryan Tenney to Timothy Marcum (Sept. 29, 2006).

¹⁴³ Todd Deposition at 38.

¹⁴⁴ In his deposition, Mr. Todd claimed that the investigators needed to get copies of relevant materials, such as "copies of the checks." Todd Deposition at 27. However, e-mails obtained by the Committee show that investigators were already in possession of these documents at the time of the first request of travel to Jordan. E-Mail from Timothy Marcum to Robert Goodrich (Oct. 3, 2006).

¹⁴⁵ E-Mail from Ronald A. Militana to Robert E. Goodrich (Oct. 24, 2006).

November 13, the Embassy informed the Office of the Inspector General that the Jordanian government planned to prosecute the bribery case locally.¹⁴⁶

In light of this development, the investigators believed they should send someone to assist the Jordanian investigation. Deputy Assistant Inspector General for Investigations Ralph McNamara wrote to Mr. DeDona that “the normal way would be to send an OIG investigator to work a joint case with the [Jordanian government], but we are not in a normal place.”¹⁴⁷

On November 16, Mr. DeDona discussed a new travel request with Mr. Krongard, who once again rejected it.¹⁴⁸ According to Mr. Todd, the Deputy Inspector General, the reason for Mr. Krongard’s decision was that he believed his investigators had “agreed” to have the U.S. Embassy take the lead on the matter. When asked whether the investigators had proposed this approach, Mr. Todd said, “Do I think that our guys liked it? I don’t think they did.”¹⁴⁹ Contrary to Mr. Todd’s explanation, investigators had approached the Embassy to facilitate communications between the Office of the Inspector General and Jordanian law enforcement, not to take over the investigation.¹⁵⁰

Because they were unable to travel to conduct a joint investigation, the investigators reduced their involvement to a “monitoring status” while the Jordanian government conducted its investigation.¹⁵¹ After some investigation, the Jordanian government declined to prosecute the case “without an official complainant who preferably was a Jordanian national in country.”¹⁵²

Since the Jordanian government was no longer seeking to investigate the case, the investigators sought to return to a U.S. prosecution. The case also expanded when State Department officials alerted the Office of the Inspector General in May about several other purchasing agents who may have been bribed in connection with the same police training center in Jordan.¹⁵³ On May 11, 2007, investigators identified an Assistant U.S. Attorney interested in prosecuting the bribery case.¹⁵⁴ On June 4, 2007, Mr. DeDona once again requested authorization for an investigator to travel to Jordan to locate documents and conduct interviews.¹⁵⁵

¹⁴⁶ E-Mail from William Densmore to Robert Goodrich and Ronald Militana (Nov. 13, 2006).

¹⁴⁷ E-Mail from Ralph McNamara to John DeDona (Nov. 13, 2006).

¹⁴⁸ E-Mail from John DeDona to Howard Krongard (Nov. 15, 2006).

¹⁴⁹ Todd Deposition at 54.

¹⁵⁰ E-Mail from Ronald Militana to Robert Goodrich (Oct. 24, 2006).

¹⁵¹ U.S. Department of State, Office of the Inspector General, *Investigations Initiated During April 2007 (Fraud Division)* (May 15, 2007).

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ E-Mail from William Todd to John DeDona (June 5, 2007).

This time, Mr. Krongard agreed to the travel request on the condition that the investigator be accompanied to Jordan by an Assistant U.S. Attorney from the Justice Department.¹⁵⁶ In August 2007, Mr. Militana identified a prosecutor willing to travel to Jordan for this investigation, and the request was finally approved.¹⁵⁷ By this time, however — a full year after receiving the initial allegations — the Jordanian facility had been closed and its records were in the process of being removed.¹⁵⁸ Ultimately, all travel was canceled, and the case remains open but inactive.¹⁵⁹

V. INVESTIGATION OF KENNETH TOMLINSON

Information received by the Committee raises serious questions about the conduct of Mr. Krongard in the investigation of Kenneth Tomlinson, the former head of the Broadcasting Board of Governors and an associate of White House advisor Karl Rove.

On July 15, 2005, the Office of the Inspector General received a request from Representatives Howard Berman and Tom Lantos and Senator Christopher Dodd to investigate the activities of Kenneth Tomlinson, the head of the Broadcasting Board of Governors.¹⁶⁰ Attached to the request was a letter of complaint from a former employee of the Broadcasting Board of Governors, which contained the complainant's name, cell phone number, and e-mail.¹⁶¹ The letter and the complaint alleged that Mr. Tomlinson was “double-dipping” by seeking compensation for the same hours worked from both the Broadcasting Board of Governors and from the Board of the Corporation for Public Broadcasting, which he also ran. Mr. Tomlinson was also alleged to have commonly sought compensation for up to 40 hours of work per week, when much of that time was spent doing work unrelated to the Broadcasting Board of Governors.¹⁶²

¹⁵⁶ DeDona Interview at 131.

¹⁵⁷ Militana Interview at 90-91.

¹⁵⁸ Todd Deposition at 49.

¹⁵⁹ Militana Interview at 89; Todd Deposition at 48-49. As a postscript, the U.S. Embassy in Jordan later notified the investigators that the Jordanian government would not allow them to conduct investigations in Jordan.

¹⁶⁰ Letter from Reps. Howard L. Berman and Tom Lantos and Sen. Christopher J. Dodd to Howard J. Krongard (July 15, 2005) (Bates No. 341A-342A).

¹⁶¹ Letter to Office of the Inspector General (Sept. 6, 2003) (Bates No. 348A).

¹⁶² Letter from Reps. Howard L. Berman and Tom Lantos and Sen. Christopher J. Dodd to Howard J. Krongard, *supra* note 160.

Three or four days later, Mr. Krongard faxed the letter and attached complaint to Brian Conniff, the Executive Director of the Broadcasting Board of Governors.¹⁶³ According to Mr. Conniff, he then showed the letter (but not the attached complaint) to Mr. Tomlinson.¹⁶⁴

Evan Bloom, the then Counsel to the Inspector General, and Ralph McNamara, the Deputy Assistant Inspector General for Investigations, learned that Mr. Krongard had sent the materials to Mr. Tomlinson. After they expressed their concerns, Mr. Krongard asked Mr. Bloom to contact Mr. Conniff to recover the attachment.¹⁶⁵ On July 21, Mr. Conniff returned the material faxed to him by Mr. Krongard.¹⁶⁶

Erich Hart, the current Counsel to the Inspector General and a former military prosecutor, told the Committee that Mr. Krongard's actions were highly questionable:

Well, my experience — if you are given a request to investigate, you would almost never share that with a subject at the beginning. And you certainly would not fax over the letter from the whistleblower, the plaintiff or whatever. Because the IG [Act] I believe in 1978, as amended, has provisions specifically on confidentiality. And then certainly it's just not something that you would do.¹⁶⁷

Special Agent Peter Lubeck, the investigator on the Tomlinson matter, also told the Committee that it is not appropriate at the outset of an investigation to notify an individual that he is under investigation.¹⁶⁸ According to Mr. Lubeck:

You might at the time of calling up for an interview advis[e] that the subject or the office has received a complaint. But my personal experience is we don't advise the subject of an investigation in advance, that they are the subject, because that compromises the investigation. ... [I]f you were to give advance warning to the subject that they are under investigation, they could shred documents, tamper with witnesses, alter the course of the investigation.¹⁶⁹

¹⁶³ Department of State Office of Inspector General, *Report of Investigation* (Aug. 22, 2006), as sent to Richard Painter, Associate Counsel to the President (Aug. 17, 2006) (unreleased) at 3 (Bates No. 7791); Fax Transmittal from Howard Krongard to Brian Conniff (July 18, 2005) (Bates No. 338A).

¹⁶⁴ *Id.* at 3 (Bates No. 7791).

¹⁶⁵ Lubeck Interview at 98; Typewritten Notes (July 20, 2005) (Bates No. 339A).

¹⁶⁶ Memorandum from Brian Coniff to Ralph McNamara (July 21, 2005) (Bates No. 340A).

¹⁶⁷ Hart Deposition at 56-57.

¹⁶⁸ Lubeck Interview at 96-99.

¹⁶⁹ *Id.* at 96.

In fact, the potential for destruction of documents that concerned Mr. Lubeck may have occurred in this instance. According to Mr. Lubeck:

[W]hat happened as a result of this, two of the witnesses were observed shredding documents related to this case. They were told to cease and desist shredding documents. When I interviewed the two witnesses, they said, “Oh, we were just housecleaning.” So that, to me, is troublesome.

On the appearance of it — a congressional inquiry comes in, complaint letter that mentions specific allegations, it's faxed to the subject's chief of staff, the chief of staff walks in, gives it to the subject and all of a sudden documents start getting shredded — what am I to believe?¹⁷⁰

The faxing of the congressional letter and complaint also jeopardized the whistleblower who had come forward with the allegations. Mr. Lubeck told the Committee: “When I interviewed her, she became greatly concerned about the fact that it was released. I mean, she was distraught. ... She was a political appointee. She was concerned about not being able to get another job as a form of retaliation.”¹⁷¹

Mr. Krongard later acknowledged that he intended to send the congressional letter but claimed that the transmittal of the attached whistleblower complaint was an accident for which he blamed his secretary. He told his deputy, Mr. Todd, that “the Secretary faxed over more than she should.” According to Mr. Todd, Mr. Krongard was “very, very, very specific that he would never have faxed the attachments.”¹⁷²

VI. ANNUAL STATE DEPARTMENT AUDITS

Under the Chief Financial Officers Act of 1990 and its implementing regulations, federal agencies have until November 15 of each year to issue audited financial statements. The Inspector General Act of 1978 requires Inspectors General to supervise these audits. According to Mark Duda, Assistant Inspector General for Audits at the State Department, the State Department’s annual financial statement provides “assurance to the taxpayer, the users of that information, that the State Department is financially sound, has the controls in place; that if it says it has a certain dollar amount of buildings, that they are actually there.”¹⁷³

In each of the last two years, Mr. Krongard has given the State Department and its outside auditor Leonard G. Birnbaum & Company (LGB) an additional month to complete these audits. As a result, the Department has been able to replace original audits that resulted in a qualified opinion or a disclaimer with more favorable, unqualified opinions.

¹⁷⁰ *Id.* at 84-85.

¹⁷¹ *Id.* at 98-99.

¹⁷² Todd Deposition at 273-275.

¹⁷³ Duda Deposition at 124.

In 2005, LGB first issued a qualified opinion concerning the Department's financial statements, meaning that the Department was unable to provide sufficient financial information regarding its expenditures. With Mr. Krongard's approval, LGB allowed the Department to continue to improve its financial records until December 15, when the auditor replaced its qualified opinion with a clean opinion.¹⁷⁴

In the 2006 audit, the Department was unable to provide basic financial data to LGB in time for the November deadline. As a result, LGB issued a "disclaimer of opinion" on November 15, 2006, indicating that there was insufficient information to issue an opinion concerning the soundness of the Department's financial statements.¹⁷⁵ The Deputy Inspector General, Bill Todd, told the Committee that the 2006 "disclaimer" was worse than the previous year's qualified opinion because it "wasn't an opinion at all."¹⁷⁶ Once again, however, Mr. Krongard gave LGB and the State Department an additional opportunity to submit information. This allowed the State Department to have the disclaimer of opinion replaced with a clean opinion.

Senior officials in Mr. Krongard's office strenuously advised against this course of action. Mark Duda, the Assistant Inspector General for Audits, told the Committee that it was improper audit practice to allow LGB to continue in this manner because "[y]ou will get a clean opinion if you throw enough time and effort, you allow the auditor to go on for a longer period of time. You know, the usefulness of financial information — it should be timely, it should be relevant, reliable." He also questioned whether granting such latitude to the agency "gives the appearance that OIG is not being independent."¹⁷⁷ In an e-mail to Mr. Krongard and Mr. Todd, Mr. Duda wrote:

Other agencies in the Government are receiving less than qualified opinions and are not continuing audit work for the purposes of issuing another opinion. Auditing is a conservative profession and by potentially taking a course unlike other OIGs, it creates a situation where we open ourselves to criticism and scrutiny.¹⁷⁸

At Mr. Krongard's invitation, Erich Hart, the Acting Counsel, became involved and, after conducting his own research, agreed with Mr. Duda that LGB should be required to enforce its November 15 deadline. Mr. Hart told the Committee that "the optics were bad" and could reflect a lack of independence if the Department were allowed to waive its deadline.¹⁷⁹

¹⁷⁴ E-Mail from Mark Duda to William Todd (Nov. 22, 2006) (Bates No. 5079-80); Todd Deposition at 282.

¹⁷⁵ *Id.*

¹⁷⁶ Todd Deposition at 283.

¹⁷⁷ Duda Deposition at 123-124.

¹⁷⁸ E-Mail from Mark Duda to Howard Krongard (Nov. 28, 2006) (Bates No. 5076-5078).

¹⁷⁹ Hart Deposition at 122-23.

Mr. Todd, the Deputy Inspector General, had the same concerns. He told the Committee that “if you spend enough time and money, you can make any terrible system clean.”¹⁸⁰ Mr. Todd said that he told the Inspector General that accounting deadlines should be enforced and that in response, Mr. Krongard told him that he was “irrelevant.”¹⁸¹ According to Mr. Todd: “Howard said I was wrong. Howard told Duda he was wrong, and Howard told Erich Hart he is wrong.”¹⁸²

Other experienced officials in the office also objected. Patti Boyd, the Deputy Assistant Inspector General for Audits, described Mr. Krongard’s behavior during this debate as “almost like he was the State’s advocate” and said it made her question Mr. Krongard’s independence.¹⁸³ Gayle Voshell, the Supervisory Auditor who oversees the annual financial statement audit, informed the Committee that she was “not aware of any other agencies that have done this” and stated that auditors should not be allowed to replace a qualified opinion with a clean one after the deadline.¹⁸⁴

VII. THE OFFICE ENVIRONMENT

During the Committee’s investigation, the Committee interviewed or deposed 13 current or former officials in the Inspector General’s office. These individuals repeatedly described to the Committee how Mr. Krongard’s actions created an abusive and hostile environment that led to low morale and the exodus of experienced staff.

One official told the Committee that Mr. Krongard had three modes of behavior: “diplomatic, condescending and volcanic eruption.”¹⁸⁵ Others described how Mr. Krongard would repeatedly berate his subordinates, often attempting to humiliate them publicly in front of their colleagues.¹⁸⁶ The Committee was told that Mr. Krongard has a habit of gathering information on a particular fact in order to use it to ambush one of his employees. Mr. Rubendall, a career investigator, described this practice as “sandbagging” and said it is “just not a professional way to operate.”¹⁸⁷

According to one senior official, Mr. Krongard once referred to himself as an “equal opportunity abuser.”¹⁸⁸

¹⁸⁰ Todd Deposition at 287.

¹⁸¹ *Id.* at 286.

¹⁸² *Id.* at 285.

¹⁸³ Boyd Interview at 119-120.

¹⁸⁴ House Committee on Oversight and Government Reform, *Deposition of Gayle Voshell*, (Oct. 5, 2007) at 5, 17-18 (hereinafter “Voshell Deposition”).

¹⁸⁵ Rubendall Interview at 81-82.

¹⁸⁶ Duda Deposition at 106-107.

¹⁸⁷ Rubendall Interview at 82.

¹⁸⁸ Hart Deposition at 54.

In one meeting, according to Erich Hart, the Counsel to the Inspector General, Mr. Krongard illustrated his frustration with staff by holding one of his hands “down near the table or the floor and ... said ‘this is where the public servant standards are.’”¹⁸⁹ Mr. Hart told the Committee that “I think everybody in that room was personally offended by that statement. I was offended. I come from a military background and my standards are exceedingly high.”¹⁹⁰

In a different staff meeting Mr. Krongard referred to the Office of the Inspector General as a “banana republic.” Mr. Duda, the Assistant Inspector General for Audits, told the Committee: “I don’t know what that meant, but I didn’t interpret it as being something positive.”¹⁹¹

Officials told the Committee that Mr. Krongard’s managerial behavior has caused a drop in morale in the Office of Inspector General and led to the loss of valuable staff. Mr. Duda told that Committee that Mr. Krongard’s office has the worst morale of any inspector general office in which he has worked.¹⁹² According to Mr. Duda, the rate of turnover in his division is “twenty to thirty percent per year.”¹⁹³ Mr. DeDona, the Assistant Inspector General for Investigations, similarly spoke of the high rate of attrition of employees in the investigations division.¹⁹⁴ Mr. Hart said that the investigations division has seen its numbers fall from 27 authorized investigators to only “six, seven, [or] eight ... street agents,” which is “a bad thing.”¹⁹⁵

Since Mr. Krongard became Inspector General in 2005, a significant number of senior managers have left the office. Over this period, the Assistant Inspector General for Investigations, the Deputy Assistant Inspector General for Investigations, the Deputy Assistant Inspector General for Audits, the head of the Office for Information Technology, and the Counsel to the Inspector General have all resigned. Mr. Krongard’s Director of Congressional and Public Affairs told the Committee that she realized within a month of joining the office that it was the “worst mistake of my life.”¹⁹⁶

VIII. THE OFFICE BUDGET

Mr. Krongard has defended a number of his actions by stating that his office could not afford the travel or other expense involved. He has cited “extremely limited discretionary funds

¹⁸⁹ *Id.* at 55.

¹⁹⁰ *Id.*

¹⁹¹ Duda Deposition at 106-107.

¹⁹² *Id.* at 114.

¹⁹³ *Id.* at 17.

¹⁹⁴ DeDona Interview at 154-155.

¹⁹⁵ Hart Deposition at 133-134.

¹⁹⁶ Heidi Deposition at 76.

for travel, equipment, and investigative costs” and “a severely constrained travel budget” as a basis for his decisions.¹⁹⁷ Mr. Krongard’s deputy, Bill Todd, also informed the Committee that Mr. Krongard’s decisions were often predicated on budget concerns. He stated: “I think it is a major problem — we have been underfunded.”¹⁹⁸

According to Mr. Todd, the funding issue was so severe that they had to weigh travel for investigations against possible “reductions in force” (RIFs). In explaining why Mr. Krongard did not approve travel to investigate allegations of fraud at the DynCorp police training facility in Jordan, Mr. Todd stated: “I was going to have to RIF people, so if I could save 10,000 bucks or 20,000 bucks, I would save it.”¹⁹⁹ Explaining Mr. Krongard’s decision to reject travel to Afghanistan to investigate allegations that DynCorp had procured computers with counterfeit hardware and pirated software, Mr. Todd cited “the fact is that we are looking at RIFing people, putting people on the street.”²⁰⁰ And in explaining Mr. Krongard’s order not to assist Justice Department prosecutors investigate allegations of construction problems at the Baghdad Embassy, Mr. Todd stated: “we had serious resource problems, we were looking at RIF’ing people.”²⁰¹

Budget documents and interviews with State Department officials appear to contradict these arguments. The Budget Officer in the Inspector General’s office told the Committee that reductions in force were never discussed under Mr. Krongard’s tenure because the office was “bleeding people left and right.” In one interchange, she stated as follows:

- Q: Has Mr. Todd ever expressed concerns about, again going back to the RIF issue, about possibly having to lay people off or encourage them to leave?
- A: No. ... Bill Todd came fairly late in the game. And by that time, we were bleeding people left and right. I mean ... the discussions are, how can we attract and retain? That is the focus these days.
- Q: RIFs haven’t been a concern that Mr. Todd has discussed with you?
- A: No. No. I mean, we talk about retaining and recruiting, and their video, and what a wonderful place OIG is, to send to colleges. It is kind of funny, because we used to talk about how can we pay for everybody, and now we can’t — we have to bolt the doors.²⁰²

In the summer of 2006, the Executive Director of the Inspector General’s office sent an

¹⁹⁷ Letter from Howard J. Krongard to Chairman William D. Delahunt, Subcommittee on International Organizations, Human Rights, and Oversight, House Committee on Foreign Affairs (Nov. 8, 2007).

¹⁹⁸ Todd Deposition at 14.

¹⁹⁹ Todd Deposition at 69.

²⁰⁰ *Id.* at 91.

²⁰¹ *Id.* at 108.

²⁰² House Committee on Oversight and Government Reform, *Transcribed Interview of Elizabeth Koniuszkow*, (Nov. 2, 2007) at 95 (hereinafter “Koniuszkow Interview”).

e-mail to division heads indicating that there were approximately \$2 million in excess funds, which would have to be spent by September 30 or they would be returned to the Treasury.²⁰³ Patti Boyd, the former Deputy Inspector General for Audits, whose division was also restricted from traveling, told the Committee that she was shocked by this surplus budget. She stated:

And last year we were restricted from travel for so long, and then ... we had \$2 million to burn before the end of the fiscal year or we were going to lose it. ... Now it's, oh, my gosh, we have \$2 million. We have to spend, spend, spend, spend, spend. And they went through, and they bought furniture.²⁰⁴

According to the Budget Officer, the Office of Inspector General faced similar spending surplus towards the end of the 2007 fiscal year. The Budget Officer told the Committee that during the summer the budget office identified "over a million" dollars left to spend by September 30.²⁰⁵ Even after spending some of these excess funds on computer software and equipment, furniture, and prepaid travel for inspections teams in the coming year, approximately \$200,000 was left at the end of the fiscal year that had to be returned to the Treasury.²⁰⁶

The Investigations Division also had budget surpluses every year that Mr. Krongard was Inspector General. According to budget documents from the Inspector General's office, the Investigations Division had over \$25,000 in unused travel funds in fiscal year 2006.²⁰⁷ In fiscal year 2007, which just ended on September 30, the Investigations Division spent only \$76,300 of the \$205,600 (37%) allocated for travel and other investigative expenses.²⁰⁸

Many of the officials interviewed by the Committee expressed concern with Mr. Krongard's funding priorities. Brian Rubendall, the Assistant Special Agent in Charge of Fraud Investigations, informed the Committee that Mr. Krongard's insistence that investigations be pursued without travel would not yield acceptable results. He stated: "You can't investigate any case from behind your desk, particularly not from halfway around the world from behind your desk, and they had not been allowed to travel on that stuff."²⁰⁹

²⁰³ E-Mail from Alberta Mayberry to William Todd et al. (Aug. 15, 2006).

²⁰⁴ Boyd Interview at 87-88.

²⁰⁵ Koniuszkow Interview at 38-39.

²⁰⁶ *Id.* at 39-40

²⁰⁷ State Department, Office of Inspector General, *FY 2006 Year-to-Date Obligations (Oct. 1, 2005–September 30, 2006)* (Sept. 30, 2006).

²⁰⁸ State Department, Office of Inspector General, *FY 2007 Year-to-Date Obligations (Oct. 1, 2006–September 30, 2007)* (Sept. 30, 2007).

²⁰⁹ Rubendall Interview at 42.

Erich Hart, Chief Counsel to the Office of Inspector General, also expressed concern that Mr. Krongard was rejecting investigative travel to Iraq and Afghanistan. He stated: “I’m just saying if Iraq and Afghanistan are not your top priorities, what would be?”²¹⁰

Ironically, travel to Iraq and Afghanistan had a relatively low cost to the Office of Inspector General. When asked how much it would cost for investigators to spend a week in Iraq investigating, the Budget Officer stated:

It is not much because, you know, you live on the compound in the green zone. Everything is paid for. So I think the per diem is something like it used to be, \$4; it may be \$8 a day because everything is provided. ... So, you know, I mean, it is basically the cost of the airfare to the Middle East. It is not a lot of money as trips go.²¹¹

IX. INTERFERENCE WITH THE COMMITTEE’S INVESTIGATION

A. Allegations of Witness Intimidation

During the course of the Committee’s investigation, several officials in the Inspector General’s office reported that a member of the Inspector General’s senior staff made comments they found threatening and believed were intended to intimidate them from cooperating fully with the Committee. They told the Committee that Terry Heide, the Director of Congressional and Public Affairs, stated that they could lose their jobs, that they might find it difficult to find other jobs, that they had no whistleblower protections, and that Mr. Krongard could sue them as a result of providing testimony to the Committee.

One official who reported these concerns to the Committee was Assistant Special Agent-in-Charge Brian Rubendall. His interview with the Committee included the following interchanges:

- Q: Did she tell you you would have no whistleblower protections?
A: Yes, she did say that as well.
Q: Did she tell you you could lose your job?
A: Yes, she did.
...
Q: Did Ms. Heide say that word could be sent around the IG community, and that might make it tough for you to get a new job?
A: Yeah. Yeah, I do recall that she said that as well.
Q: Did she tell a story about how she was fired in retaliation by a former employer?
A: Yeah, she did say that, now that I recall.
Q: Did you consider her statements to be threatening?
A: Yes, I did, particularly in the context.²¹²

²¹⁰ Hart Deposition at 64.

²¹¹ Koniuszkow Interview at 55.

²¹² Rubendall Interview at 15-17.

Special Agent Ron Militana offered a similar account during his interview:

- Q: So she told you that you could be fired for what you said to the committee?
A: Yes.
Q: And did she say anything about whether speaking to the committee would make it difficult to get another job?
A: Yes, she did.
...
Q: What did she say about potentially losing your job?
A: ... You have no protection against reprisal, no whistle-blower protection. "Howard could retaliate. You have no recourse." ... And then she reiterated, Howard could fire you, and it could affect your ability to get another job.
...
Q: Did you consider these references to Mr. Krongard as possibly being able to fire you and it being hard to get another job, did you consider these statements to be threatening?
A: Yes.
Q: Did you consider them statements to discourage you from providing full and accurate testimony?
A: That was my impression, Yes.²¹³

Special Agent Peter Lubeck told the Committee that he had a similar experience. He described his conversation with Ms. Heide in this interchange:

- Q: You said that you felt disturbed by this. Why?
A: ... [I]f this is just to lay out the ground rules, why I would I need to be told I could be — theoretically be sued by Howard Krongard for slander? What's that mean? So I felt it was unnecessary. I would never say that during an interview to my subject, to my people I'm interviewing as a witness or briefing them.
Q: Why wouldn't you say that?
A: It's a form of intimidation. We can give them the warnings which clearly state there are real repercussions for lying and not telling the truth, but also gives them ... their fifth amendment rights. As an investigator we are more careful about how we parse our words, so —
Q: Did you feel intimidated?
A: I mean, yeah, I thought it was unnecessary to say that. Did I feel intimidated? Actually, I feel intimidated now because I'm worried about what's going to happen. Am I going to get sued by Howard? That's in the back of my mind here. If she never had mentioned that, it probably wouldn't be in the back of my head, but why would she say that? And the fact that an article came out several days later about him suing his own son, I see that, whoa. Who am I? I'm like, you know, just an employee. If he can sue his own child, why couldn't he sue me?²¹⁴

²¹³ Militana Interview at 6-9.

²¹⁴ Lubeck Interview at 10-11.

Gayle Voshell, a Supervisory Auditor, also recalled that Ms. Heide referenced the possibility of retaliation. According to Ms. Voshell: “She said that anything was possible. But she did not suggest that he would. She just said that there was a possibility he could in fact sue us, but she had no reason to assume he would sue us.”²¹⁵

During her deposition with the Committee, Ms. Heide confirmed making many of these statements. She claimed, however, that she did not intend to intimidate or threaten any witnesses, and that Mr. Krongard had not directed her to engage in this activity.²¹⁶

Ms. Heide testified that she discussed with Mr. Lubeck and with Ms. Voshell whether the Inspector General could fire them. She stated that when Mr. Lubeck asked whether he could be fired, she responded, “I suppose the IG could,” but then added “he’s given no indication that that’s the case, and he’s fully cooperating.”²¹⁷ Ms. Heide either denied or could not recall making similar statements to Mr. Militana and Mr. Rubendall.²¹⁸

Ms. Heide also acknowledged saying to witnesses that the “IG community is small and word can get around” and that the officials might have difficulty finding other jobs if their testimony became public.²¹⁹ Ms. Heide acknowledged that the discussion with Mr. Lubeck and Ms. Voshell involved mention of the possibility of Mr. Krongard suing witnesses for slander, though she denied using the word “reprisals” or “retaliate.”²²⁰

On September 24, 2007, Ms. Heide accompanied Erich Hart, Acting Counsel to the Inspector General, to the Committee offices for the first scheduled transcribed interview of a current employee in this investigation. Ms. Heide initiated a discussion before the interview in which she criticized the Committee’s procedures for conducting voluntary witness interviews. In front of Mr. Hart, Ms. Heide said that she was “concerned about the position that the majority was putting the [OIG] employees in because you were not offering them any confidentiality or other protections.”²²¹ Ms. Heide also stated that the “OIG community is small” and “word can get around.”²²² Following Ms. Heide’s comments, Mr. Hart, who had previously agreed to be interviewed voluntarily, told Committee staff that he would require a subpoena before he would be willing to testify about Mr. Krongard.²²³

²¹⁵ Voshell Deposition at 7.

²¹⁶ Heidi Deposition at 79, 171, 199-203.

²¹⁷ *Id.* at 202.

²¹⁸ *Id.* at 202-203.

²¹⁹ *Id.* at 209, 192.

²²⁰ *Id.* at 201-204.

²²¹ *Id.* at 212.

²²² *Id.* at 209.

²²³ *Id.* at 210.

During her deposition, Ms. Heide conceded that it was a mistake to express these views in front of Mr. Hart, a testifying witness.²²⁴

B. Document Production

The Committee's September 18, 2007, letter requested that the Office of Inspector General produce by September 28, all documents related to its investigation of Mr. Krongard. The Committee subsequently postponed the hearing and extended the document production deadline as an accommodation to the Inspector General and his office's document production limitations. During a conference call, on October 15, 2007, an Associate Counsel to the Inspector General advised Committee staff that the Inspector General's office could complete its document production within three weeks. However, on November 1, the Counsel advised the Committee via e-mail that it would not produce any responsive documents relating to the investigation of bribes or kickbacks involving the Jordan International Police Training Center, the investigation of Kenneth Tomlinson, or hotline complaints about the New Embassy Compound in Baghdad, stating that these were still open investigative matters.

After a week of negotiations yielded no agreement to produce responsive documents, the Committee issued a subpoena on November 7, seeking production by November 9 of all documents relating to the various disputed subjects, including investigations relating to the construction of the New Embassy Compound in Iraq; allegations of bribery involving State Department contractors in Jordan; and all communications to or from the Inspector General relating to Blackwater USA.²²⁵

On November 9, the office informed Committee staff that it would not produce documents listed in the subpoena that pertain to open investigations, pending consultation with the Justice Department. As of November 13, the Office of the Inspector General has given the Committee no indication of when, or even if, it will produce the documents called for in the subpoena. Moreover, even setting aside the documents relating to open investigations, the Office of the Inspector General still has not produced all responsive documents to the original Committee request, almost two months after it was first issued.

²²⁴ *Id.* at 213.

²²⁵ Subpoena to Howard J. Krongard, Inspector General (Nov. 7, 2007).