

## United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
ARMED SERVICES  
ENERGY AND NATURAL RESOURCES  
INTELLIGENCE  
JOINT ECONOMIC

September 23, 2019

The Honorable Joseph Maguire  
Acting Director of National Intelligence  
Office of the Director of National Intelligence  
Washington, DC 20511

Dear Acting Director Maguire:

I write to express my deep concern about your handling of a whistleblower complaint that the Intelligence Community Inspector General (IC IG) Michael Atkinson brought to your attention last month.

The intelligence officer who brought this complaint to the IC IG followed the letter of the law, proceeding through formal whistleblower channels to report an issue of 'urgent concern,' defined as a "serious or flagrant problem, abuse, violation of law or Executive order, or deficiency" related to intelligence activities and involving classified information. IC IG Atkinson conducted a preliminary review of the disclosure and determined that the issue meets the definition of an urgent concern and that it appears to be credible.

Yet you overruled the IC IG's determination, which the law does not allow. In fact, the statute requires that the DNI "shall forward" the complaint to Congress – "together with any comments the DNI deems appropriate." According to the IC IG, you have prohibited any disclosures to the congressional intelligence committees, to include even the general subject matter of the complainant's allegations, in addition to the details of the complaint itself.

The IC General Counsel maintains that the complaint does not constitute an 'urgent concern,' since it does not relate to intelligence activity within the DNI's authority. But in a September 17 letter to the congressional intelligence committees, IC IG Atkinson strongly disagrees with this assessment, writing that the subject matter of the 'urgent concern' "not only falls within the DNI's jurisdiction, but relates to one of the most significant and important of the DNI's responsibilities to the American people."

Instead of entirely overruling the IC IG, the statute provides an option for the DNI to register disagreement in a separate memo, or even claim that executive privilege applies to the information. But no claim of executive privilege has been asserted, and instead, your office and the Justice Department have used a legal technicality about what constitutes an 'urgent concern' to argue that the statute in its entirety doesn't apply, leaving the whistleblower with no path forward.

U.S. intelligence professionals work on behalf of the American people and our national security, not to further the aims of any individual or political party. This whistleblower is taking great risk to his or her career and credibility by coming forward with this information. Yet the president has dismissed the complainant as "partisan," involved in a "political hack job."

At your confirmation hearing before the Senate Intelligence Committee in 2018, you stated: "I am more than willing to speak truth to power." You further stated, "I'm here to make sure that I do my darnedest to defend the Nation and to do what's right, and I intend to do that." I took you at your word and supported your nomination.

I request that you work with the IC IG to find a way to share this urgent concern with Congress, as the law envisions. The congressional intelligence committees cannot carry out our oversight responsibilities if those in the executive branch who want to share 'urgent concerns' through legally established channels are prohibited from doing so. The complainant in this case followed the law in disclosing this 'urgent concern;' your office and the Department of Justice should not now obstruct the law to keep it secret.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Martin Heinrich', with a stylized flourish at the end.

MARTIN HEINRICH  
United States Senator