

**Testimony of Tim Stretton, Policy Analyst**  
**Project On Government Oversight**  
**before the House Appropriations Committee, Subcommittee on the Legislative Branch**  
**on “Enhancing Oversight on Congressional Safety and Security Issues”**  
**May 8, 2021**

Chairman Ryan, Ranking Member Herrera Beutler, and members of the Subcommittee, thank you for the opportunity to submit testimony on behalf of the Project On Government Oversight (POGO) and Demand Progress on the need to increase the accountability and transparency of the U.S. Capitol Police Office of Inspector General, as well as the need to increase the number of security clearances for congressional staff. In light of the deadly insurrection at the Capitol on January 6, these issues have never been more important.

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

### **Capitol Police Office of Inspector General**

Last Congress, the House Appropriations Committee stated that the Capitol Police Office of Inspector General “should make an effort to make appropriate reports public if they do not compromise law enforcement activities, national security, or Congressional security and processes without redaction.”<sup>1</sup> The inclusion of this report language, which encompassed a review of reports over the last three years, was a victory for government transparency and should help Congress conduct oversight of the Capitol Police Office of Inspector General. Unfortunately, almost six months later, the office has not complied with the directive. It is imperative that the committee once again take steps to compel compliance.

Inspectors general play a critical role in conducting independent inspections, audits, and investigations into waste, fraud, and abuse to improve federal programs and the work of agencies. The work of inspectors general and their recommendations have continually resulted in financial savings for the federal government. Most recently, the self-reported return on investment in fiscal year 2020 was \$17 for every \$1 spent on inspector general activities.<sup>2</sup>

While the Capitol Police Office of Inspector General itself claims to provide independent, nonpartisan oversight of Capitol Police operations,<sup>3</sup> the office does not make its reports, findings, or recommendations readily available for public consumption or for Congress due to a directive by the Capitol Police Board. In fact, there are no reports on the office’s website, which only links

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<sup>1</sup> *Report of House Appropriations Committee Legislative Branch Appropriations Bill, 2021*, H. Rep. No. 116-447 at 22 (July 14, 2020).

[https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/FY21LB\\_38861.pdf](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/FY21LB_38861.pdf)

<sup>2</sup> Council of the Inspectors General on Integrity and Efficiency, *Fiscal Year 2020 Annual Report to the President and Congress*, (2021).

[https://ignet.gov/sites/default/files/files/FY20\\_Annual\\_Report\\_to\\_the\\_President\\_and\\_Congress.pdf.pdf](https://ignet.gov/sites/default/files/files/FY20_Annual_Report_to_the_President_and_Congress.pdf.pdf)

<sup>3</sup> “Office of Inspector General,” United States Capitol Police Office of Inspector General, Transportation Security Administration. <https://www.uscp.gov/the-department/office-inspector-general> (accessed May 4, 2021)

to four “external peer reviews” from the past 11 years.<sup>4</sup> The lack of access to the office’s own reports even for Congress makes it hard to conduct oversight.

Last month, the public got a rare glimpse of the Capitol Police Office of Inspector General’s work when the Committee on House Administration held a hearing with the inspector general on the ongoing investigation into the January 6 insurrection.<sup>5</sup> In the run-up to the hearing, the committee posted two “flash reports” produced by the inspector general.<sup>6</sup> Tellingly, these reports appear only on the committee’s website, and not on the inspector general’s website. Furthermore, the inspector general said at the hearing that the office’s flash reports are not normal reports in that they don’t require a response from the agency.<sup>7</sup>

According to the flash reports, the inspector general found intelligence failures by the Capitol Police. The reports highlighted concerns around decreased staff capacity and gaps in equipment inventories in the Capitol Police’s response to the attack. Unfortunately, we don’t know how far these problems date back because we don’t have access to previous reports.

The inspector general should release additional flash reports on its website in the fullest unredacted form possible. Congress and the public have legitimate questions about the response to the insurrection and deserve answers. The Capitol Police’s fiscal year 2021 budget exceeds \$515 million—almost 10% of legislative branch funding—and the public deserves to know whether the department is using its funding responsibly and why these failures occurred.<sup>8</sup>

It’s worth noting that we may not have seen the flash reports at all if it wasn’t for the recent hearing before the Committee on House Administration.

The Capitol Police Office of Inspector General told POGO the office could not publicly release its own reports because the Capitol Police Board has issued a directive to the Office of Inspector General prohibiting the release of the reports.<sup>9</sup> The inspector general follows directives set by the

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<sup>4</sup> United States Capitol Police, “Audits.” <https://www.uscp.gov/the-department/office-inspector-general/audits-investigations> (accessed on April 22, 2021)

<sup>5</sup> *Oversight Of The United States Capitol Police And Preparations For And Response To The Attack Of January 6th: Hearing before the Committee on House Administration*, 117<sup>th</sup> Cong. (April 15, 2021, recessed until April 21, 2021). <https://cha.house.gov/committee-activity/hearings/oversight-united-states-capitol-police-and-preparations-and-response>

<sup>6</sup> Capitol Police Office of Inspector General, *Review of the Events Surrounding the January 6, 2021, Takeover of the U.S. Capitol Flash Report: Operational Planning and Intelligence*, 2021-I-0003-A (February 2021) <https://docs.house.gov/meetings/HA/HA00/20210415/111443/HHRG-117-HA00-Wstate-BoltonM-20210415-SD003.pdf>; Capitol Police Office of Inspector General, *Review of the Events Surrounding the January 6, 2021, Takeover of the U.S. Capitol Flash Report: Civil Disturbance Unit and Intelligence*, 2021-I-0003-A (March 2021). <https://docs.house.gov/meetings/HA/HA00/20210415/111443/HHRG-117-HA00-Wstate-BoltonM-20210415-SD004.pdf>

<sup>7</sup> *Oversight Of The United States Capitol Police And Preparations For And Response To The Attack Of January 6th: Hearing before the Committee on House Administration*, 117<sup>th</sup> Cong. At 38:10 (April 15, 2021, recessed until April 21, 2021). <https://www.youtube.com/watch?v=ZtO968s5itk>

<sup>8</sup> Amelia Strauss and Daniel Schuman, “A Primer on the Capitol Police: What We Need to Know From Two Years of Research,” Demand Progress, January 7, 2021. <https://demandprogress.org/a-primer-on-the-capitol-police-what-we-know-from-two-years-of-research/>

<sup>9</sup> Email from Capitol Police Inspector General Michael Bolton to POGO Policy Counsel Rebecca Jones on April 2, 2019 regarding public release of Capitol Police Office of Inspector General reports.

board. Therefore, this committee should direct the Capitol Police Board to rescind the directive preventing the Office of Inspector General from releasing its reports.

Additionally, the office is required to produce semiannual reports like Title 5 inspectors general, and those inspectors general are required to make their reports public.<sup>10</sup> Just as Congress has required other inspectors general to publicly report their work, the Capitol Police watchdog owes it to the public to report on its findings within three days of sending them to the head of the agency.<sup>11</sup> Unlike executive branch inspector general reports, which can be requested under the Freedom of Information Act (FOIA), there is no similar request mechanism for the Capitol Police watchdog. However, this committee did instruct the Capitol Police to set up a similar process, which it has yet to do.<sup>12</sup> As a result, the public has no way to access or even be aware of the reports unless the inspector general posts them.

In addition to posting reports on its website, the Capitol Police Office of Inspector General should post its reports to the federal government-wide website Oversight.gov. That website is managed by the Council of the Inspectors General on Integrity and Efficiency, an independent entity comprised of all federal inspectors general.<sup>13</sup> Most inspectors general, including four of the legislative branch inspectors general, publish their reports here.<sup>14</sup> Posting on Oversight.gov aids public access by providing a centralized, easily searchable location for all reports.

Due to classification, national security, or privacy concerns, not all inspector general reports can be released in full to the public. However, several inspectors general and other oversight institutions have restricted access to sensitive reports without keeping the public in the dark about the reports' existence. For example, the Government Accountability Office<sup>15</sup> and the Department of Defense Inspector General<sup>16</sup> provide basic information, such as a report title or number, when some or all of a report's content must remain nonpublic. With this information, the public can request the report through FOIA. The committee framed its report language last year to allow for as much public release as possible without compromising security.

If the Capitol Police Office of Inspector General must restrict public access to a report, the watchdog should follow the lead of other inspectors general and publicly list basic information

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<sup>10</sup> 2 U.S.C. § 1909 (2020). <https://www.law.cornell.edu/uscode/text/2/1909>; Inspector General Act, As Amended, 5 U.S.C. § 5. <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title5a-node20-section5&num=0&edition=prelim>

<sup>11</sup> Inspector General Act, As Amended, 5 U.S.C. App. § 8M(b)(1)(A) [see note 10].

<sup>12</sup> *Report of House Appropriations Committee Legislative Branch Appropriations Bill, 2021*, H. Rep. No. 116-447 at 22 (July 14, 2020).

[https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/FY21LB\\_38861.pdf](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/FY21LB_38861.pdf)

<sup>13</sup> "About Oversight.gov," Council of the Inspectors General on Integrity and Efficiency.

<https://www.oversight.gov/about> (accessed on April 22, 2021)

<sup>14</sup> The inspectors general for the Government Accountability Office, Library of Congress, Government Publishing Office, and Architect of the Capitol post their reports on Oversight.gov. "About Oversight.gov" [see note 13].

<sup>15</sup> Government Accountability Office, "Restricted Reports." <https://www.gao.gov/reports-testimonies/restricted/> (accessed on April 21, 2021)

<sup>16</sup> For example: Department of Defense Office of Inspector General, *Evaluation of Integrated Joint Special Technical Operations*, DODIG-2019-005 (February 11, 2019).

<https://www.dodig.mil/reports.html/Article/1771720/evaluation-of-integrated-joint-special-technical-operations-dodig-2019-055/>

about the report on its website and on Oversight.gov. The websites should list the title or report number, date of publication, a description of the subject, and a general reason for its redaction. Further, because legislative branch staff do not benefit from the whistleblower protections that executive branch staff do, and because the Capitol Police is not subject to FOIA, this office is key in measuring the effectiveness and accountability of the Capitol Police.

We ask that the committee again adopt language addressing the need for regular report publication by the Capitol Police Office of Inspector General. The language should specifically rescind the Capitol Police Board's previous directive and require that the inspector general follow the Inspector General Act's requirements that all reports be posted on the inspector general's website and Oversight.gov.

## Security Clearances

Another important issue is the insufficient number of security clearances for congressional staff.<sup>17</sup> While this has been a longstanding problem in supporting Congress's capacity to oversee classified agencies and information, the lack of clearances is a particularly glaring deficiency as intelligence agencies, as well as the Capitol Police Office of Inspector General, produce findings from investigations into the Capitol attack that are deemed too sensitive to be released publicly. In this case, Congress needs to be able to learn what happened to prevent it from occurring again.

Congressional committees play pivotal roles in overseeing our military and national security. In order to aid Members in their oversight work, committee staff generally have appropriate levels of security clearance, allowing them access to classified materials and briefings necessary to do their jobs. However, in the House of Representatives, not all Members on committees that deal largely with classified information have a designated committee staffer.<sup>18</sup> Because personal office staff rarely hold a security clearance at the necessary level, many Members on those committees may as well be overseeing the executive branch blindfolded.

The most recent publicly available information shows that nearly 4.2 million people hold clearances of any level.<sup>19</sup> In 2015, the National Counterintelligence and Security Center disclosed that 622,549 federal employees and 428,069 federal contractors held top secret clearances.<sup>20</sup> Unfortunately, there is no public data about clearances held by the legislative

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<sup>17</sup> Daniel Schuman and Mandy Smithberger, Demand Progress and Project On Government Oversight, *A Primer on Congressional Staff Clearances: Which Staff Can Obtain Security Clearances, at what Levels, and Who Decides?* (February 5, 2020), 11-20. [https://docs.pogo.org/report/2020/A\\_Primer\\_on\\_Congressional\\_Staff\\_Clearances\\_2020-02-05.pdf](https://docs.pogo.org/report/2020/A_Primer_on_Congressional_Staff_Clearances_2020-02-05.pdf)

<sup>18</sup> *FY19 Member Day & Outside Witnesses: Hearing before the House Committee on Appropriations Legislative Branch Subcommittee*, 115<sup>th</sup> Cong. (April 17, 2018) (testimony of Mandy Smithberger, Director of the Center for Defense Information at POGO). <https://www.pogo.org/testimony/2018/04/pogo-testimony-need-for-expanded-clearances-for-congressional-staffers/>

<sup>19</sup> National Counterterrorism and Security Center, *Fiscal Year 2019 Annual Report on Security Clearance Determinations* (April 2020), 7. <https://fas.org/sgp/othergov/intel/clear-2019.pdf>

<sup>20</sup> Office of the Director of National Intelligence, *2015 Annual Report on Security Clearance Determinations* (2015), 5. [https://www.dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/2015-Annual\\_Report\\_on\\_Security\\_Clearance\\_Determinations.pdf](https://www.dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/2015-Annual_Report_on_Security_Clearance_Determinations.pdf)

branch. However, we do know that Congress currently has about 16,000 legislative branch staffers<sup>21</sup> and only a handful of those hold top secret clearances.<sup>22</sup>

Whether through statute, internal rules, or its security manual, Congress should increase the number of congressional staff with security clearances while maintaining rigorous clearance process standards. By doing so, Congress would enable staff to effectively aid lawmakers in overseeing some of the most pressing and consequential issues of the day, ranging from the conduct of war to the abuse of surveillance programs.

In addition to requesting that each member of the House Permanent Select Committee on Intelligence, the House Appropriations Defense Subcommittee, and the House Armed Services Committee be able to provide one of their personal office staffers with Top Secret/Sensitive Compartmentalized Information (TS/SCI) clearances, the House Committee on Administration personal staff should be included to ensure access to sensitive information around the insurrection. POGO also requests a public report detailing the cost of providing a TS/SCI-cleared staffer to every House member who requests one. This would clarify the marginal costs of providing sensitive compartmented information access to staff who already have a top secret clearance and allow Congress to consider the costs and benefits of providing sufficient support to all House members.

## **Conclusion**

As the Capitol Police Office of Inspector General investigates the events around the January 6 insurrection and the Capitol Police's response, it is crucial for the public to have insight into the investigation. Ensuring that the watchdog makes its reports publicly accessible is crucial to accountability. These reports will help Congress assess whether the Capitol Police is responsibly using its ample funding and where more reforms may be needed.

In order to increase its capacity to conduct oversight of the nation's intelligence services, Congress must increase the number of staff who hold security clearances. Doing so will allow the public to call out wasteful or illegal practices and to increase pressure for swift change in our intelligence agencies when needed.

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<sup>21</sup> For the current count of Senate employees in the 117th Congress, see: "Congress By The Numbers," Legistorm. [https://www.legistorm.com/congress\\_by\\_numbers/index/by/senate/term\\_id/64.html](https://www.legistorm.com/congress_by_numbers/index/by/senate/term_id/64.html) (accessed March 18, 2021); For the current count of House employees in the 117th Congress, see: "Congress By The Numbers," Legistorm. [https://www.legistorm.com/congress\\_by\\_numbers/index/by/house/term\\_id/64.html](https://www.legistorm.com/congress_by_numbers/index/by/house/term_id/64.html) (accessed March 18, 2021)

<sup>22</sup> Daniel Schuman and Mandy Smithberger, *A Primer on Congressional Staff Clearances*, 6,9 [see note 17].