

Senator Grassley, Chairman
Questions for the Record
Don Berthiaume
Nominee to be Department of Justice Inspector General
May 27, 2026

1. Since 2023, Senator Ron Johnson and I have worked to get the Department of Justice Office of the Inspector General (DOJ OIG) to release unredacted transcripts related to the DOJ OIG's review of the Crossfire Hurricane investigation. These transcripts detail interviews with government officials concerning what the government knew about the now discredited Steele dossier and false accusations that President Trump colluded with Russia. During its review, the DOJ OIG interviewed more than 170 individuals and of those, 165 were transcribed and the rest are in note form, including, as we've been told, the OIG's interview of Christopher Steele.

Most recently, on March 17, 2025, we wrote to then-Attorney General Bondi and FBI Director Patel re-upping that request. Our respective staff have had many calls and meetings with DOJ, FBI, and the DOJ OIG to get this effort moving. While I appreciate the recent efforts from your office, to date, the DOJ OIG has only provided 15 out of approximately 170 Crossfire Hurricane transcripts.

- a. What steps were taken, if any, prior to your hiring at the OIG to produce the transcripts to us? Since joining the office, what steps have you taken to get this done? In your answer, please describe challenges with other agencies, including classification issues, and the steps your office has taken to solve them.

Response: When I assumed the Acting Inspector General role on October 30, 2025, I learned that there was an outstanding request from Senators Grassley and Johnson seeking all of the interview transcripts from the OIG's Crossfire Hurricane investigation. I was initially advised that transcripts were being reviewed and later learned that the "review" to which these individuals referred was related to FOIA litigation, not production to the Senate.

After I stepped down from the Acting Inspector General role, the Department of Justice informed DOJ OIG that it did not object to the production of the transcripts containing information for which it held relevant privileges to your offices. In response to this communication and recognizing that the information within the transcripts was owned by the Department and other government agencies, DOJ OIG commenced its review process to facilitate the production of the requested documents to your offices.

After the Deputy Inspector General performing the functions of Inspector General directed the production of the transcripts, delays occurred because the majority of the transcripts were considered derivatively "classified," as they contained discussions of information

from the classified Crossfire Hurricane FBI files. Consequently, I identified certain transcripts that were unclassified, informed the OIG personnel managing the production of these specific transcripts, and those unclassified transcripts were submitted to your offices.

This is a highly complicated process involving highly sensitive information held by several agencies and Departments, which requires extensive coordination and review among and between those entities to ensure that efforts to provide transparency do not result in the improper disclosure of information entrusted to OIG so that OIG could conduct its review. With the transcripts that have been produced thus far, each transcript underwent review by multiple DOJ components or other government agencies. Each reviewing entity is responsible for identifying and redacting its respective “equities” and preparing letterhead memoranda to document its concurrence that the redacted transcripts could be released. Once this is completed, the redacted transcripts and accompanying memoranda are provided to the FBI, which further reviews the records and applies markings to ensure they are suitable for public release. The finalized transcripts are then returned to the OIG for production to the Committees.

- b. What steps has the OIG taken to ensure that President Trump’s Executive Order mandating the declassification of Crossfire Hurricane records is complied with and the transcripts don’t contain improper classification redactions?

Response: The OIG does not have the authority to declassify these transcripts or any information relating to Crossfire Hurricane. The OIG has communicated to the classifying authorities the necessity of making the transcripts as transparent as possible and is working to facilitate the expeditious review of the transcripts by the relevant entities with such authority.

- c. The transcripts produced so far include redactions, including but not limited to the names of the interviewer and interviewee, which frustrates congressional oversight and public transparency. State the basis for each redaction, not just names, whether you agree with its application, and if you will remove the redactions, if confirmed.

Response: To my knowledge, the only redactions that the OIG has made are of the identities of OIG personnel conducting the interviews.

The OIG is following our usual process for releasing information that originates with other agencies. This process includes consulting with the entities whose information was discussed in the transcribed testimony. These entities include the FBI, other DOJ components, and, for some transcripts, relevant Intelligence Community agencies. The purpose of such consultation is to enable those entities to identify and mark for redaction sensitive information that they determine should not be released. Such sensitive information may include information that is prohibited from disclosure by a court order,

information that remains classified, personally identifiable information, confidential whistleblower identification information, sensitive case information, and identifying information of law enforcement personnel.

The OIG does not have the authority to compel the release of the information, but if confirmed I will work with you and your staff to obtain answers about redactions made by the entity that owns the information and assist in working with the relevant entity to ensure they are appropriately considering the Committees' oversight needs.

2. In response to my question asking for your commitment that no government funds will be used to take action to identify and investigate whistleblowers for making legally protected disclosures, you said:

My personal view Senator is that the government should never use federal funds to try to hunt down whistleblowers. With that in mind, there are certain limitations in the law, specifically with classified information where we sort of dictate how classified information the whistleblower who wants to bring it forward needs to follow and under those circumstances, it's possible that an investigation could be launched. But my general view overall is I don't think we should be spending money to try to identify whistleblowers.

- a. I appreciate your personal view and response, but I seek your professional view, too. I'd note that my office has received classified information from whistleblowers in the past, and those disclosures are entirely protected by law. When you state that "specifically with classified information where we sort of dictate how classified information the whistleblower who wants to bring it forward needs to follow and under those circumstances, it's possible that an investigation could be launched," what do you mean? Are you referring to an investigation where the government is unaware that a legally protected whistleblower disclosure has occurred? Or is your answer to be taken that irrespective of knowledge of a legally protected whistleblower disclosure, you are sympathetic to the government investigating the whistleblower *as a whistleblower* and for purposes of holding that whistleblower accountable for a protected disclosure? Please explain and clarify.

Response: In my view, the government should not utilize its resources or federal funds to identify or target individuals for making legally protected whistleblower disclosures. Whistleblowers play a critical role in ensuring government accountability, and their lawful disclosures must be respected and protected under the applicable laws, such as the Whistleblower Protection Act. In fact, causing an investigation to occur into a whistleblower can be a prohibited personnel practice under the "cat's paw" theory.

I recognize that there may be instances in which the government is initially unaware that an individual is exercising their rights as a whistleblower. In such cases, an investigation may be initiated before it becomes evident that the disclosure falls under legal protections

for whistleblowers. Additionally, certain legal constraints apply to specific types of information, such as classified materials or grand jury information governed by Rule 6(e) of the Federal Rules of Criminal Procedure. Disclosures involving these sensitive or restricted categories of information may inadvertently or intentionally violate applicable laws, particularly if the disclosure is made outside the procedures outlined in whistleblower protection statutes.

I also recognize the need to assist whistleblowers in following the law so that they can benefit from the full rights, protections, and remedies that Congress intended. For example, the Lloyd-La Follette Act, 5 U.S.C. § 7211, affirms the right of federal employees to provide information to Congress without interference or denial. Under the Whistleblower Protection Act, disclosures that are “specifically prohibited by law” are generally not protected. The OIG, through its Whistleblower Protection Coordinator or otherwise, is available to help whistleblowers navigate these legal considerations and is essential to properly navigate these complex matters.

In those situations where there is potentially a legal violation, the Department may, within its prerogative, determine that an investigation or prosecution is warranted. However, it is vital that the Department carefully and appropriately weigh the fact that the individual was acting in the capacity of a whistleblower when making determinations about whether to pursue such actions. I believe this context is critical, and in my view, the fact that an individual was engaged in a whistleblowing activity should be treated as a strong mitigating factor. In any event, potential whistleblowers should appeal to the OIG Whistleblower Protection Coordinator for assistance in lawfully blowing the whistle.

b. If confirmed, yes or no, do you commit that no government funds will be used to take action to identify and retaliate against whistleblowers for making legally protected disclosures? If not, why not?

Response: I commit that the OIG will not take action to identify and retaliate against a whistleblower for making legally protected disclosures.

3. In response to my question asking what you would do as Inspector General if Justice Department officials failed to identify and segregate privileged material, to include congressional information, you said:

I think if we received an allegation that attorneys had not properly segregated congressional information, we would have to look into that and assess whether or not it was in OIGs jurisdiction. As you know Senator, and I support this, we do not have jurisdiction over the Office of Professional Responsibility, which handles attorney misconduct and so if that was an attorney action in relation to their function as an attorney, it would fall out of our jurisdiction. We would have to make a referral over to that agency.

- a. In your professional view, regarding non-attorneys including but not limited to FBI agents, if those individuals failed to identify and segregate privileged material during a criminal investigation or criminal prosecution, to include attorney client or congressional information, what would you do as Inspector General? Please explain.

Response: This question is case-specific and largely depends on whether the non-attorneys in question acted independently or under the direction of an attorney. While the Department of Justice's Office of Professional Responsibility (DOJ OPR) primarily focuses on investigating allegations of professional misconduct by Department attorneys in relation to their legal duties—such as investigating, litigating, or providing legal advice—its jurisdiction also extends, under 28 C.F.R. § 0.39a, to reviewing related misconduct allegations involving law enforcement personnel when those allegations are connected to attorney misconduct.

In any event, I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations. This approach ensures a thorough and judicious review process while adhering to statutory and policy limitations.

- b. In your professional view, when an attorney or non-attorney accesses and reviews privileged information, including but not limited to attorney client or congressional information during a criminal investigation or criminal prosecution, does that access and review cause any defects, constitutional or otherwise, to the matter? Does the failure of government officials to wall off this material in a criminal matter cause you concern? Please explain.

Response: The government's access to and review of privileged information, such as attorney-client communications or congressional records, during a criminal investigation or prosecution can create serious legal and constitutional challenges if appropriate safeguards are not implemented. Attorney-client privilege is critical to protecting the Sixth Amendment right to effective legal counsel, while congressional communications often implicate sensitive separation of powers and whistleblower protections critical to government oversight. Mishandling privileged materials risks infringing on constitutional rights, eroding public trust, and creating significant legal consequences such as suppression of evidence, mistrials, or dismissed charges. As noted in the 2024 DOJ OIG report, "A Review of the Department of Justice's Issuance of Compulsory Process to Obtain Records of Members of Congress, Congressional Staffers, and Members of the News Media," previous DOJ policies for handling such constitutionally sensitive materials raised significant concerns. For instance, the report identified how the use of compulsory process in investigations to obtain non-content communications records of Members of Congress and their staff raised concerns related to the separation of powers, whistleblower protections, and First Amendment rights. The absence of sufficiently robust policies, such as requiring senior-level approval or detailed, case-specific justifications, heightened the potential for executive overreach and weakened public trust. Although the OIG found no

evidence of retaliatory intent, it made key recommendations to strengthen DOJ's policies to ensure that constitutional and prudential considerations are given due weight prior to issuing such process.

The OIG report highlighted the need for stricter protocols and oversight when engaging with privileged or sensitive materials in criminal proceedings, a point I strongly support. Implementing clear safeguards, such as third-party filter teams, opportunities for privilege holders to challenge potential disclosures, and rigorous senior-level review, is vital to preserving constitutional protections. While there are circumstances where sensitive or privileged materials may intersect with investigations, these situations demand heightened scrutiny, transparency, and adherence to strengthened DOJ policies, especially in cases involving Members of Congress or sensitive communications. Failure to employ these safeguards risks infringing on constitutional rights, violating privileges, and chilling legitimate activities, such as government oversight and whistleblowing, that are essential for democracy and justice. Ultimately, prosecutorial actions must not only adhere to legal obligations but also ensure fairness, protect privilege, and foster public trust in the justice system.

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Don Richard Berthiaume, Jr.
Nominee to be Inspector General of the Department of Justice
May 27, 2026

1. You contributed to the 2019 Office of the Inspector General report on Crossfire Hurricane, the FBI’s counterintelligence investigation into connections between the 2016 Trump presidential campaign and Russia. While the report found errors in how FBI case agents carried out certain investigative steps, OIG found no evidence that the investigation was motivated by political bias. Moreover, the OIG determined that Crossfire Hurricane and related investigations were “opened in 2016 for an authorized purpose and with adequate factual predication.” After four years and \$6.5 million of taxpayer money, Special Counsel John Durham’s report did not contradict any of these findings. In fact, the report conceded that “there is no question that the FBI had an affirmative obligation to closely examine” the tip that prompted opening the Crossfire Hurricane investigation. Please answer yes or no to the following questions:

- a. **Isn’t it true that OIG found that Crossfire Hurricane and related investigations were opened in 2016 for an authorized purpose?**

Response: Yes. The OIG found that Crossfire Hurricane was opened for an authorized purpose under FBI policy.

- b. **Isn’t it true that OIG determined that the FBI had adequate factual predication when it opened the investigation in 2016?**

Response: Yes. The OIG found that the FBI possessed sufficient factual predication under its standards to open a full investigation.

- c. **Isn’t it true that OIG concluded that Crossfire Hurricane was not motivated by anti-Trump or political bias?**

Response: The report, which was over 400 pages, concluded that the OIG “did not find documentary or testimonial evidence that political bias or improper motivation influenced” the FBI’s decision to open the Crossfire Hurricane investigation or the related individual investigations. However, the report did not make an affirmative finding that bias played no role whatsoever, nor did it conclude that all investigative decisions were proper or free from serious error.

To the contrary, the report identified significant failures in the FBI’s handling of the Carter Page FISA applications, including at least 17 significant inaccuracies and omissions, serious performance failures, and breakdowns in supervisory oversight and compliance with FBI procedures. The report therefore drew an important distinction between the OIG not finding sufficient evidence that political bias drove the opening of the investigation, and the OIG’s separate findings that aspects of the investigation and

FISA process reflected serious errors and unacceptable conduct that warranted substantial corrective action.

d. Isn't it true that Crossfire Hurricane was not opened based on the Steele Dossier?

Response: The OIG report did not include a finding that the Steele dossier was a predicate for opening Crossfire Hurricane.

e. Isn't it true that the investigation was instead based on a tip from a friendly foreign government?

Response: The OIG report found that Crossfire Hurricane was opened on July 31, 2016, based on information received from a "Friendly Foreign Government."

On March 20, 2026, OIG transmitted transcripts from its Crossfire Hurricane investigation to Congress without a subpoena. Responsiveness to congressional oversight requests is important, but this is a departure from longstanding DOJ OIG practice that sets a troubling precedent because it could undermine the willingness of witnesses to cooperate fully with future OIG investigations, which is also necessary for proper oversight.

f. Why did OIG provide these transcripts to Congress?

Response: The Senate Judiciary Committee and the Homeland Security and Governmental Affairs Committee (HSGAC) both hold oversight authority over the Department of Justice (DOJ) and the Office of the Inspector General (OIG). The Attorney General, to whom the OIG reports, also determined that the transcripts should be provided to the Committees. Since both entities to whom the OIG reports under the Inspector General Act requested the transcripts, it was concluded that the OIG was required to comply with the request.

g. Please describe your involvement in the decision to provide these transcripts to Congress.

Response: As Acting Inspector General (IG), I communicated with Senate Committee staff regarding the release of the transcripts. While I supported finding an accommodation for both Committees of jurisdiction to satisfy their long-held oversight needs for these transcripts, given the unique circumstances of the issue and time that had elapsed since the requests had been made, the decision to release the transcripts was made after I stepped down from my role as Acting IG and assumed the position of Senior Advisor. In my capacity as Senior Advisor, I provided advice to the Deputy Inspector General, who was performing the functions of the IG. After consulting with Department officials, the Deputy Inspector General made the decision to provide the documents to the Senate Committees.

h. Why should witnesses come forward and cooperate with OIG if it is so willing to transmit investigative materials for what appears to be politically motivated purposes?

Response: The DOJ OIG takes seriously its obligation to protect the integrity of its investigations, the confidentiality of sources, and the lawful handling of investigative information. At the same time, the OIG operates within a constitutional and statutory framework that does not create an absolute privilege shielding investigative information from lawful disclosure to Congress.

Individuals should continue to cooperate with the OIG because the OIG's mission depends upon obtaining accurate facts through independent, objective, and professional investigations conducted pursuant to the Inspector General Act and other applicable laws and policies. The OIG evaluates disclosure issues carefully, consistent with legal requirements, investigative integrity, whistleblower protections, privacy interests, and Department policy. Cooperation with the OIG remains one of the most important mechanisms for identifying waste, fraud, abuse, misconduct, and systemic failures within the Department, and the OIG remains committed to handling investigative information responsibly and consistent with its legal obligations.

2. In September 2025, the Office of Management and Budget (OMB) issued a policy decision to withhold an apportionment for the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Fiscal Year 2026 operations. The Trump Administration also announced that OMB had not apportioned funding for the Pandemic Response Accountability Committee's (PRAC) operations. After significant criticism from members of Congress, the Administration restored funding.

As a longtime member of the Inspector General community, do you support attempts to defund CIGIE and PRAC?

Response: Congress created the Council of the Inspectors General on Integrity and Efficiency (CIGIE) by statute to promote coordination, professional standards, training, and integrity across the Inspector General community. CIGIE and the PRAC both serve important roles in supporting effective and accountable oversight throughout the federal government. If confirmed, I would support ensuring that CIGIE and PRAC have the resources necessary to carry out the responsibilities Congress assigned to them under the Inspector General Act, CARES Act, and related statutes. At the same time, as with any federally funded entity, I believe Congress and the Executive Branch may appropriately evaluate funding levels, priorities, and efficiency consistent with their respective constitutional and statutory authorities.

3. Under the *Securing Inspector General Independence Act of 2022*, the President is required to communicate to Congress in writing 30 days before removing or transferring an IG from office the "substantive rationale, including detailed and case-specific reasons" for the removal or transfer. On January 24, 2025, President Trump fired 18 inspectors general without providing this information to Congress.

a. Did President Trump break the law by failing to provide to Congress the legally required 30-day notice and case-specific reasons for removing the IGs

Response: In *Storch v. Hegseth*, the court generally determined that the President had the authority to remove the Inspectors General but did not provide the required 30-day notice to Congress under the IG Act.

b. Do you condemn President Trump's terminations of these inspectors general without the legally required notification?

Response: The President possesses the authority to remove individuals serving in positions classified as political appointees.

4. Did President Trump lose the 2020 election?

Response: I believe the 2020 presidential election was conducted in accordance with the Constitution. The votes were counted, the results were certified by Congress, and Joseph R. Biden was declared the winner of the election.

5. Does the U.S. Constitution permit a president to serve three terms?

Response: The 22nd Amendment to the United States Constitution, ratified in 1951, establishes a two-term limit for individuals serving as President. The amendment was introduced to formalize the tradition set by George Washington of serving no more than two terms. Specifically, it prohibits any person from being elected to the office of President more than twice.

6. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: Article II, Section 2 of the United States Constitution grants the President the sole and exclusive power to issue pardons and reprieves for federal offenses, except in cases of impeachment. This power is uniquely vested in the President and does not require approval or consultation with other branches of government. I express no opinion regarding the exercise of this authority, as it is a constitutional prerogative of the President.

7. Would you resign if the President asks you to do something which is inconsistent with your oath to uphold and defend the Constitution?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, CIGIE's Quality Standards for Conducting Oversight, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

8. The Federalist Society seeks to “reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law.”
- a. **During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.**

Response: No. I have not spoken to anyone from the Federalist Society.

- b. **Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events.

- c. **Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?**

Response: No. I have not.

9. The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

- d. **During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.**

Response: No. I have not.

- e. **Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not.

- f. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No. I have not.

- 10.** The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”

- g. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: No. I have not.

- h. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not.

- i. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No. I have not.

- j. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: No. I have not.

- 11.** The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”

- k. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: No. I have not.

- l. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not.

- m. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No. I have not.

- 12. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”**

- n. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Gene Hamilton or Daniel Epstein? If so, please provide details of those discussions.**

Response: No. I have not.

- o. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not.

- p. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No. I have not.

- 13. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”**

- q. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.**

Response: No. I have not.

- r. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not.

- s. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?**

Response: No. I have not.

14. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

- t. **During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.**

Response: No. I have not.

- u. **Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?**

Response: No. I have not.

- v. **Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?**

Response: No. I have not.

Senator Thom Tillis
Member, Senate Judiciary Committee
Written Questions for Don. R. Berthiaume Jr.
Nominee to be Inspector General, U.S. Department of Justice
May 20, 2026

1. Mr. Berthiaume, throughout your career, you have worked in oversight, investigations, and compliance roles across multiple federal agencies. What would you identify as your top priorities if confirmed to this position?

Response: My initial priority is to enhance transparency in the operations of the DOJ OIG by publicly sharing the criteria that will guide decisions on whether to initiate audits, investigations, evaluations, or reviews. Another key focus is implementing internal measures to ensure that OIG work is conducted in a timely manner. Timeliness is essential to the effectiveness of oversight, as delays can diminish the relevance of findings and hinder the opportunity for meaningful change in addressing misconduct or institutional deficiencies. Timely investigations facilitate corrective action, protect against ongoing harm, and promote fairness by resolving allegations efficiently, thereby minimizing unnecessary uncertainty and reputational risks. However, while prioritizing timeliness, it remains imperative to uphold the highest standards of accuracy, completeness, and fairness, requiring OIG personnel to carefully balance promptness with rigorous, well-supported findings and to proactively manage internal processes to prevent delays.

2. You previously served as Acting Inspector General at the U.S. Department of Justice, overseeing a multidisciplinary workforce of investigators, auditors, attorneys, and support personnel. How would you describe your management philosophy, and how do you ensure accountability within a large organization?

Response: As the head of an agency, I firmly believe it is my responsibility to take full ownership of all outcomes—both successes and failures. To achieve this, I prioritize establishing clear missions and expectations for the agency, my team, and myself, ensuring alignment at every level. I embrace a decentralized command structure, empowering my leaders to take ownership

of their divisions, make informed decisions, and be fully accountable for their respective successes and challenges. My approach emphasizes disciplined project execution, decisive leadership, and fostering a culture of trust built on competence, consistency, and humility. Ultimately, I am committed to balancing confidence with humility and prioritizing the development and success of my team over personal recognition as the foundation of an effective and thriving organization.

3. You have experience supervising complex investigations involving sensitive and politically significant matters. How would you reassure us that you can conduct oversight in a fair, independent, and nonpartisan manner?

Response: I believe the most effective way to uphold and reinforce the OIG's fairness, independence, and nonpartisanship is through full transparency in its operations. When the entities overseen by the OIG clearly understand its processes and the OIG adheres to those principles, the risk of credible allegations of bias, partiality, or unfairness is significantly reduced. If confirmed, I intend to publish a comprehensive document outlining these principles and processes early in my tenure as Inspector General.

4. You have managed teams across DOJ, HUD OIG, and DEA compliance functions. What steps do you take as a leader to improve morale, cohesion, and retention among career staff?

Response: As a leader, it is essential for me to be visible and accessible to all DOJ OIG employees. I have learned that fostering transparency and clearly explaining the rationale behind decisions helps secure team buy-in and leads to more effective execution. When employees are aligned with and believe in the mission and see their leaders interested and engaged in the substance of their work morale improves significantly. The vast majority of federal employees, including those at DOJ OIG, are dedicated to performing their jobs effectively, and supporting their efforts not only enhances their performance but also creates a more positive and productive work environment for everyone.

5. The Bureau of Prisons has faced persistent concerns regarding staffing shortages, inmate safety, contraband, and management failures. What role

should strong oversight play in restoring confidence in the federal prison system?

Response: The OIG plays a vital oversight role in the Bureau of Prisons, conducting audits, inspections, investigations, and reviews aimed at ensuring safety, accountability, efficiency, and integrity within one of the largest and most complex federal components. Through our statutory work under the Federal Prison Oversight Act, we will continue to fulfill our mandate to conduct risk assessments and inspections at BOP facilities.

Through its work, the OIG has identified pervasive challenges, including staffing shortages, contraband interdiction, prevention of sexual abuse, inmate deaths, use of force, medical care deficiencies, deteriorating infrastructure, and the management of billions of dollars in appropriated funds. In recent years, the OIG has issued over 150 recommendations to help the BOP address these issues and better fulfill its mission. Robust oversight in this area not only safeguards taxpayer dollars but also improves institutional safety for staff, inmates, and surrounding communities, while advancing the effective and lawful operation of the federal prison system.

**Nomination of Don Berthiaume
Nominee to be Inspector General for the Department of Justice
Questions for the Record
Submitted May 27, 2026**

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. Please describe DOJ's Office of Inspector General's (OIG) jurisdiction and oversight function.

Response: DOJ OIG possesses broad statutory jurisdiction under the Inspector General Act to conduct audits, inspections, evaluations, reviews, and investigations relating to DOJ programs and operations, including allegations of fraud, waste, abuse, misconduct, and whistleblower retaliation involving FBI employees and contractors. DOJ OIG's jurisdiction generally extends across Department components and personnel, including non-attorney employees and systemic or operational issues affecting Department programs and operations.

2. Please describe DOJ's Office of Professional Responsibility's (OPR) jurisdiction and oversight function.

Response: DOJ OPR's jurisdiction is focused principally on allegations of professional misconduct by Department attorneys that relate to the exercise of an attorney's authority to investigate, litigate, or provide legal advice. By regulation, OPR also may review related misconduct allegations involving law enforcement personnel when those allegations are connected to attorney misconduct within OPR's jurisdiction. See 28 C.F.R. § 0.39a.

3. To what extent do OIG's and OPR's jurisdictions overlap?

Response: While the DOJ OIG and DOJ OPR generally have distinct responsibilities, there are situations where their jurisdictions may overlap. For instance, allegations involving DOJ attorneys may raise questions of professional misconduct while also highlighting broader issues related to management, operations, or systemic deficiencies. A case might involve an attorney's use of legal authority, which could fall under OPR's jurisdiction, while simultaneously exposing concerns about supervisory failures, training gaps, policy compliance, or programmatic weaknesses that may warrant OIG review.

Similarly, allegations such as whistleblower retaliation, personnel misconduct, hiring abuses, time and attendance fraud, procurement irregularities, or other administrative issues involving attorneys could fall under OIG jurisdiction. However, if these matters also relate to the attorney's exercise of investigative, litigative, or legal-advisory functions, they may require OPR involvement as well. Cases involving both prosecutors

and law enforcement personnel may also present overlapping issues that fall within the purview of both offices.

In such instances, DOJ OIG and DOJ OPR have a history of coordinating closely to ensure allegations are addressed by the office best equipped to handle the specific issues, while also avoiding unnecessary duplication of effort.

Additionally, DOJ OPR and DOJ OIG share jurisdiction over whistleblower retaliation complaints filed by FBI employees under 5 U.S.C. § 2303.

4. Are there any gaps where neither OIG nor OPR has jurisdiction to investigate potential misconduct by DOJ personnel? If so, please describe those gaps.

Response: I do not believe that there are gaps where neither OIG nor OPR has jurisdiction. In practice, DOJ OIG and DOJ OPR regularly coordinate and refer allegations. Matters received by one office that fall principally within the jurisdiction of the other are routinely referred or coordinated consistent with statutory authorities, Department regulations, memoranda of understanding, and longstanding Department practice. Further, DOJ OIG and DOJ OPR have worked together historically and is something that I will commit to pursuing where appropriate.

5. Does OIG have authority to investigate OPR? In what circumstances?

Response: OPR is a component of the DOJ and, as such, its operations are part of the Department's programs and operations subject to oversight under the Inspector General Act. While OPR has specific responsibilities under statute and regulation for reviewing certain allegations involving Department attorneys, there may be circumstances in which DOJ OIG has authority to review matters involving OPR's operations, management practices, internal controls, efficiency, compliance with applicable laws and policies, or allegations of misconduct involving OPR personnel. Such reviews would focus on ensuring the integrity, effectiveness, and accountability of Department operations, while recognizing and respecting OPR's assigned role in addressing attorney professional responsibility matters. As with other areas where authorities may intersect, any OIG involvement would be guided by the facts presented, applicable law, and appropriate coordination within the Department.

6. If you are confirmed, will you investigate potential misconduct in OPR if properly predicated?

Response: I am committed to reviewing all allegations to determine whether there is an appropriate avenue for the DOJ OIG to conduct oversight. Any action would need to be consistent with the Inspector General Act, applicable policies, jurisdictional considerations, and the facts and circumstances of the specific allegations.

7. Who is currently the head of OPR?

Response: Deputy Counsel, Suzanne Drouet.

8. Are any career DOJ officials assigned to OPR's staff?

Response: Yes.

Senate Judiciary Committee
Nomination Hearing
May 20, 2026
Questions for the Record
Senator Amy Klobuchar

For Don R. Berthiaume, Jr., nominee to be Inspector General for the Department of Justice

1. Justice Department leadership and the White House have overruled antitrust experts and entered settlements that fail to lower prices and preserve competition, leading to the ouster of former Assistant Attorney General Gail Slater and her top deputy Roger Alford, who warned that cases “are being resolved based on political connections, not the legal merits.”
 - Do you believe the Office of the Inspector General has the ability to investigate whether antitrust enforcement decisions are being made based on improper political pressure?

Response: The Department of Justice’s Office of Professional Responsibility (OPR) is generally responsible for investigating allegations involving the conduct of DOJ attorneys acting in their professional capacity. The Office of the Inspector General (OIG) has jurisdiction over issues involving misconduct by DOJ personnel outside the scope of legal and prosecutorial decisions. To the extent that antitrust enforcement decisions are made by DOJ attorneys in their legal capacities, OPR would likely be the appropriate office to evaluate concerns in this area.

Without speaking to any particular allegation or matter, determinations of jurisdiction are often highly fact-dependent. The DOJ OIG has conducted oversight of allegations that certain decisions by Department attorneys were the product of improper political influence by focusing on the factual circumstances and timing of decisions rather than determining the substantive legal basis for them, in practice these matters required assessment of legal decisions made by government attorneys. Although DOJ OIG will continue to consider such complaints on a case-by-case basis, jurisdiction over allegations that enforcement, litigation, or settlement decisions by Department attorneys were legally insufficient or unsupported by law may be within the statutory jurisdiction of the Office of Professional Responsibility.

- Will you commit to investigating this and other instances of improper political influence being exerted on antitrust enforcement decisions?

Response: I am committed to reviewing all allegations to assess whether they warrant

oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

2. I strongly oppose the Justice Department's creation of a \$1.8 billion fund to reward the President's allies. According to the Department, the fund is not reviewable by a court and does not need Congressional authorization. The Acting Attorney General, who was formerly Donald Trump's personal lawyer, will appoint members administering the fund and there appears to be no standards by which taxpayer dollars can be dispersed.

- Will you commit to a thorough and public investigation of decisions to award funds?

Response: While the specific facts and details of how the fund will function are not yet available, I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

3. Following the killings of Renee Good and Alex Pretti during Operation Metro Surge, the FBI refused to provide the Minnesota Bureau of Criminal Apprehension access to evidence and other materials collected by federal law enforcement. The Department of Justice's failure to cooperate with state law enforcement authorities is inconsistent with longstanding historical practices, and has deprived state law enforcement timely access to evidence that is directly related to their duty to investigate potential violations of Minnesota law.

- State officials have claimed that the failure to cooperate with Minnesota law enforcement was directed by senior federal officials. Will you commit to investigating the decision-making process which resulted in the Department of Justice refusing to cooperate with state law enforcement?

Response: I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

- I have heard from state law enforcement officials who are concerned that the Department of Justice did not properly process evidence in these cases which resulted in spoilage. Will you commit to investigating whether evidence was

properly handled in these cases?

Response: I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

**Nomination of Don Berthiaume to be
Inspector General of the Department of Justice
Questions for the Record
Submitted May 27, 2026**

QUESTIONS FROM SENATOR COONS

1. Do you believe that the Senate Judiciary Committee has a responsibility to evaluate executive nominees to the best of its ability, including by asking questions on the record to make each nominee's unique background and viewpoint clear to the American people?

Response: I would not presume to opine on the responsibilities of the Senate Judiciary Committee, but I am honored to have the opportunity to provide information to the Committee about my background and qualifications.

2. Do you believe that you, as the nominee to serve as Inspector General of the Department of Justice, have a responsibility to the American people to give full and complete answers to the Committee's questions to the best of your ability and in good faith?

Response: Yes.

3. Do you believe you fulfilled this responsibility with the answers you have provided to my questions for the record?

Response: Yes.

- a. Did you receive assistance from staff in the White House, the Department of Justice, or any other organization in writing your responses to these questions? If so, from whom did you receive assistance and what was the nature of the assistance you received?

Response: I wrote all of the answers myself, with the assistance of career officials with DOJ OIG.

4. At any point during the process that led to your nomination, did you have any discussions with anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—about your loyalty to President Trump? If so, please elaborate.

Response: No.

5. If President Trump asked you to do something you judged to be illegal or unethical, would you resign? Please answer yes or no and explain what, specifically, you would do if put in this situation.

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise.

Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

- a. If you would not resign even if President Trump asked you to do something you judged to be illegal or unethical, is there any circumstance that would cause you to resign?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

6. If the Attorney General or another superior at the DOJ asked you to do something you judged to be illegal or unethical, would you resign? Please answer yes or no and explain what, specifically, you would do if put in this situation.

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been

straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

- b. If you would not resign even if the Attorney General or another superior at the DOJ asked you to do something you judged to be illegal or unethical, is there any circumstance that would cause you to resign?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

7. As Inspector General of the Department of Justice, when is it appropriate to refuse to follow a directive from the President?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

8. If confirmed, what procedures would you put in place to avoid politicization of the Office of the Inspector General and ensure consultation with career staff?

Response: The Inspector General is the sole political appointee within the DOJ OIG and must be appointed “without regard to political affiliation and solely on the basis of integrity and demonstrated ability.” The remaining staff are comprised of career officials and government contractors and applicable professional standards, whether those apply to auditors, evaluators, investigators, or attorneys, require career staff throughout the

organization to remain impartial and independent. To maintain public trust and ensure impartiality, the OIG must operate as a strictly neutral, fact-gathering entity. Its role is to report facts accurately, completely, and objectively, and to draw conclusions by applying relevant laws, rules, regulations, policies, or established oversight standards to the evidence gathered during its activities.

By adhering to these principles, the OIG can maintain its independence, achieve objectivity, and provide fair, credible, and valuable oversight that strengthens the Department and reinforces public trust.

9. When it comes to conducting yourself ethically in your profession, who do you see as a role model?

Response: My ethical role model is my mother. From an early age, she taught me the importance of integrity, personal accountability, and always striving to do what is right, even when doing so is difficult or unpopular. That principle has remained a constant guide throughout my personal and professional life.

I have also been fortunate to learn from mentors throughout my career who reinforced those values in practical ways. During my time at the Manhattan District Attorney's Office, senior prosecutors and supervisors impressed upon me the importance of following the law faithfully, exercising prosecutorial discretion responsibly, and approaching every matter with fairness and objectivity. In addition, a now retired New York State Police investigator, with whom I worked closely, who mentored me emphasized the importance of honesty, professionalism, and doing the right thing even when no one is watching. Collectively, those influences helped shape my approach to public service and my commitment to ethical, principled decision-making.

10. If confirmed, will you commit to conducting your duties as Inspector General according to your best professional judgment, independent from political pressure and influence?

Response: Yes.

11. If confirmed, what criteria would you use to determine whether your office should initiate an audit into certain conduct at DOJ?

Response: When opening a new matter, the OIG must exercise disciplined judgment to focus its limited resources on areas that deliver the greatest institutional value, enhance public confidence, and improve Department operations. Effective oversight begins by evaluating whether a matter falls within the OIG's statutory jurisdiction or is specifically assigned to the OIG by law, regulation, or directive. Jurisdiction is fundamental, as the OIG must refrain from addressing matters outside its lawful authority, is a management function, or those delegated to other actors in the Executive Branch. It must also determine whether it is the appropriate body to address the issue or if another mechanism, such as administrative processes, component management, the judiciary, or other oversight entities, is better suited to resolve the matter or provide the relief sought.

A credible factual basis is essential before committing resources to any inquiry. Decisions must be grounded in objective evidence or reliable information, not speculation, general dissatisfaction with policy outcomes, or unsupported disagreements. The presence of articulable facts that indicate the need for further investigation helps ensure the integrity of the oversight process and the responsible allocation of resources.

The OIG's efforts should focus on matters that present significant operational, accountability, or institutional risks. Systemic vulnerabilities, recurring misconduct, or issues that threaten public trust are prioritized, as they often provide opportunities for broader institutional learning and sustainable corrective actions. Although isolated or temporary issues may occasionally warrant attention, the primary goal is to address challenges that strengthen internal controls and deliver broader improvements to Department operations.

Practicality and timeliness are also critical considerations. Oversight must aim to produce actionable, realistic, and timely recommendations that address key problems and lead to tangible reforms. Delays can diminish the value of oversight if opportunities for meaningful corrective action have already passed.

Recognizing that the OIG cannot investigate every one of the tens of thousands of allegations it receives, or audit every potential risk within Department programs and operations, the office must to deploy resources strategically. Instead, it identifies situations where independent review is most critical, balancing competing priorities and considering whether alternative mechanisms may resolve the issue more effectively. Independence allows for this discretion to ensure the most significant matters are addressed.

Ultimately, the decision to open a new matter is not dictated by any single factor. Emerging risks, significant public interest, or unique circumstances may also influence the OIG's determination. Every decision must align with its mission, statutory responsibilities, and overarching commitment to integrity, accountability, and effective oversight.

12. If confirmed, what criteria would you use to determine whether your office should initiate a civil investigation into certain conduct at DOJ?

Response: The criteria I identified in question 11 applies equally to how my office will decide whether to open an administrative (civil) investigation into certain conduct at DOJ.

13. If confirmed, what criteria would you use to determine whether your office should initiate a criminal investigation into certain conduct at DOJ?

Response: If confirmed, I plan on following OIG's internal policies to ensure proper classification and handling of complaints. According to these guidelines, a complaint can

be classified as an OIG investigation only after careful evaluation of specific criteria. Investigations will focus on allegations that constitute violations of federal or state criminal laws with a reasonable likelihood of resulting in prosecution. While off-duty, non-work-related misconduct is typically not included unless extenuating circumstances arise, matters of significant criminal nature will be appropriately addressed.

14. What role, if any, would direction or influence from President Trump, the Attorney General, other superiors at DOJ, or other political actors or forces have in your decision whether or not to pursue an audit or investigation?

Response: While I would not speculate that such a direction or influence would occur, the OIG operates most effectively when it maintains both operational independence and professional relationships with the Department components it oversees—principles that complement, rather than contradict, one another. Under the IG Act, the OIG has full authority to determine what matters to review, how to conduct its work, what evidence to gather, and what findings and recommendations to issue. These decisions must remain independent, objective, and grounded solely in facts, the law, and the OIG’s statutory mission.

At the same time, effective oversight relies on constructive engagement with the Department and its components, which provide the operational expertise, institutional knowledge, and access to information and personnel necessary for thorough and accurate reviews. Professional relationships built on mutual respect, timely communication, and appropriate information sharing enhance the efficiency of OIG’s independent reviews, improve factual accuracy, and support the development of meaningful recommendations.

Consistent with its mission and investigative integrity, the OIG should maintain open lines of communication with Department leadership and personnel. Such engagement can facilitate access to records and witnesses, improve understanding of operational realities, reduce unnecessary disruption to Department work, and promote the implementation of corrective actions based on OIG recommendations.

However, professional cooperation must never compromise the OIG’s independence or its obligation to conduct objective oversight. Coordination cannot permit interference with the OIG’s investigative judgments or findings. The OIG’s role is not to shield the Department from criticism or pursue it unnecessarily but to deliver fair, evidence-based oversight that strengthens Department programs and operations while promoting public confidence in the administration of justice.

Operational independence does not mean institutional isolation. The most effective oversight occurs when the OIG exercises its authority independently while maintaining professional, transparent, and constructive relationships with the Department components it oversees.

- a. If you wanted to pursue an audit or investigation, but President Trump, the Attorney General, or another superior at DOJ asked you not to, what would you do next?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. For example, the Inspector General Act outlines the specific, limited circumstances under which the Attorney General may curtail the Inspector General's otherwise broad authority to independently initiate, conduct, and supervise investigations and reviews, as well as associated Congressional reporting requirements. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

- b. If President Trump, the Attorney General, or another superior at DOJ asked you to pursue an audit or investigation that you believed was unwarranted, what would you do next?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, CIGIE's Quality Standards for Conducting Oversight, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

15. I am very concerned about the creation of the nearly \$1.8 billion "Anti-Weaponization Fund" announced by DOJ on May 18, 2026, from a settlement agreement in *Trump v. Internal Revenue Service*. This slush fund represents waste, fraud, and abuse of an unprecedented magnitude and must be subjected to independent scrutiny. If confirmed, will you commit to conducting a thorough and independent investigation of the creation and implementation of this fund?

Response: While the specific facts and details of how the fund will function are not yet available, I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

16. As you know, inspectors general are statutorily obligated to prevent and detect waste, fraud, and abuse at their agencies. In 2022, Congress passed a law saying that, at least 30 days before removing an inspector general, the President must provide Congress with a “substantive rationale, including detailed and case-specific reasons.” But President Trump fired 19 inspectors general within his first month back in office, with no notice to Congress and no justification for his decisions.

- a. Given that President Trump had been in office for less than 30 days at the time of these firings, do you think President Trump’s decision to fire these inspectors general broke the law?

Response: In *Storch v. Hegseth*, the court generally determined that the President had the authority to remove the Inspectors General but did not provide the required 30-day notice to Congress under the IG Act.

- b. In the meantime, the Trump administration claims it has begun a “war on fraud.” Does unlawfully firing inspectors general without a substantive rationale indicate a commitment to fighting fraud in federal agencies?

Response: Inspectors General appointed under 5 U.S.C. § 403 are removable by the President. I do not have personal knowledge of the reasons why the President exercised that authority and am not in a position to opine on the matter.

- c. According to an April 2026 analysis by the Cato Institute, “[n]early 40 percent of IG positions—28 out of 72—are currently vacant, with 22 of the vacancies already lasting more than a year. The Social Security Administration spends \$1.8 trillion a year, yet it has not had an IG for a year and a half. The Department of the Treasury has not had an IG for more than six years.” Do you think that the Trump administration should prioritize filling these vacancies in order to help fight waste, fraud, and abuse at agencies?

Response: I firmly believe that Inspectors General play a vital role in ensuring accountability, transparency, and the effective administration of government functions across federal agencies. While career executive staff play a critical role in maintaining OIG operations, OIGs are most impactful and consistent when entrusted to permanent, confirmed Inspectors General who can provide stability and long-term strategic vision to the important oversight work of their offices.

Questions for the Record for Don Berthiaume, Jr.
Submitted by Senator Richard Blumenthal
May 27, 2026

1. In December—when it became clear that DOJ had failed to fully comply with the Epstein Files Transparency Act—Sen. Murkowski and I led ten of our colleagues and wrote to your office requesting an audit of the Department’s file release. In April, the office announced it was opening that audit. I appreciate that announcement, but scope and timing matter.

a. What scope and methodology do you plan for the audit, and how quickly do you expect to be able to complete it?

Response: The OIG is auditing the Department of Justice’s (DOJ) compliance with the Epstein Files Transparency Act. Our preliminary objective is to evaluate the DOJ’s processes for identifying, redacting, and releasing records in its possession as required by the Act. To accomplish this preliminary objective, the OIG plans to focus on reviewing (1) the DOJ’s identification, collection, and production of responsive material; (2) DOJ guidance and processes for redacting and withholding material consistent with the requirements enumerated in the Act; and (3) DOJ’s processes for addressing post-release publication concerns. If circumstances warrant, the OIG will consider addressing other issues that may arise during the course of the audit.

b. If the scope and methodology remain under consideration, will you commit to briefing the Senate Judiciary Committee about scope and methodology once they are determined?

2. Reporting indicates that Kash Patel has frequently gotten so drunk that he is unable to perform his duties as FBI Director, to the point where his morning meetings have been rescheduled and his security team has had trouble waking him. At one point, SWAT-style breaching equipment was reportedly called for when Patel was unreachable behind locked doors. His reportedly spotty attendance at the office has caused delays in decision making in ongoing investigations.

Moreover, Director Patel has blurred the lines between personal and professional life: he attended the Olympics and went on a “VIP snorkel” tour at the hallowed location of the Pearl Harbor memorial—swimming next to the U.S.S. Arizona, which holds the remains of more than 900 Navy sailors and Marines who died at Pearl Harbor—both while on purported work travel.

We are fortunate that a terror attack, mass shooting, or assassination did not occur while Patel was intoxicated or unreachable—but these allegations leave me deeply concerned about his ability to continue serving in the role. Earlier this week, I wrote to OIG, requesting an investigation into these allegations.

- a. If confirmed, will your office conduct a thorough investigation into the allegations that Director Patel's drinking and absences have interfered with his ability to perform his role?

Response: I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

3. Recent reporting has also indicated that Director Patel has artificially inflated the FBI's arrest statistics and manipulated the Bureau's Most Wanted list to create the appearance of progress.

- a. If confirmed, will your office conduct a thorough investigation into the allegations that Director Patel has manipulated arrest statistics and the FBI's Most Wanted list?

Response: I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

4. In January of this year, Donald Trump sued the I.R.S. over the disclosure of his tax returns by a government contractor. Career attorneys at the I.R.S. were prepared to support a robust defense, and the judge presiding over the case expressed skepticism about whether the suit could even go forward. But before the judge could issue a ruling, Donald Trump's personal lawyers dismissed the action.

Trump's attorneys appear to have colluded with the political leadership of the Department of Justice to create a slush fund for victims of "weaponization." The so-called "settlement agreement" between President Trump and the I.R.S. does not specify any controls on distribution of funds to prevent fraud—or even require publication of claims or recipients.

- a. If confirmed, will your office prepare a report on the criteria governing distributions from this fund and oversight processes guarding against fraudulent distributions?

Response: I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

**Senator Mazie K. Hirono
Senate Judiciary Committee**

**Nomination Hearing
Questions for the Record for Don R. Berthiaume**

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
 - a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

Response: No.

- b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

Response: No.

Nomination of Don R. Berthiaume, Jr.
Inspector General, U.S. Department of Justice
Questions for the Record
Submitted May 27, 2026

QUESTIONS FROM SENATOR BOOKER

1. If you are confirmed to the role of Inspector General for the Department of Justice (DOJ), what are your key priorities for the office?

Response: My initial priority is to enhance transparency in the operations of the DOJ OIG by publicly sharing the criteria that will guide decisions on whether to initiate audits, investigations, evaluations, or reviews. Another key focus is implementing internal measures to ensure that OIG work is conducted in a timely manner. Timeliness is essential to the effectiveness of oversight, as delays can diminish the relevance of findings and hinder the opportunity for meaningful change in addressing misconduct or institutional deficiencies. Timely investigations facilitate corrective action, protect against ongoing harm, and promote fairness by resolving allegations efficiently, thereby minimizing unnecessary uncertainty and reputational risks. However, while prioritizing timeliness, it remains imperative to uphold the highest standards of accuracy, completeness, and fairness, requiring OIG personnel to carefully balance promptness with rigorous, well-supported findings and to proactively manage internal processes to prevent delays.

2. On April 23, 2026, in response to a December 24, 2025 bipartisan letter from myself and other Senators expressing concern with DOJ's violations of and flawed implementation of the *Epstein Files Transparency Act* (EFTA), the Office of the Inspector General (OIG) announced that it had initiated an audit of DOJ's compliance with EFTA, with the preliminary objective of evaluating the DOJ's processes for identifying, redacting, and releasing records in its possession as required by the Act.¹
 - a. Why did OIG initiate this audit? Describe the factors considered when making the determination to initiate the audit.

Response: During my tenure as Acting Inspector General, Congress passed the EFTA. Following its passage, I carefully evaluated several key factors, including whether the OIG had jurisdiction to conduct the audit, whether it was the appropriate entity to perform the work, the significance of the issue to Congress and the public, the availability of resources, and our ability to deliver a timely report.

- b. What factors warranted initiating an audit into DOJ's compliance with EFTA as opposed to opening an investigation conducted by OIG's Oversight and Review Division?

¹ Press Release, Dep't of Justice, *DOJ OIG Announces Initiation of Audit* (Apr. 23, 2026), <https://oig.justice.gov/sites/default/files/2026-04/4-23-2026.pdf>.

Response: The OIG has several tools to effectively fulfill its oversight responsibilities. Conducting audits is often a timely and efficient method for assessing the Department's compliance with applicable laws while also providing the OIG access to critical information. In addition to evaluating compliance, audits enable the OIG to perform root-cause analyses and produce publicly available reports, even when analyzing large data sets.

- c. What role did you play in the decision-making relating to whether to initiate this audit?

Response: As mentioned earlier, I made the decision early on that an audit should be initiated assessing the Department's compliance with the EFTA. However, I determined that the audit would commence at the appropriate time, so that the OIG's oversight would not hinder or slow the Department's release of the information. The announcement of the initiation of the audit occurred after my tenure as Acting Inspector General concluded.

- d. Did your upcoming confirmation hearing have any bearing on the decision to initiate this audit?

Response: No.

3. The Office of the Inspector General was created in 1989 as an independent entity in DOJ. Its mission is to promote the rule of law through objective, independent oversight of DOJ by detecting and deterring waste, fraud, and abuse in Department programs and misconduct by Department personnel.²
 - a. Describe the steps you will take, if confirmed, to ensure that OIG remains independent from political interference, including interference from officials within the Department itself?

Response: The Inspector General is the sole political appointee within the DOJ OIG and must be appointed "without regard to political affiliation and solely on the basis of integrity and demonstrated ability." The remaining staff are comprised of career officials and government contractors and applicable professional standards, whether those apply to auditors, evaluators, investigators, or attorneys, require career staff throughout the organization to remain impartial and independent. To maintain public trust and ensure impartiality, the OIG must operate as a strictly neutral, fact-gathering entity. Its role is to report facts accurately, completely, and objectively, and to draw conclusions by applying relevant laws, rules, regulations, policies, or established oversight standards to the evidence gathered during its activities.

By adhering to these principles, the OIG can maintain its independence, achieve objectivity, and provide fair, credible, and valuable oversight that strengthens the Department and reinforces public trust.

² Organization, Mission, and Functions Manual, Office of the Inspector General, <https://www.justice.gov/doj/office-inspector-general>.

- b. If any official in the Department of Justice directs you to take an illegal action, an action that is outside the scope of your authority, or one that is inconsistent with the independence of your office, how would you respond? Would you publicly disclose such a directive?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

Further, the Inspector General Act reflects Congress's judgment that Inspectors General must be able to conduct oversight independently and without improper influence. Consistent with that framework, the Act requires Inspectors General to keep Congress fully and currently informed of problems and deficiencies relating to the administration of agency programs and operations, including situations where an Inspector General is prevented or prohibited from carrying out oversight responsibilities. If confirmed, I will take that obligation seriously. Should I encounter interference that materially impairs the OIG's ability to conduct its work, obtain necessary information, or report its findings, I will evaluate the matter consistent with the Inspector General Act and my legal obligations, and I will ensure that Congress receives any notifications required by law.

- c. If any member of the Trump Administration, including the President, directs you to take an illegal action, an action that is outside the scope of your authority, or one that is inconsistent with the independence of your office, how would you respond?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

Further, the Inspector General Act reflects Congress's judgment that Inspectors General must be able to conduct oversight independently and without improper influence. Consistent with that framework, the Act requires Inspectors General to keep Congress fully and currently informed of problems and deficiencies relating to the administration of agency programs and operations, including situations where an Inspector General is prevented or prohibited from carrying out oversight responsibilities. If confirmed, I will take that obligation seriously. Should I encounter interference that impairs the OIG's ability to conduct its work, obtain necessary information, or report its findings, I will evaluate the matter consistent with the Inspector General Act and my legal obligations, and I will ensure that Congress receives any notifications required by law.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
"Nominations"**

May 20, 2026

Questions for Richard Berthiaume Jr. (Department of Justice Inspector General Nominee):

1. If the Attorney General or anyone from the White House called you and instructed you to close an active investigation, what would you do?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

Further, the Inspector General Act reflects Congress's judgment that Inspectors General must be able to conduct oversight independently and without improper influence. Consistent with that framework, the Act requires Inspectors General to keep Congress fully and currently informed of problems and deficiencies relating to the administration of agency programs and operations, including situations where an Inspector General is prevented or prohibited from carrying out oversight responsibilities. If confirmed, I will take that obligation seriously. Should I encounter interference that materially impairs the OIG's ability to conduct its work, obtain necessary information, or report its findings, I will evaluate the matter consistent with the Inspector General Act and my legal obligations, and I will ensure that Congress receives any notifications required by law.

2. Since 1998, the OIG has issued a yearly report entitled "Top Management and Performance Challenges Facing the Department of Justice" which detailed the challenges the Justice Department faces in maintaining public trust. The 2025 report omitted the subsection dedicated to protecting the DOJ from political influence.
 - a. Why was that section removed?

Response: The 2025 "Top Management and Performance Challenges Facing the Department of Justice" was drafted prior to my arrival in October 2025, although it was not publicly released until January 2026 given the impact of the shutdown and the resulting delayed release of the Department's Agency Financial Report. The "final" draft

that I reviewed did not contain the referenced subsection. Consistent with my testimony before the Committee, I commit to considering, in consultation with career staff, whether or not that needs to be replaced into that report.

b. Will you commit to restoring the removed section?

Response: I will consider including such a section in the next iteration of the Top Management and Performance Challenges Facing the Department of Justice.

c. If you cannot commit to restoring the removed section, what criteria will you use to determine the necessity or utility of including a “political influence” section each year?

Response: In determining the necessity or utility of including a section on “political influence,” I will consider several factors, including the significance and recurrence of concerns related to political influence on Department activities, input from key stakeholders, and whether specific developments or trends raise sufficient questions about the Department's ability to maintain impartiality and public trust. Additionally, I will evaluate the extent to which including such a section would meaningfully contribute to transparency and public accountability, while aligning with the broader goals of the report in addressing the most critical management and performance challenges facing the Department of Justice.

3. Prior to your nomination hearing, Acting Attorney General Todd Blanche appeared on Fox News and stated that “there's a ton of evidence that the election was rigged” and that investigators are “very focused on finding out whether the right people voted.”

a. Do you accept that the 2020 presidential election was free and fair, and that Joe Biden was the legitimate winner of that election?

Response: I believe the 2020 presidential election was conducted in accordance with the Constitution. The votes were counted, the results were certified by Congress, and Joseph R. Biden was declared the winner of the election.

b. Do you agree with the Attorney General that there is “tons of evidence the election was rigged?”

Response: I have not personally investigated or reviewed any evidence related to the 2020 election. As such, I am not in a position to comment on or assess the accuracy of the Acting Attorney General's comments.

c. What role will the DOJ OIG play to ensure that the Department does not initiate an open-ended investigation into a free, fair, and settled election with clear, legitimate results?

Response: Under the Inspector General Act, the DOJ OIG is an independent oversight entity responsible for conducting audits, inspections, investigations, and reviews to promote efficiency and integrity within the Department of Justice. However, the DOJ OIG does not dictate Department policy or make decisions related to the initiation or conduct of Department investigations. Specifically, Section 8E of the IG Act outlines the OIG's role within the DOJ and distinguishes its oversight function from prosecutorial or policy decision-making.

4. The following are yes or no questions related to the 2020 election:

- a. According to Wisconsin's certified 2020 General Election results, did Joe Biden receive more than 19,000 votes more than Donald Trump?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

- b. According to Pennsylvania's certified 2020 General Election results, did Joe Biden receive more than 80,000 votes more than Donald Trump?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

- c. According to Georgia's certified 2020 General Election results, did Joe Biden receive more than 11,000 votes more than Donald Trump?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

- d. According to Arizona's certified 2020 General Election results, did Joe Biden receive more than 40,000 votes more than Donald Trump?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

- e. According to Nevada's certified 2020 General Election results, did Joe Biden receive more than 20,000 votes more than Donald Trump?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

- f. According to Michigan's certified 2020 General Election results, did Joe Biden receive more than 154,000 votes more than Donald Trump?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

- g. Based on your answers to questions 5(a) through 5(f), did Joe Biden win more votes than Donald Trump in each of those six states?

Response: I have not reviewed the specific certified election results from 2020 General Election and therefore cannot speak to the exact vote totals or margins. However, I acknowledge that the results were certified by the appropriate authorities in accordance with applicable laws and processes.

5. Do you have any reason to believe that the outcome of any state's presidential vote was impacted by irregularities or fraud? If so, please explain.

Response: I have not conducted an independent review of election-related allegations, and as the nominee for Inspector General, I believe it is appropriate to respect the outcome reached through the constitutionally established process.

6. On January 7, 2021, a joint session of Congress certified 306 electoral votes for Joseph Biden and 232 electoral votes for Donald Trump. Joe Biden received more votes than Donald Trump across 25 states, DC, and NE-02 in the 2020 election.

- a. Do you have any reason to believe that Congress was wrong to certify each states' electoral votes?

Response: I have no reason to believe Congress erred in certifying the electoral votes submitted by the states in the 2020 election. The Constitution and federal law establish the process for the counting and certification of electoral votes, and Congress completed that process. I have not conducted an independent review of election-related allegations, and as the nominee for Inspector General, I believe it is appropriate to respect the outcome reached through the constitutionally established process.

7. More than 60 federal and state courts, including courts presided over by judges appointed by Republican presidents, dismissed legal challenges to the 2020 presidential election results for lack of evidence, lack of standing, or lack of merit.

- a. Do you have any reason to believe that any of those courts reached the wrong conclusion?

Response: I have not examined any of the cases related to election fraud from the 2020 presidential election. As such, I have no basis to assess or form an opinion on whether any of the courts reached the wrong conclusion in those cases.

- b. Do you have any reason to believe that any one of those judges -- many of whom were appointed by Republican presidents, including President Trump -- acted improperly or in bad faith in dismissing those challenges?

Response: I have not examined any of the cases related to election fraud from the 2020 presidential election. As such, I have no basis to assess or form an opinion on whether any of the courts reached the wrong conclusion in those cases.

8. Have you ever, publicly or in an official capacity, questioned or disparaged: (i) the legitimacy of the 2020 presidential election results; (ii) Congress's January 6, 2021 certification of those results; or (iii) any federal or state court ruling rejecting legal challenges to those results? If so, please explain.

Response: (i) No; (ii) No; and (iii) No.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Don Berthiaume
Hearing on “Nominations”
Wednesday, May 20, 2026

1. Please explain your view of the jurisdictional divide between DOJ’s Office of Inspector General and Office of Professional Responsibility?

Response: DOJ OPR and DOJ OIG serve distinct but sometimes complementary oversight functions within the Department of Justice. DOJ OPR’s jurisdiction is focused principally on allegations of professional misconduct by Department attorneys that relate to the exercise of an attorney’s authority to investigate, litigate, or provide legal advice. By regulation, OPR also may review related misconduct allegations involving law enforcement personnel when those allegations are connected to attorney misconduct within OPR’s jurisdiction. See 28 C.F.R. § 0.39a.

By contrast, DOJ OIG possesses broader statutory jurisdiction under the Inspector General Act to conduct audits, inspections, evaluations, and investigations relating to DOJ programs and operations, including allegations of fraud, waste, abuse, misconduct, and whistleblower retaliation involving FBI employees and contractors. DOJ OIG’s jurisdiction generally extends across Department components and personnel, including non-attorney employees and systemic or operational issues affecting Department programs and operations.

The jurisdictional distinction is often summarized as follows:

- DOJ OPR primarily examines whether Department attorneys complied with their professional and ethical obligations in carrying out investigative, litigation, or legal advisory functions.
- DOJ OIG primarily examines misconduct, fraud, abuse, systemic failures, operational deficiencies, and retaliation affecting DOJ programs and operations.

Although the jurisdictions are distinct, they are not always mutually exclusive. Certain matters may involve overlapping equities. For example, a matter involving prosecutorial misconduct, investigative misconduct, systemic management failures, or whistleblower retaliation could implicate both OPR’s attorney-misconduct jurisdiction and OIG’s broader oversight authorities. In such circumstances, DOJ OIG and DOJ OPR coordinate regarding venue, scope, and responsibility to avoid duplication and ensure matters are

handled by the entity best positioned under applicable statutes, regulations, and Department policy.

In practice, DOJ OIG and DOJ OPR maintain regular coordination and referral processes. Matters received by one office that fall principally within the jurisdiction of the other are routinely referred or coordinated consistent with statutory authorities, Department regulations, and longstanding Department practice.

Importantly, the DOJ OIG's jurisdictional limitations are provided under the Inspector General Act of 1978, as amended. Under that statutory construct, DOJ OIG's statutory jurisdiction does not supplant DOJ OPR's responsibility for reviewing attorney professional misconduct, nor is DOJ OPR intended to function as the Department's primary systemic oversight body. Rather, the two offices perform different but complementary oversight functions.

2. Do you commit to consider opening an investigation based on the request, with sufficient predicate, from any member of this committee, even if the Chairman or Ranking Member is not a party to the request?

Response: I will assess all requests from any member of Congress and will conduct careful assessment of any request to understand the concerns expressed and whether OIG oversight, be it an investigation, audit, evaluation, inspection, or other review, is appropriate.

3. You wrote in your Questionnaire that, while serving as Acting Inspector General, you were the "final decider on OIG investigations and broader oversight priorities." During your nominations hearing, you told Senator Durbin that it "has come to [your] attention" that OIG has not been responding to requests from members of this committee for oversight and that you "plan on changing that." While the Acting Inspector General, has the Department of Justice (DOJ) Office of the Inspector General delayed, narrowed, improperly closed, or declined to open any review, audit, inspection, investigation, or preliminary inquiry? Please explain.

Response: As Acting Inspector General, I followed the established processes and procedures already in place for conducting OIG business and did not make changes to the office's oversight priorities. While I served as the final decision-maker on OIG actions, I adhered to the same process as my predecessors by consulting with the Front Office career staff and, when appropriate, the Assistant Inspectors General or the appropriate teams for the Audit, Evaluations and Inspections, Investigations, and Oversight and

Review divisions regarding decisions to open new matters, decline to open new matters, close preliminary reviews.

With respect to untimely responses to Congress, I was surprised to learn that in many instances, the OIG did not respond to Congressional inquiries. I believe it is imperative for the OIG to respond to Congressional letters and will endeavor to do so if confirmed.

4. On Monday, May 18, 2026, the Department of Justice announced that, as part of a settlement agreement in *Trump v. Internal Revenue Service*, the Attorney General would establish “The Anti-Weaponization Fund,” a diversion of \$1.776 billion from the DOJ Judgment Fund. Do you commit to conducting an investigation into how the Department of Justice addressed conflicts of interest and the U.S. Constitution’s separation of powers in arriving at the settlement and the announcement of the Fund?

Response: I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

Questions for the Record

Sen. Adam Schiff (CA)

Don Berthiaume, Nominee to be Inspector General of the Department of Justice

1. Congress and the Department of Justice (DOJ) Inspector General sometimes conduct investigations that run concurrently. Given the egregious examples of misconduct within DOJ under the Trump Administration, this will likely continue to be the case during your tenure if confirmed. How will you work collaboratively with this Committee to investigate allegations of misconduct at the DOJ?

Response: I believe it is important for the DOJ OIG to be collaborative where appropriate. If confirmed, I would seek to ensure the DOJ OIG sought to maintain a professional, transparent, and responsive relationship with this committee to the extent allowed by law. I will ensure that the OIG keeps Congress appropriately informed through semiannual reports, audits, inspections, evaluations, management advisories, briefings, and other appropriate communications, while also responding in a timely and professional manner to legitimate oversight requests. At the same time, the OIG must preserve its operational independence and protect the integrity of ongoing investigations, whistleblower protections, classified information, grand jury material, and other legally protected or sensitive information. Accordingly, I would evaluate requests for non-public or ongoing investigative information on a case-by-case basis consistent with the Inspector General Act, applicable legal restrictions, and longstanding Department policies and practices.

2. What commitments can you make to keep this Committee informed as to investigations and audits that the DOJ Office of Inspector General (OIG) is conducting?

Response: I am committed to maintaining a professional, transparent, and responsive relationship with this Committee in accordance with the Inspector General Act and applicable law. I fully pledge to meet the requirements of the Inspector General Act, including providing congressional committees of jurisdiction with OIG reports within three days of issuance and keeping Congress appropriately informed through semiannual reports, audits, inspections, evaluations, management advisories, briefings, and other relevant communications. Additionally, I will respond to oversight requests in a timely and professional manner.

At the same time, it is critical for the OIG to preserve its operational independence and uphold the integrity of ongoing investigations, as well as to protect whistleblower identities, classified information, grand jury materials, and other legally protected or sensitive information. In light of these obligations, I will evaluate requests for non-public or ongoing investigative information on a case-by-case basis, ensuring compliance with the Inspector General Act, applicable legal restrictions, and established Department policies and practices.

3. What authorities does the OIG have to investigate political appointees?

Response: The DOJ OIG’s jurisdiction generally extends to allegations of fraud, waste, abuse, misconduct, and other improper activities involving DOJ programs and operations, including allegations involving political appointees. The applicable jurisdictional question ordinarily turns on the nature of the conduct at issue, not the employee’s status as a political appointee. Certain allegations involving DOJ attorneys acting in their capacities to investigate, litigate, or provide legal advice may fall within the jurisdiction of DOJ OPR under applicable statutes and regulations.

4. Does the OIG have less authority to investigate political appointees compared to career personnel?

Response: No.

5. Will you commit to contacting the Senate Judiciary Committee if the OIG faces political interference?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. However, the Inspector General Act reflects Congress’s judgment that Inspectors General must be able to conduct oversight independently and without improper influence. Consistent with that framework, the Act requires Inspectors General to keep Congress fully and currently informed of problems and deficiencies relating to the administration of agency programs and operations, including situations where an Inspector General is prevented or prohibited from carrying out oversight responsibilities. If confirmed, I will take that obligation seriously. Should I encounter interference that impairs the OIG’s ability to conduct its work, obtain necessary information, or report its findings, I will evaluate the matter consistent with the Inspector General Act and my legal obligations, and I will ensure that Congress receives any notifications required by law.

6. The term “weaponization” comes up often. What does “weaponization” mean in the DOJ context?

Response: The term “weaponization” is not defined in the Inspector General Act or other statutes governing the DOJ OIG’s jurisdiction or operations. However, as outlined in Executive Order 14147, "weaponization" generally refers to the use of the federal government to target perceived political opponents through investigations, prosecutions, civil enforcement actions, or similar activities.

7. Are you currently investigating any allegations of “weaponization” by the DOJ?

Response: As noted above, the term “weaponization” is not defined by the Inspector General Act or other authorities governing DOJ OIG’s jurisdiction or operations. In addition, consistent with requirements of the Justice Manual, DOJ OIG is unable to confirm, deny, or comment on the existence or status of any such investigations.

8. Last week, the Acting Attorney General announced the formation of a \$1.776 billion fund of taxpayer money via the Judgment Fund to pay to victims of so-called “weaponization” while also granting the President and his family immunity for any tax debts. Does the OIG have authority to investigate how those public funds are distributed?

- a. If not, what authority would you need?

Response: While the specific facts and details of how the fund will function are not yet available, I am committed to reviewing all allegations to assess whether they warrant oversight by the DOJ OIG. Any action taken would be guided by the Inspector General Act, applicable policies, jurisdictional factors, and a careful consideration of the facts and circumstances surrounding the specific allegations.

9. You participated in the OIG investigation into Crossfire Hurricane. Do you agree that the OIG report concluded that there was no evidence the investigation of President Trump was motivated by anti-Trump or political bias?

Response: The report, which was over 200 pages, concluded that the OIG “did not find documentary or testimonial evidence that political bias or improper motivation influenced” the FBI’s decision to open the Crossfire Hurricane investigation or the related individual investigations. However, the report did not make an affirmative finding that bias played no role whatsoever, nor did it conclude that all investigative decisions were proper or free from serious error.

To the contrary, the report identified significant failures in the FBI’s handling of the Carter Page FISA applications, including at least 17 significant inaccuracies and omissions, serious performance failures, and breakdowns in supervisory oversight and compliance with FBI procedures. The report therefore drew an important distinction between the OIG not finding sufficient evidence that political bias drove the opening of the investigation, and the OIG’s separate findings that aspects of the investigation and FISA process reflected serious errors and unacceptable conduct that warranted substantial corrective action.

10. You served for several months as Acting Inspector General, but today you are currently in a different role as Senior Advisor. Why did you give up the Acting Inspector General role?

Response: My service as Acting Inspector General was governed by the Inspector General Act, which incorporates the timing and limitations of Federal Vacancies Reform Act (FVRA). The FVRA establishes the framework under which certain officials may temporarily perform the functions and duties of a vacant presidentially appointed, Senate-confirmed office, including imposing a 210-day limit on acting service that begins on the date the vacancy arises. As Acting Inspector General, I understood my role to be temporary and bounded by those statutory authorities while continuing to carry out the independent oversight responsibilities assigned to the Office of Inspector General under the Inspector General Act.

- a. Did the Federal Vacancy Reform Act prevent you from continuing on as Acting Inspector General?

Response: Yes. As noted above, the FVRA imposes a 210-day limit on acting service that begins on the date the vacancy arises (i.e., on June 30, 2025, the effective date of Michael Horowitz’s resignation from DOJ OIG). In addition, in *NLRB v. SW General Inc.*, 580 U.S. 288 (2017), the Supreme Court interpreted the FVRA to prohibit service by a nominee in an acting capacity during the pendency of his nomination. Although *SW General* interpreted the FVRA, not the provisions of the IG Act incorporating its timing and limitations, I obtained guidance from counsel to determine the approach that was most prudent and consistent with the letter and spirit of the law.

- b. What is the remedy when an official continues past their time as an Acting under the Federal Vacancy Reform Act?

Response: The Vacancy Reform Act contains an enforcement mechanism providing that certain actions taken by an improperly serving acting official in connection with non-delegable “functions or duties” of a vacant PAS office may have no force or effect and may not be ratified. However, acting Inspectors General are appointed pursuant to the Inspector General Act, which incorporates or is interpreted in conjunction with portions of the FVRA. Notably, while the remedy under 5 U.S.C. § 3348 is to void certain actions of an individual improperly serving in an acting capacity, 5 U.S.C. § 3348(e)(3) specifically exempts Presidentially-appointed Senate-confirmed Inspectors General from that remedy.

- c. What authority does the OIG have to investigate appointments in violation of the Federal Vacancy Reform Act and their negative consequences?

Response: The DOJ OIG’s authorities are established by the Inspector General Act, which generally authorizes the OIG to conduct audits, investigations, inspections, and reviews relating to DOJ programs and operations. Depending on the facts and circumstances presented, that authority may extend to reviewing issues involving compliance with applicable laws, regulations, and Department procedures, including matters that could affect the integrity or operation of the Department. Any decision to undertake such a review would depend on a variety of factors, including jurisdiction, venue, the nature of the allegations, the factual predicate available, the OIG’s statutory authorities, and the existence of other appropriate legal, administrative, or judicial review mechanisms.

- d. Could the OIG audit which decisions by DOJ appointees were null and void because they came from officials who were illegally in an acting position?

Response: This would be very case specific. Questions regarding the ultimate legal validity or enforceability of particular decisions would likely involve significant legal and constitutional considerations and may also fall within the role of the courts, Department

leadership, or other appropriate authorities. Any decision to undertake such a review would depend on OIG's jurisdiction, the factual predicate presented, the nature of the alleged consequences, and the existence of other appropriate review or remedial mechanisms.

11. Allegations of misconduct by DOJ attorneys can be investigated by both your office and the Office of Professional Responsibility (OPR). How do you view the relationship between your office and OPR?

a. As of May 27, 2026, who is currently the senior career official in charge of OPR?

Response: Deputy Counsel, Suzanne Drouet.

b. As of May 27, 2026, who is the political appointee leading OPR?

Response: My understanding is that OPR presently is led by career Deputy Counsel, Suzanne Drouet.

c. Do you know whether that political appointee has rejected or overturned any recommendations of professional misconduct by career staff at OPR?

Response: I am unaware of any such conduct.

d. Does OIG currently have any joint investigations with OPR?

Response: I can neither confirm nor deny any details regarding ongoing matters, including whether any such matters exist. However, the OIG historically has conducted joint investigations with DOJ OPR where warranted. The OIG works collaboratively with OPR, and I will continue to do so if I am confirmed as Inspector General.

In addition, although not related to attorney misconduct, DOJ OIG and DOJ OPR share responsibility for investigating allegations of whistleblower retaliation against FBI employees.

12. The Inspector General Act, as amended, includes independence protections. The law also gives the OIG authority to "investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice." 5 U.S.C. § 413. This independence is of particular importance when the OIG is investigating senior Department leadership. How do you intend to ensure the OIG's independence from DOJ leadership?

Response: The OIG is operationally independent. Operational independence means the OIG retains full authority over what matters it reviews, how it conducts its work, how it gathers and analyzes facts, and what conclusions and recommendations it reaches, free from improper influence or interference. At the same time, effective oversight is strengthened by maintaining professional working relationships with the Department and

Congress, including appropriate information sharing, open communication, and cooperation consistent with the Inspector General Act, investigative integrity, and other applicable legal requirements. Independence is therefore not secrecy or institutional isolation, but the ability to exercise objective oversight while remaining accountable within the constitutional and statutory framework established by Congress.

13. Under the law, there are certain limited situations where the Attorney General has the authority to prohibit the IG from carrying out or completing certain audits and investigations. 5 U.S.C. § 413(a)(2).

a. How would you respond to any effort to invoke this authority with respect to DOJ OIG's work?

Response: I am committed to fully adhering to the law in all aspects of my duties, including the provisions outlined in the Inspector General Act and related legal authorities. I am aware that the Attorney General is afforded the authority under 5 U.S.C. § 413(a)(2) to prohibit the Inspector General from initiating or completing certain audits or investigations in specific, limited circumstances. These circumstances are clearly defined under the law to address matters that could involve sensitive issues, such as national security, classified information, or other concerns critical to the functioning and security of the Department of Justice.

In all instances, my actions as Inspector General would remain fully compliant with the requirements of the IG Act, which ensures the independence of the Office of Inspector General while establishing safeguards and transparency in how such decisions are made. Should there be a situation where the Attorney General exercises this authority, I would follow the law as prescribed and take any necessary actions outlined in the statute to report such prohibitions to Congress, as required under 5 U.S.C. § 413(b). My focus is and will remain on conducting objective oversight to promote integrity, efficiency, and accountability, consistent with my statutory responsibilities under the IG Act.

b. What would you do if the Attorney General tried to prohibit an investigation beyond what is permitted by law?

Response: As a general matter, I do not believe it is appropriate to speculate about hypothetical scenarios involving specific factual circumstances that may never arise. Throughout my career, however, when confronted with difficult decisions, I have approached them through a consistent framework: first, whether the action is lawful; second, whether it is ethical; and third, whether it is morally right.

The first two questions can be assessed by reference to the Constitution, statutes, regulations, professional obligations, Department policies, and applicable ethics guidance. The third question is more personal and circumstance-dependent, and I do not believe it can be answered responsibly in the abstract without knowing the precise facts and context at issue. What I can say is that my guiding principle has always been straightforward: I will do what I believe is right, consistent with my oath, my legal obligations, and my ethical responsibilities as a public servant.

As noted above, the Inspector General Act reflects Congress's judgment that Inspectors General must be able to conduct oversight independently and without improper influence. Consistent with that framework, the Act requires Inspectors General to keep Congress fully and currently informed of problems and deficiencies relating to the administration of agency programs and operations, including situations where an Inspector General is prevented or prohibited from carrying out oversight responsibilities. If confirmed, I will take that obligation seriously. Should I encounter interference that materially impairs the OIG's ability to conduct its work, obtain necessary information, or report its findings, I will evaluate the matter consistent with the Inspector General Act and my legal obligations, and I will ensure that Congress receives any notifications required by law.

14. What safeguards would you implement to ensure career staff in the OIG can pursue politically sensitive oversight work without fear of retaliation?

RESPONSE: The OIG has a long-standing commitment to conducting all work, including politically sensitive oversight, with transparency, fairness, and integrity. By ensuring reports are fact-based and guided by the law, the OIG fosters trust and safeguards its work from allegations of bias. If confirmed, I will uphold these principles and prioritize fostering an environment where career staff feel supported and protected as they carry out their critical oversight responsibilities without fear of retaliation.

Additionally, the Inspector General Act ensures the independence of the OIG's personnel decisions, further reinforcing these protections.

15. In a 2011 law journal article, you argued Congress may not have the authority to require witnesses or other subjects of investigation to divulge attorney-client privileged information. However, the Constitution grants Congress broad authority to conduct investigations and collect information. If confirmed, would you ever direct individuals under your supervision to withhold documents from Congress?

RESPONSE: With my extensive experience as an oversight professional, I deeply understand the importance of transparency and the value of working collaboratively with Congress as it carries out its constitutional oversight and investigatory responsibilities. I am committed to maintaining transparency and providing Congress with all information I am legally permitted to share.