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United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025
<http://appropriations.senate.gov>

July 30, 2015

The Honorable Sally Quillian Yates
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20535-0001

Dear Deputy Attorney General Yates:

This letter is in response to the Department's Office of Legal Counsel's (OLC) memorandum dated July 20, 2015, that provides a legal opinion on the Office of Inspector General's (OIG) access to sensitive information throughout the Department. On July 23, 2015, the Department provided our Committee with a copy of the memo, which includes an opinion on Division B, section 218 of the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235). We write to inform you that OLC's interpretation of section 218 - and the subsequent conclusion of our Committee's intention - is wrong.

Specifically, OLC erroneously speculated that section 218 held one of three possible interpretations, one of which included the supposed conclusion that Congress intended to permit the Department to withhold information from the OIG. Surmising that multiple interpretations of section 218 created uncertainty, OLC chose one of the three rationales that most suited its own decision to continue to withhold information from the OIG.

This conclusion was not consistent with the Committee's intentions at all. Rather, the Committee had only one goal in drafting section 218; therefore, there is only one correct conclusion. As the explanatory statement accompanying the fiscal year 2015 bill simply states, "The Inspector General shall report to the Committees on Appropriations not later than 180 days after the date of enactment of this Act on the impact of section 218 of this Act, which is *designed to improve OIG access to Department documents and information.*"

Throughout this ongoing dispute between the Department and the OIG about access to information, the Senate Committee on Appropriations has shown clear concerns about the frequency and abundance of material that the Department has chosen to withhold from the OIG. In addition to the fiscal year 2015 language, the Committee raised concerns with the Attorney General during a fiscal year 2016 hearing, which occurred well in advance of OLC issuing its recent opinion. For OLC to determine our intentions as anything other than supporting the OIG's legal right to gain full access to timely and complete information is disconcerting.

While the issue of the Inspector General's access to information covers many areas of the law, and OLC's memo is equally expansive on the matter, we feel compelled to set the record straight regarding section 218. We were not contacted by OLC to solicit our feedback in the formulation of their memo to you. However, should you or anyone in the Department request further information about this section or any other areas of our fiscal year 2015 spending bill, we, and our staff, will be glad to assist.

Regardless, we expect the Department and all of its agencies to fully comply with section 218, and to provide the OIG with full and immediate access to all records, documents and other material in accordance with section 6(a) of the Inspector General Act.

Sincerely,



Richard C. Shelby
Chairman
Senate Subcommittee on Commerce,
Justice, Science and Related Agencies



Barbara A. Mikulski
Vice Chairwoman
Senate Subcommittee on Commerce,
Justice, Science and Related Agencies