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November 23, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable John F. Kerry  
Secretary of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Secretary Kerry:

This past September, the State Department's Office of Inspector General (OIG) released a report examining trafficking in persons (TIP) issues at the State Department.<sup>1</sup> In that report, OIG found that "the Department is not well-positioned to hold employees accountable for violations of TIP or to ensure TIP policies and requirements are understood and followed."<sup>2</sup> This finding was based on the Department's apparent failure to comply with two of the three recommendations that OIG made four years ago for the purpose of increasing awareness among Department employees about TIP policies and requirements.<sup>3</sup>

Separately, in October 2014, OIG found that, under former Secretary Clinton's tenure, the Department's internal investigations of employee misconduct suffered from an appearance of undue influence and favoritism by the Department's managers and leaders.<sup>4</sup> Several of these allegations involved TIP-related misconduct.<sup>5</sup> For example, one of these investigations concerned a U.S. Ambassador who was suspected of routinely ditching his protective security detail in order to solicit prostitutes in a public park in Belgium in 2011.<sup>6</sup> OIG found that the Department's Bureau of Diplomatic Security (DS) could not prove the suspected misconduct based on the limited evidence that was collected.<sup>7</sup> Yet, OIG found that additional evidence

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<sup>1</sup> U.S. Department of State, Office of Inspector General, *Management Assistance Report: Action Still Needed To Update the Department's Standards of Conduct as They Relate to Trafficking in Persons and To Comply With a Related Recommendation*, AUD-ACF-15-43, September 2015, at 1, <https://oig.state.gov/system/files/aud-acf-15-43.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> U.S. Department of State, Office of Inspector General, *Review of Selected Internal Investigations Conducted by the Bureau of Diplomatic Security* (ESP-15-01) (Oct. 2014) [hereinafter "2014 OIG Report"], at 4; *see also* the Executive Summary, <https://oig.state.gov/system/files/esp-15-01.pdf> [hereinafter "Executive Summary"].

<sup>5</sup> 2014 OIG Report, at 4-5.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 12.

could have been collected by DS, had DS's preliminary inquiry in 2011 not been halted—a mere two days after it began—by senior Department officials.<sup>8</sup>

In June 2013, the Department's spokesperson, Jen Psaki, was asked about the TIP-related allegations against the U.S. Ambassador to Belgium, as follows: “Can you assure the American people that no U.S. Ambassadors are engaged in that kind of inappropriate conduct, or that where there have been such credible allegations they have been fully investigated?”<sup>9</sup> In response, Ms. Psaki stated:

Yes, I can confirm they would be fully investigated . . . . [t]he notion that we would not vigorously pursue criminal misconduct in a case, in any case is preposterous. And we've put individuals behind bars for criminal behavior. There is a record of that. Ambassadors would be no exception.<sup>10</sup>

Ms. Psaki further stated: “We hold all employees to the highest standards. We take allegations of misconduct seriously and we investigate thoroughly.”<sup>11</sup>

However, the way that the Belgium prostitution case was handled in private is well short of the full and thorough investigation that Ms. Psaki claimed in public. According to OIG:

[B]efore the preliminary inquiry was halted, only one of multiple potential witnesses on the embassy's security staff had been interviewed. Additionally, DS never interviewed the Ambassador and did not follow its usual investigative protocol of assigning an investigative case number to the matter or opening and keeping investigative case files.<sup>12</sup>

Further, after DS' inquiry was halted two days after it began, Under Secretary of State for Management Patrick Kennedy decided to treat the matter as a “management issue.”<sup>13</sup> Rather than referring the case to the independent OIG or allowing DS to carry out its inquiry, the case was then handed over to Cheryl Mills—the then Chief of Staff to Secretary Clinton—whom Kennedy designated as the individual in charge of conducting the investigation.<sup>14</sup>

According to OIG, this “investigation” primarily consisted of a single meeting on June 3, 2011, during which Ms. Mills handled the questioning of the Ambassador,<sup>15</sup> as follows:

The Ambassador was recalled to Washington and, in June 2011, met with the Under Secretary of State for Management and the then Chief of Staff and Counselor to the Secretary of State. At the meeting, the Ambassador denied the allegations and was

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<sup>8</sup> *Id.*; see also Executive Summary, at 1-2.

<sup>9</sup> U.S. Department of State, Jen Psaki, Spokesperson, Daily Press Briefing, Washington, D.C., (June 10, 2013), <http://www.state.gov/r/pa/prs/dpb/2013/06/210441.htm>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Executive Summary, at 2.

<sup>13</sup> 2014 OIG Report, at 8.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 10.

then permitted to return to post. The Department took no further action affecting the Ambassador.<sup>16</sup>

However, as the designated investigating official, Ms. Mills appears to have departed from investigative protocol in a number of important respects. For example, DS managers were not consulted prior to the meeting and they never received a readout of the meeting afterwards:

Had the Under Secretary or the Chief of Staff to the Secretary discussed the matter with DS before the June 3 meeting or provided a readout to DS after the meeting, it would have been reasonable to question the Ambassador about a potential contradiction in the explanation he offered . . . namely, that he entered the park following arguments with his wife. [A] May 31 email to DS senior management . . . reported that the Ambassador's unusual behavior was "continuing" while his wife was out of the country.<sup>17</sup>

OIG found no evidence that this potential contradiction in the Ambassador's proffered explanation was ever addressed.<sup>18</sup>

In addition, 6 days *before* the June 3<sup>rd</sup> meeting, high-ranking officials within DS exchanged the following communication, suggesting that the outcome of the June 3<sup>rd</sup> meeting may have been prejudiced, if not predetermined:

Be aware that our friend . . . is being recalled to DC for consultations this week. If things hold he will be allowed to return to post through July 4 celebrations and will leave post permanently immediately thereafter. Not for [distribution to the Regional Security Officer] or anyone else for the moment.<sup>19</sup>

According to OIG, the Ambassador was allowed to return to post following the meeting and continued to serve as Chief of Mission for another two years—well beyond July 4, 2011.<sup>20</sup>

According to the Foreign Affairs Manual (FAM), allegations involving Chiefs of Mission that could serve as grounds for disciplinary action and/or criminal prosecution must be immediately referred to DS or OIG to investigate.<sup>21</sup> This provision further states that the Under Secretary can designate individuals other than DS or OIG to conduct an investigation in "exceptional circumstances."<sup>22</sup>

According to Under Secretary Kennedy, an "exceptional circumstance" in this case was his belief that in Belgium, the solicitation of prostitutes was not a criminal offense.<sup>23</sup> However,

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<sup>16</sup> Executive Summary, at 1.

<sup>17</sup> 2014 OIG Report, at 11.

<sup>18</sup> *Id.* at 12.

<sup>19</sup> *Id.* at 10.

<sup>20</sup> *Id.* at 11.

<sup>21</sup> 3 FAM 4322.2 (Investigation and Reporting of Incidents and Allegations).

<sup>22</sup> *Id.*

<sup>23</sup> 2014 OIG Report, at 8.

the FAM prohibits Department employees from soliciting prostitutes because it constitutes “notoriously disgraceful misconduct” that is subject to discipline, regardless of criminality.<sup>24</sup> Further, the State Department’s own cable on human trafficking provides as follows:

Women, children, and men are trafficked into the commercial sex trade *regardless of whether prostitution is legal or criminalized in a country*, and thus, the procurement of commercial sex runs the risk of facilitating or supporting human trafficking . . . . [I]nvolvement with the commercial sex industry is unacceptable in light of the diplomatic and foreign policy goals of the United States.<sup>25</sup>

According to OIG, DS managers provided a different explanation as to why this case was treated as a “management issue.”<sup>26</sup> They cited a provision in the FAM that allows a management official to handle an administrative inquiry if the alleged misconduct in question is “relatively minor.”<sup>27</sup> However, soliciting prostitutes is not “relatively minor” misconduct. This past February, 180 trafficking victims’ advocacy groups told this Committee that “[t]he elimination of sex trafficking is fundamentally linked to targeting the demand for commercial sex. Any effort to prevent sex trafficking must focus on the sex buyers and facilitators.”<sup>28</sup>

Reportedly, the State Department’s Office of Legal Adviser (L) offered a third explanation for the Department’s handling of this case: that the disciplinary provision of the FAM cited by the Under Secretary does not apply to Chiefs of Mission who are political appointees and are neither Foreign Service Officers nor Civil Service employees.<sup>29</sup> Yet, L stated that the Department can still discipline such officials by way of dismissal or termination, “if the behavior is egregious.”<sup>30</sup> Given the egregious nature of the alleged misconduct, the Department’s failure to conduct a full investigation of the Belgium case is all the more concerning.

In light of the OIG reports referenced above, the Belgium case raises questions as to whether the Department takes allegations of TIP-related misconduct seriously and investigates them thoroughly, free from undue influence and favoritism. With the foregoing in mind, I respectfully request on behalf of this Committee that you submit responses to the following questions by December 11, 2015:

1. Why did the Department halt DS’s preliminary inquiry of the Belgium case and treat this matter as a “management issue”?

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<sup>24</sup> 3 FAM 4139.14 (Notoriously Disgraceful Conduct).

<sup>25</sup> U.S. Department of Justice, Office of Inspector General, *Review of Policies and Training Governing Off-Duty Conduct by Department Employees Working in Foreign Countries* (Jan. 2015), at 40. <https://oig.justice.gov/reports/2015/e152.pdf> (emphasis added); see also U.S. Department of State, Trafficking in Persons Report (June 2008), 24 (“[t]hose who patronize the commercial sex industry form a demand which traffickers seek to satisfy”).

<sup>26</sup> 2014 OIG Report, at 8.

<sup>27</sup> *Id.* (citing 3 FAM 4322.3).

<sup>28</sup> Letter to Sen. Charles E. Grassley, Chairman, and Sen. Patrick J. Leahy, Ranking Member, Sen. Comm. on the Judiciary (Feb. 23, 2015), <http://sharedhope.org/wp-content/uploads/2015/02/JVTA-support-letter-2015.pdf>.

<sup>29</sup> 2014 OIG Report, at 9.

<sup>30</sup> *Id.*

2. Why did Under Secretary Kennedy, DS, and L provide OIG with three different explanations of the decisions referenced in Question 1?
3. Was Secretary Clinton informed of the decision to halt DS's investigation of the Belgium case or to treat it as a "management issue"? If so, please provide all related records, including emails. If not, please explain why not.
4. In how many other cases involving allegations of employee misconduct was Ms. Mills designated as the individual to conduct the investigation?
5. Under Secretary Kennedy told OIG that he had relied on Section 4322.2 of the FAM to address misconduct allegations involving other Chiefs of Mission. The Under Secretary acknowledged that such misconduct issues can arise several times each year. During Mr. Kennedy's tenure as Under Secretary, how many misconduct allegations involving Chiefs of Mission have been treated as a "management issue"?
6. OIG states that it searched for and found no contemporaneous evidence of the Under Secretary's determinations in this case, or of Ms. Mill's investigation.<sup>31</sup> OIG made this finding before public revelations that Secretary Clinton and her senior aides conducted official Department business through a private email server. Does the Department currently have access to any of the records OIG was unable to find? If not, will you commit to notifying this Committee as soon as such access is obtained?
7. In September, I wrote you about Linda Howard, who was found liable in federal district court for human trafficking offenses committed against her Ethiopian housekeeper, while Howard was stationed as a diplomat at the U.S. Embassy in Japan in 2008 and 2009.<sup>32</sup> Reportedly, however, two years *after* DS interviewed the victim housekeeper about those offenses, Howard not only remained employed at the Department, but even received an honor award and a cash bonus.<sup>33</sup> Was the Linda Howard case also treated as a "management issue"?

Please number your responses according to their corresponding questions. Please contact Jay Lim of my Committee staff at (202) 224-5225 should you have any questions. Thank you.

Sincerely,



Charles E. Grassley  
Chairman

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<sup>31</sup> *Id.* at 8, 11, 14.

<sup>32</sup> Letter from Sen. Charles E. Grassley, Sen. Comm. on the Judiciary, to the Hon. John Kerry, Secretary of State (Sep. 17, 2015), [http://www.grassley.senate.gov/sites/default/files/judiciary/upload/2015-09-17%20CEG%20to%20State%20\(Trafficking%20in%20Persons\).pdf](http://www.grassley.senate.gov/sites/default/files/judiciary/upload/2015-09-17%20CEG%20to%20State%20(Trafficking%20in%20Persons).pdf).

<sup>33</sup> Peter Van Buren, "Diplomatic Abuse of Servants: Not Just For Indians," *Shadowproof.com*, Dec. 18, 2013, <https://shadowproof.com/2013/12/18/diplomatic-abuse-of-servants-not-just-for-indians/>.

cc: The Honorable Patrick Leahy  
Ranking Member

The Honorable Steve A. Linick  
Inspector General