

# United States Senate

WASHINGTON, DC 20510

February 5, 2026

Kristi Noem  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
Washington, DC 20528

Dear Secretary Noem:

I write to express extreme alarm regarding the U.S. Department of Homeland Security (DHS) implicitly threatening the independence of the DHS Office of Inspector General (DHS OIG) by repeatedly reminding DHS OIG of an obscure authority—that has never been invoked in the history of DHS—that effectively empowers you to unilaterally prevent or kill any DHS OIG investigation, inspection or audit, and demanding that the DHS OIG provide you with a list of every active inspection, audit and investigation, including ongoing criminal investigations.

I fear that repeated tacit threats from your Office of the Secretary to DHS OIG may have already succeeded in weakening DHS OIG's operational independence—as evidenced by DHS OIG's unusual lack of activity and engagement in the days that followed the fatal shooting of U.S. citizen Alex Petti by Border Patrol agents. DHS OIG's failure to expeditiously initiate a use of force investigation was particularly notable given its past work regularly conducting such investigations of Border Patrol use of force, and the significant public outcry and growing bipartisan calls for such an independent investigation—which included support from the Senate Majority and Minority Leaders.

As you are aware, DHS OIG criminal investigators regularly conduct independent investigations into Border Patrol agent use of force incidents. As DHS Inspector General Joseph Cuffari informed my office, DHS OIG criminal investigators possess direct experience and expertise conducting independent use of force investigations regarding Border Patrol agents, and DHS OIG is better suited to conduct such investigations compared to U.S. Customs and Border Protection's Office of Professional Responsibility, or any other DHS component, since DHS OIG criminal investigators are, at least in theory, *independent* of DHS.

Following my multiple requests to DHS OIG for enhanced oversight and investigations that began during Operation Midway Blitz in October 2025, I met with Inspector General Cuffari to demand an explanation as to why the DHS OIG refused to act on my request for proactive investigations of all use of force incidents related to the Trump administration's aggressive and violent mass deportation operations.

Since meeting with Inspector General Cuffari, I suspect the DHS OIG's odd inaction may be explained by the unprecedented and improper actions of the DHS General Counsel—who officially reports to you, the Deputy Secretary of Homeland Security and potentially, Special Government Employee Corey Lewandowski.

Specifically, your General Counsel communicated with DHS OIG personnel, including through at least one email, and reminded DHS OIG of the existence of section 417 of title 5, United States Code (5 U.S.C. §417). This broad authority effectively empowers you to select from a broad range of pretextual options to unilaterally prevent or halt any “independent” DHS OIG investigation, regardless of your true intent for interfering with the work of an office that Congress authorizes and funds to serve as an independent watchdog over all DHS programs.

While 5 U.S.C. §417 appears to be contrary to the letter and spirit of the Inspector General Act of 1978, this matter has never caused controversy, because since DHS’s creation over two decades ago, no Secretary has ever invoked, or even threatened to invoke, 5 U.S.C. §417, to stop or halt a DHS OIG investigation.

My understanding is your General Counsel carefully worded at least one email to avoid explicitly threatening the DHS OIG with invocation of 5 U.S.C. §417. However, a reasonable observer would interpret your General Counsel transmitting a “reminder” email to the DHS OIG citing 5 U.S.C. §417—unprompted and seemingly out of nowhere—as a clearly implied, unspoken threat to discourage DHS OIG from conducting any investigations into sensitive or controversial matters, particularly where you or your direct reports may have engaged in waste, fraud or abuse.

In addition, your General Counsel, in a recent communication, again reminded DHS OIG of the existence of 5 U.S.C. §417—which is effectively your DHS IG investigation kill switch—and demanded DHS OIG disclose every active audit, inspection and criminal investigation—the latter demand representing an extremely unusual, perhaps even unprecedented request. Such an invasive fishing expedition by the DHS General Counsel appears to pave the way for you to begin shutting down DHS OIG investigations.

To ensure you are not successfully intimidating Inspector General Cuffari from performing independent investigations into Border Patrol agent use of force incidents, particularly the shootings that resulted in the murder of Alex Pretti and the fatal shooting of Renee Good by a U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations officer, I request the following:

- Public confirmation that you did not intend to seek, nor are seeking to, invoke 5 U.S.C. §417 to take any action related to forthcoming, ongoing or completed DHS OIG investigations, inspections, audits or other activity;
- A detailed explanation as to why your General Counsel communicated with DHS OIG about 5 U.S.C. §417 on multiple occasions, including whether you, the Deputy Secretary or Mr. Lewandowski, directed, instructed, ordered or merely suggested that the General Counsel take such action;
- A clear retraction of the DHS General Counsel request for a list of all active DHS OIG investigations, inspections and audits;

- All documents related to any communications between the DHS General Counsel or any other DHS official or Special Government Employee and the DHS OIG related to 5 U.S.C. §417;
- All documents related to any discussions within the Office of the Secretary regarding 5 U.S.C. §417; and
- A public commitment that, consistent with every single one your predecessors, you will neither invoke, nor threaten to invoke, 5 U.S.C. §417, and will request Congress amend this (never used) broad authority to either repeal or significantly limit it.

Thank you in advance for your prompt attention to this urgent oversight inquiry. I request that you provide written responses and covered documents in a timely manner, on a rolling basis and no later than February 13, 2026. If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,



Tammy Duckworth  
Tammy Duckworth  
United States Senator

### **Guidance – Responding to Request**

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible.
2. If any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intraoffice communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
4. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.