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October 6, 2026

Honorable Don R. Berthiaume
Inspector General
Department of Justice
950 Pennsylvania Ave.
Washington, D.C. 20530

Ms. Caryl Brzymialkiewicz
Deputy Inspector General Performing
the Duties of the Inspector General
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Request for Concurrent Inspector General Investigations into the Events
Surrounding the Arrest and Prosecution of David Carter Hearn, Case No.
2026, CF2 010237, Superior Court of the District of Columbia (2026)

Dear Mr. Berthiaume and Ms. Brzymialkiewicz:

We write to request that the Department of Justice Office of the Inspector General ("DOJ OIG") and the Department of the Interior Office of Inspector General ("DOI OIG") promptly undertake coordinated, independent investigations into:

- 1) The circumstances surrounding the June 19, 2026, arrest and detention of our client, David Carter Hearn, by Department of the Interior personnel;

- 2) Mr. Hearn's felony indictment by a D.C. Superior Court grand jury on July 2, 2026; and
- 3) The United States Attorney for the District of Columbia's July 31, 2026, motion to dismiss the charges against him.

This bland recital of the central events that ensnared Mr. Hearn should not obscure the nightmare that he has lived with as the result of the incompetence and wrongdoing of employees of the Department of the Interior ("DOI") and the Department of Justice ("DOJ") since before his arrest on June 19, 2026. Before that date, the culpability was the sole province of DOI because of its handling of the repairs and renovation of the Lincoln Memorial Reflecting Pool ("Reflecting Pool"). From June 19 to the present, misconduct has been committed by personnel in both agencies. The government's "extraordinary" abuses were confirmed by the D.C. Superior Court's decision to dismiss the indictment against Mr. Hearn *with prejudice*, in order to prevent the government from "compound[ing] the errors it has already made...at Mr. Hearn's expense."¹ DOJ "indicted Mr. Hearn at a near-record pace," *Id.* at 21, despite the fact that the government was "still conducting what most would consider a preliminary investigation into these basic issues," including the origins of the damage to the Reflecting Pool, *Id.* at 24. Indeed, DOJ ultimately concluded that "*no crime had occurred*" at all.² In light of these findings and the government's own admissions, a critical purpose of the requested investigations is to collect the facts – through witness interviews and the collection and analysis of electronic media and documents – necessary to hold accountable the individuals and groups who failed Mr. Hearn, the criminal justice system, and the public.

Because of the actions of various DOJ and DOI employees, Mr. Hearn was deprived of his liberty, indicted for a crime he did not commit, threatened with incarceration of up to 10 years, and endured the defaming of his name and reputation by high-ranking government officials, including but not limited to United States Attorney for the District of Columbia Jeanine Pirro, Secretary of the Interior Doug Burgum, and President Donald J. Trump.

The DOJ OIG and the DOI OIG must conduct detailed and comprehensive investigations to determine what happened inside their agencies that led to the shocking and indefensible treatment of Mr. Hearn. DOJ OIG and DOI OIG each have

¹ Order of Dismissal with Prejudice, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed Oct. 1, 2026) [hereinafter "Dismissal with Prejudice"], at 3.

² *Id.* at 2 (emphasis in original).

distinct but complementary responsibilities to determine what occurred within their respective departments; whether applicable laws, policies, and professional ethics were followed; and the specific instances of incompetence and misconduct engaged in by government personnel in both the planning and implementation of the disastrous Reflecting Pool renovation project and the investigation, arrest, and prosecution of Mr. Hearn. These events demand accountability and full and unconstrained investigations by your offices.

We are aware that over the past 20 months, this Administration has removed or forced out approximately 20 non-partisan inspectors general in favor of politically aligned replacements.³ In that regard, the investigations we are requesting constitute a further test of the IG system under this Administration. The investigations must not be conducted in a partisan fashion, nor result in politically motivated whitewashes, notwithstanding any pressure internal or external to the Administration. Anything less than a full and fair review would be a betrayal of your mission and perpetuate the outrageous mistreatment of Mr. Hearn. We are prepared to take further steps to assure accountability.

I. IGs Provide Vital and Non-Partisan Executive Branch Oversight

Since 1978, when the Inspector General Act (“IG Act”) was enacted, inspectors general have been responsible for ferreting out waste, fraud, and abuse in the agencies in which they are embedded – and investigating credible allegations of incompetence and misconduct against department or agency personnel. Section 2 of the IG Act describes IGs as “independent and objective units...to conduct and supervise audits and investigations relating to the programs and operations...” of executive branch departments and other entities covered by the Act.⁴ The IG Act was designed in large part to complement the oversight responsibilities of Congress by creating and funding internal entities within executive branch agencies (and other federal entities), and

³ See Luke Broadwater, *Trump Fired the Watchdogs. Their Replacements Have a Different Mission*, N.Y. TIMES (Aug. 18, 2026), <https://www.nytimes.com/2026/08/18/us/politics/trump-inspector-general.html?searchResultPosition=2>; Natalie Alms & Eric Katz, *From Watchdogs to ‘Lapdogs’: Inside the Trumpification of Agencies’ Inspectors General*, NOTUS (Aug. 21, 2026) https://www.notus.org/agencies/trumpification-agency-inspectors-general?utm_term=0_-49b53464f9-746273970&mc_cid=49b53464f9&utm_campaign=49b53464f9-NL-AM_2026_0821&mc_eid=852f090f9f&utm_medium=email&utm_source=NOTUS%20Newsletter%20Audience. Cf., Isabella Kwai, *Trump Picks Project 2025 Co-Author for Role That Would Oversee Any Reflecting Pool Review*, N.Y. TIMES (Aug. 11, 2026), <https://www.nytimes.com/2026/08/11/us/politics/dennis-kirk-trump-interior-reflecting-pool-project-2025.html>.

⁴ Inspector General Act of 1978, Pub. L. No. 95-452, § 2, 92 Stat. 1101, 1101 (codified as amended at 5 U.S.C. § 402).

appropriating significant resources to ensure comprehensive and impartial oversight. For the past 48 years, the central responsibility of IGs has been to report problems to the head of the agency and to Congress.⁵ To ensure apolitical and non-partisan oversight, Congress required that IGs be selected “without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.”⁶

The requirements that IGs be non-partisan and have expertise in specified subject areas are designed to ensure that an IG’s decisions, including what investigations to pursue, the conduct of such investigations, and the findings and conclusions of such investigations, must be guided by the facts and the law and not by political loyalties. Those requirements, and the respect for those requirements, explain why until recently many IGs have survived administrations of different parties – sometimes multiple administrations.

Congress created the DOJ OIG in 1988, ten years after the vast majority of other executive branch IGs were launched.⁷ With respect specifically to the Department of Justice, the Act requires the Attorney General to:

...ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice,

⁵ IG Act § 2(3); 5 U.S.C. § 404 (Duties and Responsibilities).

⁶ IG Act § 3(a); 5 U.S.C. § 403(a) (Appointments). In general, over the past five decades, Presidential selection of IGs has been consistent with these criteria. However, during this Administration, close to 20 apolitical IGs have been dismissed for no reason, and the political independence of IGs has been attacked. See Sean Michael Newhouse, *Trump Fires Another Inspector General, Raising Fears About Oversight Independence*, GOV’T EXEC. (Oct. 21, 2025), <https://www.govexec.com/oversight/2025/10/trump-fires-another-inspector-general-raising-fears-about-oversight-independence/408950/>.

⁷ DOJ’s Office of Professional Responsibility was created 13 years earlier, in late 1975, by Attorney General Edward Levi as a reaction to misconduct by Justice Department personnel during the Watergate scandal. According to its website, “OPR’s primary mission is to ensure that Department attorneys perform their duties in accordance with the high professional standards expected of the nation’s principal law enforcement agency.” U.S. Dep’t of Just., Off. of Pro. Resp., *About OPR*, <https://www.justice.gov/opr/about-opr> (last visited Aug. 28, 2026). While the original division of labor between OPR and the OIG in conducting investigations of misconduct was strongly tilted towards OPR, a November 1994 jurisdictional order enlarged the OIG’s jurisdiction at the expense of OPR’s. U.S. Dep’t of Just., Att’y Gen. Ord. No. 1931-94, *Investigation of Allegations of Misconduct by Justice Department Employees* (1994), <https://www.justice.gov/archives/ag/attorney-general-order-no-1931-94-investigation-allegations-misconduct-justice-department>. In 2001, Attorney General John Ashcroft further enlarged the OIG’s jurisdiction to include plenary investigative jurisdiction over allegations of misconduct against personnel in the FBI and DEA. U.S. Dep’t of Just., Att’y Gen. Ord. No. 2492-2001, *To Enlarge Jurisdiction of Inspector General’s Office* (2001).

except with respect to allegations [properly within the jurisdiction of OPR], shall report that information to the Inspector General.⁸

The DOI OIG was created with the original group of inspectors general in 1978 and, unlike the DOJ OIG, has no provisions in the original statute or its amendments that apply exclusively to it.

At present, the DOJ OIG's website describes the OIG's mission as "Promoting the rule of law through objective, independent oversight of the Department of Justice"; its vision as "To set the standard for innovative, transformative oversight"; and its values as "Integrity, Independence, Excellence, Transparency, Respect, Agility."⁹ Even with a sister entity – OPR – within DOJ that has jurisdiction over certain categories of allegations against lawyers, the DOJ OIG has a long history of investigating allegations of misconduct against lawyers. It has an entire division – the Oversight and Review Division – devoted to investigating allegations of misconduct against all DOJ personnel, including lawyers, even when the allegations may overlap with OPR's jurisdiction.¹⁰

On its website, the DOI OIG describes its role as "conducting independent investigations, audits, inspections, and evaluations and by reporting our findings of fraud, waste, abuse, or mismanagement along with recommendations for improvement." Its website goes on to state, "Depending on the nature of the information, we share it with Department officials, Congress, the U.S. Department of Justice (DOJ) and other law enforcement entities, and the public."¹¹ In short, a central part of the DOI OIG's mission is to conduct investigations into allegations of misconduct

⁸ IG Act § 8E; 5 U.S.C. § 413(d) (Special provisions concerning the Department of Justice).

⁹ U.S. Dep't of Just., Off. of the Inspector Gen., *About the Office of the Inspector General*, <https://oig.justice.gov/about>.

¹⁰ The DOJ OIG and OPR have worked jointly on numerous investigations involving allegations of misconduct by DOJ attorneys. See, e.g., U.S. Dep't of Just., Off. of the Inspector Gen. & Off. of Pro. Resp., *An Investigation of Allegations of Politicized Hiring in the Department of Justice Honors Program and Summer Law Intern Program* (June 2008), <https://oig.justice.gov/sites/default/files/archive/special/s0806/report.htm>; U.S. Dep't of Just., Off. of the Inspector Gen. & Off. of Pro. Resp., *An Investigation into the Removal of Nine U.S. Attorneys in 2006* (2008), <https://oig.justice.gov/sites/default/files/archive/special/s0809a/index.htm>. Whether OPR should participate in this matter is, of course, a decision for DOJ OIG and OPR. We recognize, however, that OPR has suffered major personnel losses in the past 18 months: "Since Trump returned to office, the Office of Professional Responsibility has shrunk from 29 employees to 16, according to Justice Department data Reuters obtained through a public-records request. The administration also fired OPR's director, Jeffrey Ragsdale, and has yet to name a replacement." Andrew Goudswaerd & Brad Heath, *At Trump's DOJ, Watchdogs Guttled as Misconduct Complaints Soar*, GALVESTON COUNTY DAILY NEWS (Aug. 6, 2026), https://www.galvnews.com/news_reuters/politics/at-trumps-doj-watchdogs-guttled-as-misconduct-complaints-soar/article_05470029-aede-5225-9954-675fed124fea.html.

¹¹ U.S. Dep't of the Interior, Off. of Inspector Gen., *About Us*, <https://www.doioig.gov/about/about-us>.

against agency personnel and to report the findings of those investigations to the heads of the agency, Congress, and the public. The findings and conclusions of each investigation must be reported without fear or favor, and with no hint of politics.

From time to time, allegations of misconduct implicate more than one federal agency. In an appendix to this letter, we describe those well-known cases in which IGs from different agencies worked together to investigate allegations of waste, fraud, abuse, or misconduct that involved personnel from multiple agencies, and which therefore required a multi-IG effort. This case is unusual in that the DOJ in court filings has specifically alleged misconduct by DOI personnel in the wrongful decision to charge Mr. Hearn.¹²

II. The Factual and Procedural History of the David Hearn Case

In the spring of 2026, the Department of the Interior undertook a renovation of the Lincoln Memorial Reflecting Pool at a publicly reported cost of approximately \$14 to \$16 million.¹³ At the direction of DOI, the renovation included, among other things, the application of a multi-component polyurea coating system to the pool's bottom.¹⁴ The project proceeded under an expedited timeline: as early as May 16, 2026, President Trump publicly stated that the renovation would be completed by July 4, 2026, in time for events surrounding the Nation's 250th anniversary.¹⁵

In early June, the renovation experienced severe and now publicly documented problems. These problems included algae blooms, discolored water, and extensive peeling, bubbling, and de-bonding of the newly applied coating, with detached pieces visibly floating on the surface of the pool.¹⁶ Rather than attribute these failures to the

¹² Government's Motion to Dismiss Without Prejudice, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed July 31, 2026) [hereinafter "Gov't Mot. to Dismiss"].

¹³ USAspending.gov, Award Profile: Contract 140P2026C0028 (Nat'l Park Serv. to Atl. Indus. Coatings LLC), https://www.usaspending.gov/award/CONT_AWD_140P2026C0028_1443_-NONE_-NONE-.

¹⁴ Justification for Other Than Full and Open Competition, Lincoln Memorial Reflecting Pool Lining (Constr. Servs., NAMA 291052), Notice ID 140P2026R0050, File Code A16 (Nat'l Park Serv., Denver Serv. Ctr., Contracting Servs. Div., Mar. 31, 2026), <https://sam.gov/opp/b533eb6dc24f25b900828720a8b3fa/view> [hereinafter "*Justification*"]; see Contract No. 140P2026C0028 (awarded Apr. 3, 2026 to Atlantic Industrial Coatings LLC), USAspending.gov, https://www.usaspending.gov/award/CONT_AWD_140P2026C0028_1443_-NONE_-NONE- [hereinafter "*AIC Contract*"].

¹⁵ Donald J. Trump (@realDonaldTrump), Truth Social (May 16, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116586421680561291> ("Should be completed before the Fourth of July, our target date.").

¹⁶ Will Weissert, *Crews Are Draining the Lincoln Memorial Reflecting Pool Again as Part of Trump's Troubled Revamp*, AP NEWS (July 10, 2026), <https://apnews.com/article/reflecting-pool-drained-trump-repairs->

rushed installation or the use of unqualified and inexperienced contractors, President Trump and other officials publicly blamed unidentified “vandals” for the peeling coating and other damage.¹⁷ The government would later concede that the damage was “the result of a botched installation and not vandalism as initially represented by DOI.”¹⁸

On June 19, 2026, Mr. Hearn – a sixty-seven-year-old, three-time United States Olympian – stopped at the Reflecting Pool during a bicycle ride. He has stated publicly that he reached into the pool to feel the temperature of the water, touched a piece of coating that had already partially detached, released it when asked to do so by a National Park Service (“NPS”) employee, and left the pool in the same condition as he found it.¹⁹ Nevertheless, Mr. Hearn was stopped and detained by members of the National Guard, who brought him to U.S. Park Police officers. He was handcuffed and humiliated in the presence of many people who, like Mr. Hearn, were presumably visiting the Reflecting Pool because it had been the subject of numerous media stories and was a subject of broad popular interest. Mr. Hearn was then detained for almost five hours in a jail cell before he was released.²⁰ Mr. Hearn was not read his Miranda rights. He was not allowed to make a telephone call. He was not provided any details of the charges brought against him until his release after dark when he found, along with his belongings in a brown paper bag, two misdemeanor citations.

On July 2, 2026, a District of Columbia Superior Court grand jury returned a one-count indictment charging Mr. Hearn with felony destruction of property valued at \$1,000 or more, in violation of D.C. Code § 22-303 – an offense carrying a sentence of up

d3ee1129c0d65083114f2c059f4b5c80; see also Michelle Del Rey, *From Blue to Green to Empty, a Look at the DC Reflecting Pool Saga*, USA TODAY (July 13, 2026), <https://www.usatoday.com/story/news/politics/2026/07/15/lincoln-memorial-reflecting-pool-dc-trump/90927227007/>.

¹⁷ Donald J. Trump (@realDonaldTrump), Truth Social (June 23, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116800002761284625>; see Maxine Joselow & David A. Fahrenthold, *Trump Blames Vandals for Reflecting Pool Problems. Internal Records Tell Another Story.*, N.Y. TIMES (June 23, 2026), <https://www.nytimes.com/2026/06/23/us/trump-reflecting-pool-green-peeling.html> (Trump “blamed the peeling on vandals, though critics allege it’s from shoddy repair work”).

¹⁸ Gov’t Mot. to Dismiss at 1.

¹⁹ Rachel Treisman & Scott Detrow, *After his Reflecting Pool vandalism case is dismissed, David Hearn looks for closure*, NPR (Aug. 10, 2026), <https://www.npr.org/2026/08/10/nx-s1-5925117/reflecting-pool-david-hearn-legal-fight>.

²⁰ Edward Helmore, *Ex-Olympian weighing ‘all options’ after reflecting pool charges dropped*, THE GUARDIAN (Aug. 4, 2026), <https://www.theguardian.com/us-news/2026/aug/04/ex-olympian-david-hearn-reflecting-pool-case>.

to ten years' imprisonment.²¹ The indictment alleged that Mr. Hearn "maliciously did injure, break, and destroy . . . lining material of the Lincoln Memorial Reflecting Pool . . . causing damage in the amount of \$1,000 or more." The government's sole grand jury witness on damages testified that the pool had substantial preexisting damage, that the same repairs would have been required regardless of Mr. Hearn's alleged conduct, and that he could not quantify any loss attributable to that conduct.²² Only after that witness was excused and recalled twenty-one minutes later did he state that the damage would "definitely be \$1,000 or more" — the threshold separating a misdemeanor from a felony.²³ Ultimately, the government conceded that it had no proof of any damage at all, thus undermining the basis for any criminal charge. On July 9, 2026, Mr. Hearn was arraigned, pleaded not guilty, and was released on his personal recognizance.

On July 8, 2026, the day before arraignment, defense counsel transmitted a written discovery letter to the government demanding, among other things, preservation of all physical evidence in the case, including the Reflecting Pool liner. Despite that demand, the government fenced off the scene, drained the pool, and undertook repairs to the very liner whose condition was at issue. On July 16, 2026, Mr. Hearn moved to dismiss the indictment based on the government's failure to preserve material exculpatory evidence.²⁴

On July 31, 2026, the United States Attorney for the District of Columbia ("USAO-DC"), Jeanine Pirro, moved to dismiss the indictment without prejudice, conceding that materials produced by DOI, allegedly after the indictment, showed that the damage was the result of flawed installation and the rush to complete the project, and that these materials "significantly undermine the evidentiary basis for the indictment."²⁵ On August 4, 2026, Mr. Hearn responded, not opposing dismissal but

²¹ Indictment, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed July 2, 2026); D.C. Code § 22-303.

²² See Defendant's Motion for Disclosure of Grand Jury Minutes and Legal Instructions at 6, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed July 27, 2026) ("The witness's testimony established that the pool had substantial preexisting damage requiring repair before any alleged conduct by Mr. Hearn."); see also Gov't Mot. to Dismiss at 6 ("Armed only with DOI's representations that defendant caused more than \$1,000 of damage to the Reflecting Pool, USAO-DC presented evidence to a District of Columbia Superior Court grand jury.")

²³ Defendant's Supplement to Motion for Disclosure of Grand Jury Minutes and Legal Instructions at 1, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed July 28, 2026) ("In the additional two pages, in response to a pointed question from government counsel, M.R. summarily stated that the damage attributable to Mr. Hearn 'would definitely be \$1,000 or more.'").

²⁴ Defendant's Motion to Dismiss the Indictment for the Government's Failure to Preserve Material Exculpatory Evidence, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed July 16, 2026) [hereinafter "Def. Mot. to Dismiss for Failure to Preserve"].

²⁵ Gov't Mot. to Dismiss at 1.

seeking dismissal *with* prejudice. He challenged the government’s rationale for seeking dismissal without prejudice, sought protection against further prosecutorial harassment, and questioned whether dismissal without prejudice would serve the public interest.²⁶

In an order dated August 6, 2026, the Court dismissed the indictment but temporarily held in abeyance the parties’ competing requests for dismissal with or without prejudice.²⁷ On August 13, 2026, Mr. Hearn filed a supplemental brief noting that Executive Branch officials, including the President, had continued to advance the vandalism narrative—contrary to the record and specifically contrary to the government’s own Motion to Dismiss—and media reports suggested that the Department of Justice was considering bringing new charges against him, confirming that the risk of renewed prosecution was not speculative.²⁸ On September 4, 2026, the Court heard oral argument, and on October 1, 2026, the Honorable Todd Edelman of the District of Columbia Superior Court issued an order dismissing *with* prejudice the charges against Mr. Hearn, noting the “the extraordinary nature of the risk to Mr. Hearn should the Court dismiss this case without prejudice” despite the fact that the government had conceded the prosecution was “meritless.”²⁹ This decision means that the charge against Mr. Hearn may not be revived under any circumstances.

III. Allegations of Misconduct Against DOJ and DOI Personnel

A. DOJ Personnel—U.S. Attorney Pirro and Assistant United States Attorneys

The record reflects an indictment obtained through unusual haste and a prosecution shaped from the outset by political pressure and built on an inadequate investigation. Indeed, the Court found that “the government shot first and asked

²⁶ Defendant’s Response to Government’s Motion to Dismiss the Indictment, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed Aug. 4, 2026) [hereinafter “Def. Resp. to Gov’t Mot. to Dismiss”].

²⁷ Order, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. entered Aug. 6, 2026).

²⁸ Defendant’s Supplement to Response in Support of Dismissal with Prejudice, *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct. filed Aug. 13, 2026) [hereinafter “Def. Supp. to Resp in Support of Dismissal”].

²⁹ “Dismissal with Prejudice,” at 3.

questions later.”³⁰ The sprint to charge Mr. Hearn mirrored the rushed renovation itself, which the President had publicly committed to completing by a fixed deadline.³¹

The USAO-DC has admitted that it brought the case to the grand jury before it had the full investigative file and sought a felony indictment when it had only “barebones police reports” from the U.S. Park Police and was “[a]rmed with only the DOI’s representations that [Mr. Hearn] caused more than \$1,000 of damage.”³² It has further conceded that, had DOI “been forthcoming with the information clearly in its possession, the government would not have sought a grand jury indictment.”³³ At a minimum, by their own admission, the prosecutors knew that the record was incomplete and apparently knew that DOI possessed exculpatory material, yet proceeded to the grand jury anyway.

However, the record reflects that the USAO-DC in fact was in possession of the necessary exculpatory evidence and simply ignored it. On July 1, 2026 – the day before it went to the grand jury – the USAO-DC received the National Park Service’s Damage Assessment, which, in the government’s own words, “did not assess what if any economic loss was attendant to the defendant’s actions when he pulled on the lining.” The Damage Assessment described the failing area Mr. Hearn touched as a “[m]ajor failure point” and a “possible result of vandalism *after* initial peeling.”³⁴ Even setting aside the mountain of public reporting on the failing liner before Mr. Hearn ever approached the pool,³⁵ the prosecutors possessed written documentation that Mr. Hearn did not and could not have caused \$1,000 of damage to the Reflecting Pool. Nevertheless, they sought and obtained an indictment the very next day. There was no legal or factual reason for seeking the indictment less than two weeks after the arrest;

³⁰ *Id.*

³¹ Donald J. Trump (@realDonaldTrump), Truth Social (May 16, 2026), <https://truthsocial.com/@realDonaldTrump/posts/116586421680561291> (“Should be completed before the Fourth of July, our target date.”).

³² Gov’t Mot. to Dismiss at 6.

³³ *Id.* at 18.

³⁴ *Lincoln Memorial Reflecting Pool Damage Assessment*, USAO-DC 61 (June 30, 2026) (produced in discovery in *United States v. Hearn*, No. 2026 CF2 010237 (D.C. Super. Ct.)).

³⁵ See, e.g., Sherri Dalphonse, *PHOTOS: Yes, the Blue Paint Is Peeling Off the Reflecting Pool*, WASHINGTONIAN (June 19, 2026, 11:41 AM), <https://washingtonian.com/2026/06/19/photos-yes-the-blue-paint-is-peeling-off-the-reflecting-pool/> (photographs depicting strips of blue coating peeling from the pool floor and algae bloom, captioned “What appears to be blue paint is peeling off the Lincoln Memorial Reflecting Pool, June 19, 2026”).

only the USAO-DC – and perhaps the White House – can answer the question of what factors motivated that decision.

The USAO-DC likewise wholly failed to critically examine the allegations made by the sole NPS employee on whom the case against Mr. Hearn rested. The NPS employee’s written statement of her interaction with Mr. Hearn was directly contradicted by video evidence disclosed in discovery. Moreover, the NPS employee made false statements that she had taken a photo of the liner immediately before Mr. Hearn touched it. In fact, someone else took the photo roughly two hours before Mr. Hearn ever approached the pool. In a sworn affidavit, the USAO-DC blindly parroted her misrepresentations, claiming that this “before” photo purportedly showed that the liner was only partially damaged before Mr. Hearn touched it. Taking the minimal investigative steps necessary to determine who took this photo and when – even simply reviewing its metadata – would have revealed that the government’s primary witness had lied to the investigator and that her account did not support the charges. The USAO-DC failed to do so.

Compounding these problems, the government failed to timely produce discovery – including *Brady* information that was specifically and repeatedly demanded by the defense – despite representing to the Court that discovery would be timely completed. The USAO-DC never produced the metadata for the photographs on which the charge depended, never produced the material underlying the June 30 Damage Assessment, never identified the individuals who accused Mr. Hearn, and never gave him the contents of his own telephone. The government released surveillance footage of the Reflecting Pool – recorded less than an hour before Mr. Hearn approached it – to Fox News,³⁶ to a U.S. Park Police social-media account,³⁷ and to the President; yet, it produced not a single frame of CCTV footage in discovery; it withheld body-worn camera recordings that its own officers’ reports confirm exist; and, after receiving a written preservation demand, it drained the Reflecting Pool, cut away the liner, and physically altered other pertinent aspects of the basin (for example, the presence of certain types of debris), all of which were central to the issue in the case.

The misstatements to the Court did not end with pledges about when discovery would be complete. In its Motion to Dismiss, the government claims it first learned of the liner’s pervasive failures during a defense expert’s inspection on July 17, 2026. This is blatantly false and is directly refuted by the government’s own file. The June 30 Damage Assessment – which the USAO received by July 1 – documented damage throughout the pool as early as June 8, and the USAO-DC produced that very

³⁶ Jesse Watters, *Primetime obtains exclusive tapes of the alleged Reflecting Pool vandals*, FOX NEWS (June 23, 2026), <https://www.foxnews.com/video/6399223760112>.

³⁷ USPPNews (@usparkpolicepio), X (June 24, 2026), <https://x.com/usparkpolicepio/status/2069922924090249321>.

document to the defense on July 10, a week *before* the date on which it now claims to have first learned of these liner issues. But the evidence of liner damage existed well before the June 30 Damage Assessment. For example, in a June 11 email, an NPS engineer identified perimeter “overspray” and warned that the area was “vulnerable to peeling.”³⁸ Moreover, by June 22, the coating manufacturer had acknowledged “localized areas of finish coat separation,”³⁹ and independent experts attributed the failure to problems with application and adhesion. The government concedes that on July 1, 2026, U.S. Attorney Pirro and senior USAO-DC supervisors visited the Reflecting Pool, but it asserts that it was difficult to examine the condition of the floor because it “remained filled with water.”⁴⁰ Yet photographs of the extensive damage, including flapping pieces of liner in all areas of the pool, were widely reported before that date. Further, on July 13, USAO-DC special agents photographed widespread damage throughout the empty Pool while accompanied by an NPS engineer who told them he had personally been cutting loose liner with a knife to stop the peeling. The government also received an engineering assessment from BCS Construction Engineering concluding that “[a]n apparent cause of failure may be the application of too little or too much XP bonding agent.”⁴¹

Simply put, the record clearly shows that the USAO-DC charged Mr. Hearn despite a mountain of evidence that the Reflecting Pool was failing from installation defects, and then it misled the Court regarding when it learned of these defects in order to cover up its own misconduct and incompetence. In his decision denying the government the ability to recharge Mr. Hearn, Judge Edelman found that there was no legitimate justification for the government’s “lightning-fast indictment process.”⁴²

Beyond these instances of improper conduct, additional misconduct was committed at the highest levels of the USAO-DC. While the government’s own motion to dismiss places U.S. Attorney Pirro at the Reflecting Pool on July 17, 2026, the motion does not describe what else occurred there. Accompanied by a group of armed government agents who positioned themselves around defense counsel’s expert, the

³⁸ Gov’t Mot. to Dismiss at 10.

³⁹ *Rhino Linings Statement Regarding the Washington DC Reflecting Pool Rehabilitation Project*, RHINO LISTINGS (Jun. 22, 2026) <https://rhinolinings.com/blog/news-and-announcements/rhino-linings-statement-regarding-the-washington-dc-reflecting-pool-rehabilitation-project/> [hereinafter “*Rhino Statement*”]; see Adam Kovac, *Why is the Paint Peeling Off the Lincoln Memorial Reflecting Pool, An Investigation*, SCIENTIFIC AMERICAN (June 22, 2026), <https://www.scientificamerican.com/article/why-the-paint-is-peeling-off-the-lincoln-memorial-reflecting-pool-experts-explain/>.

⁴⁰ Gov’t Mot. to Dismiss at 5.

⁴¹ Gov’t Mot. to Dismiss at 15.

⁴² Dismissal with Prejudice at 22.

U.S. Attorney personally approached the expert while he was conducting his inspection and questioned him about his conclusions, the results of his work, and why he was present. Even after the defense's expert advised the U.S. Attorney that he could not speak to her about the matter – and members of her own staff cautioned her not to ask him such questions – the U.S. Attorney repeatedly pressured the defense expert to provide her with information. Defense counsel was given no notice that the encounter would take place and was not present for it, and the government has never produced any report, note, or record of the exchange. A U.S. Attorney who personally interrogates a represented defendant's testifying expert, surrounded by her own staff and without notice to counsel, is not gathering evidence – she is testing how the defense intends to prove its case, and doing so in a setting that essentially held the expert captive. The DOJ OIG should determine who was present at this encounter; what was said by Ms. Pirro, the defense expert and others; whether the encounter was recorded or reported, and whether anyone in the USAO-DC office considered the propriety of it before or after the fact.

Separately, U.S. Attorney Pirro's public statements at the July 2 press conference announcing the indictment extended well beyond the bare fact of the charge: she previewed anticipated witness testimony, vouched for the credibility of government witnesses, opined directly on Mr. Hearn's guilt, and characterized the alleged conduct as "anarchy" and "criminal behavior"⁴³ – conduct implicating the trial-publicity and prosecutorial-conduct constraints of D.C. Rules of Professional Conduct 3.6 and 3.8(f), the Justice Manual, and 28 C.F.R. § 50.2.

The DOJ OIG should investigate

- Why the USAO-DC rushed to indict Mr. Hearn on an inadequate investigative record, and despite dispositive exculpatory evidence, under political pressure from the President and others;
- Whether the USAO-DC obtained a felony charge by recalling a grand jury witness to manufacture a damages figure unsupported by the evidence;
- Whether the USAO-DC failed to disclose exculpatory material in its possession;
- Whether the prosecution team intentionally failed to satisfy its preservation obligations after the July 8 demand;

⁴³ Jeanine Ferris Pirro, U.S. Att'y for the Dist. of Columbia, Remarks at a Press Conference (July 2, 2026) (video uploaded by USA TODAY to YouTube), <https://www.youtube.com/watch?v=1Tgpk4p0mAI>.

- Which of the USAO-DC personnel were responsible for the government's false representations to the Court regarding when it first learned about the liner's pervasive failures;
- Why no report of the early July contact between the NPS employee witness and the case agent was created, retained, or produced;
- Whether U.S. Attorney Pirro's extrajudicial statements at the indictment press conference violated applicable rules of professional conduct and DOJ policy; and
- Whether U.S. Attorney Pirro's conduct in approaching and questioning a defense expert while other government officials surrounded him on July 17, 2026, violated applicable rules of professional conduct and DOJ policy.

We fully expect other issues worthy of investigation will arise as the DOJ OIG investigation proceeds.

B. DOI Personnel – NPS, Park Police, and DOI Front Office Personnel

The misconduct by DOI personnel encompasses failures for which DOI bears sole responsibility – the improper sole-source award of the Reflecting Pool coating contract, the faulty design and workmanship its own staff supervised and approved, the foreseeability of the resulting failure, and the improper reliance on the National Guard – as well as failures for which DOI shares responsibility with DOJ.

NPS awarded the \$14.6 million coating contract to Atlantic Industrial Coatings ("AIC") on a sole-source, non-competitive basis, invoking the urgency exception in the Federal Acquisition Regulation ("FAR") and certifying that the contractor possessed "unique qualifications."⁴⁴ NPS recognized that defects in the installation of the liner would result in "delamination, blistering, discoloration, microbial growth, or premature failure."⁴⁵ Yet instead of testing which materials and contractor would be best for the job, NPS instead fabricated a temporal emergency that the FAR never contemplated: reopening the pool "in time for the Nation's 250th anniversary event series." To make matters worse, AIC possessed no "unique qualifications" aside from agreeing to take on a project that was clearly beyond its abilities.⁴⁶

⁴⁴ *Justification*, supra note 11, at 3; *AIC Contract*, supra note 11.

⁴⁵ *Justification*, supra note 11, at 3.

⁴⁶ *AIC Contract*, supra note 11.

Section 4 of the DOI's March 31, 2026, "Sole Source Justification Other than Full and Open Competition," memorandum presents a circular justification for the proposition that not expediting the Lincoln Memorial's pool surface repair would "seriously injure" the public and "...[expose] the Government to public-safety, resource protection, and event support risks." There is no reasonable basis for justifying this work – the liner replacement – as a matter of public safety, or to somehow justify it based on further damage done to the pool. The memorandum further asserts that spring was the only reasonable time to do the work. That assertion is difficult to reconcile with the many comparable construction projects underway in the District during the same period. Whether the asserted urgency and the selection of this awardee were driven by the political completion schedule rather than the criteria the FAR requires is a question the DOI OIG is positioned to answer. We further note that the publicly filed version of the NPS sole-source justification memorandum lacks a signature for legal review.

The renovation proceeded under NPS's daily supervision, and its own decisions – including the selection of a contractor who failed to follow required and industry-accepted installation procedures – produced the failures. NPS ran daily on-site inspections and documented the failures in real time, including blistering flagged by a quality-control inspector during the work – yet did not halt the renovation. On May 21, 2026, NPS "reviewed" and "found to be acceptable" the very joint-sealing method – "the spraying of 11-35 sealant around the expansion joints" – that later failed.⁴⁷ It was that same 11-35 sealant "that was later peeled up in the incident involving the defendant."⁴⁸ NPS then directed a Pipeliner 5000 texture coat over the 11-35 for cosmetic reasons, contrary to the manufacturer's instructions *and* the government's own specifications.

The NPS sole-source justification specifies that 11-35 should be the "Application of Rhino 11-35 Polyurea as the joint cap/elastic layer."⁴⁹ Unsurprisingly, the government's post-incident inspection found that where "Pipeliner 5000 was applied for texture over 11-35," it "had not bonded."⁵⁰ NPS's own engineer had identified perimeter "overspray" and flagged the strip layer at issue as "vulnerable to peeling" on June 11 – eight days before Mr. Hearn's arrest – yet NPS returned the site to service and removed the fencing.

⁴⁷ Gov't Mot. to Dismiss at 8.

⁴⁸ *Id.* at 9.

⁴⁹ *Justification*, supra note 11, at 1.

⁵⁰ Gov't Mot. to Dismiss at 15.

The individual failures catalogued above share a common and damning throughline: NPS was warned of the risks, and it nevertheless proceeded. Together these decisions reflect a failure that was not merely foreseeable but expressly foreseen — and completely ignored. The question of who knew about these risks and who nevertheless decided to move forward needs to be definitively answered.

In addition to this string of appalling errors of performance and contract oversight, Senior DOI officials, including Secretary Burgum, publicly asserted that vandals caused the damage even as the agency's own contemporaneous records showed installation and adhesion failure⁵¹ — statements that paralleled and reinforced the vandalism narrative advanced by DOJ and the White House. Senior agency personnel, up to and including the heads of those agencies, are not free for any reason to peddle falsehoods that advance a baseless narrative designed to appease the White House and mislead the public. The DOI OIG investigation should determine whether those falsehoods were circulated because knowledgeable DOI personnel failed to share the truth with Secretary Burgum, or whether he made the statements about vandalism while knowing they were false.

For example, Secretary Burgum stated in late June 2026 that “people are using box cutters to do vandalism on this thing,” described “multiple gashes” caused by vandals in early July, and, on August 1, 2026 — *after* the government had conceded contractor error in its motion — asserted that “[t]he evidence is clear, vandals have repeatedly caused damage to the Reflecting Pool.” Each such statement should be tested against DOI's own contemporaneous records, including the June 11 engineer email, the manufacturer's June 22 acknowledgment of finish-coat separation, and NPS's own removal of the failed liner.⁵² The OIG should investigate whether senior DOI officials advanced a vandalism narrative they knew to be contradicted by their own agency's contemporaneous records, timed the selective release of curated CCTV footage to reinforce that narrative, and then doubled down on that false narrative to deflect

⁵¹ Doug Burgum, Sec'y of the Interior, interview on *Fox & Friends Weekend* (June 27, 2026), quoted in *Burgum Vows 'Full' Prosecution After Vandals Carved 350-Foot Gash into Lincoln Memorial Reflecting Pool*, FOX NEWS (June 28, 2026), <https://www.foxnews.com/media/burgum-vows-full-prosecution-after-vandals-carved-350-foot-gash-lincoln-memorial-reflecting-pool>; Doug Burgum, Sec'y of the Interior, interview on CNN's *State of the Union* (CNN July 5, 2026), quoted in *Interior Secretary Doug Burgum: Reflecting Pool Repair Involves “Multiple Gashes” by Vandals*, WASH. TIMES (July 5, 2026), <https://www.washingtontimes.com/news/2026/jul/5/interior-secretary-doug-burgum-reflecting-pool-repair-involves/>; Secretary Doug Burgum (@SecretaryBurgum), X (Aug. 1, 2026), <https://x.com/SecretaryBurgum/status/2083614772847653242>; see Def. Supp. to Resp in Support of Dismissal at 5–6.

⁵² *Rhino Statement*, supra note 34; Def. Resp. to Gov't Mot. to Dismiss at 14.

responsibility for DOI's role in the embarrassingly flawed renovation work and in the baseless indictment of Mr. Hearn.

Responsibility for several critical failures is shared between DOI and DOJ. DOI generated and supplied the unsupported damages figure that manufactured the felony, and DOJ unquestioningly relied on it; the government conceded it was "[a]rmed only with DOI's representations that defendant caused more than \$1,000 of damage."⁵³ Defense counsel demanded on July 8, 2026, that the government preserve the pool and all related physical evidence,⁵⁴ but DOI controlled and altered the scene while the duty to preserve extended to the entire prosecution team – which included DOI – and repairs continued during the preservation period, further altering the evidence. As one example, the defense's expert review of the crime scene found evidence of the presence of residual sandblast grit at various locations in the pool including on top of and below the liner. Despite a request from the defense to the AUSA responsible for this prosecution to not alter the liner site conditions physically or chemically before the defense could conduct testing at the site, the government materially altered the scene, including by conducting cleaning and testing, and removing damaged material.

DOI also sat on its own contemporaneous documentation of the installation's failure – the NPS engineer's June 11 email and daily construction-management records all predate the indictment – yet this exculpatory material was not timely disclosed.⁵⁵ The government's own motion faults DOI, stating that the USAO-DC received only "barebones police reports" and that, had DOI "been forthcoming with the information clearly in its possession, the government would not have sought a grand jury indictment."⁵⁶ Most troubling, DOI selectively publicly released CCTV surveillance footage while the same footage was never produced to Mr. Hearn in discovery, notwithstanding that the release violated its own policies,⁵⁷ its obvious materiality, and the government's obligations under *Brady v. Maryland*, 373 U.S. 83 (1963).

⁵³ Gov't Mot. to Dismiss at 6.

⁵⁴ Letter from Def. Counsel to Kevin Reddington & Kadian Carter, Assistant U.S. Att'ys (July 8, 2026) (Ex. F to Def. Mot. to Dismiss for Failure to Preserve)

⁵⁵ See Def. Resp. to Gov't Mot. to Dismiss at 18–19.

⁵⁶ Gov't Mot. to Dismiss at 2, 18.

⁵⁷ Surveillance of the Reflecting Pool is conducted through the National Park Service video surveillance system, whose use, retention, and disclosure are governed by the Nat'l Park Serv., U.S. Dep't of the Interior, Reference Manual 9: Law Enforcement, Chapter 26 (Physical Security) (May 2009), https://www.nps.gov/features/foia/RM-9_LawEnforcementManual_REDACTED_1_5_11.pdf, and by the U.S. Park Police Video Surveillance System Privacy Impact Assessment, see U.S. Park Police, U.S. Dep't of the Interior, *Privacy Impact Assessment* (Sept. 12, 2023), <https://www.doi.gov/media/document/dems-pia-09122023-pdf>.

Moreover, Mr. Hearn was not stopped by sworn civilian law enforcement. According to the government's own charging documents, members of the National Guard stopped and detained him and brought him to officers of the U.S. Park Police. Body-worn camera footage revealed a Guardsman told Mr. Hearn he was not free to leave when he asked. The use of military personnel to detain a civilian at a national memorial raises questions under the Posse Comitatus Act, 18 U.S.C. § 1385, and under the terms on which Guard personnel were made available to DOI.

The DOI OIG's investigation needs to determine

- Who made the decision to proceed with an unqualified contractor;
- Whether the risk of doing so was transmitted to the head of the National Park Service and to Secretary Burgum;
- Why the work went forward in the face of those risks;
- What pressure was applied or guidance given to the officials who signed and certified the March 31, 2026, Sole Source Memorandum;
- Why the publicly filed version of the NPS sole-source justification memorandum appears to lack a signature for legal review;
- What other plans, already in the planning and/or design phase by the NPS, for resolving this exact series of problems, were set aside for the expedited process that ultimately failed;
- Why DOI officials continued to make publicly defamatory statements against Mr. Hearn even after they were (1) aware of problems with the liner internally, and then (2) learned of the DOJ's dismissal of the case;
- Why DOI officials made media disclosures that appeared to be designed and timed to harass or defame a defendant in an active criminal case directly related to the DOI;
- Why DOI officials relied on National Guardsmen to conduct law enforcement activity, at least by detaining Mr. Hearn, in violation of posse comitatus.
- Why, to cite the Government's dismissal, the DOI's *own law enforcement personnel* did not turn over mandatory discovery materials in a "timely" manner to the DOJ;

- What instructions, if any, National Guard and NPS employees were given as to making arrests of citizens at the Reflecting Pool; and
- Who authorized the Department of the Interior press office to continue to post false and defamatory information about Mr. Hearn on social media platforms as recently as September 12.⁵⁸

IV. Examples of Parallel Investigations by Multiple Internal Watchdogs

Although IG investigations are generally confined to pursuing allegations of waste, fraud, abuse, incompetence, or misconduct by personnel in a single executive branch agency, there are numerous historical precedents for parallel investigations conducted by more than one IG into different aspects of the same core set of events. We have summarized a few of those joint IG investigations in Appendix A.

V. Evasion of Institutional Responsibility Is Not an Option

The events surrounding the renovation of the Reflecting Pool – the no-bid contracts awarded to unqualified contractors, the false statements about damage caused to it, the unsupported arrest of Mr. Hearn, his indictment in the face of ample evidence that he did not cause damage to the Reflecting Pool, and the public shaming of Mr. Hearn by agency officials who have taken an oath of office to serve the American public and support and defend the Constitution – call for prompt and thorough investigations by the DOJ and DOI OIGs. There is no institutional alternative to answering the numerous questions raised over the last several months.

We fully understand that undertaking these investigations will not be welcomed by the political appointees who have taken positions and made statements that have already been refuted by evidence in the public record. But the job description of IGs does not include pleasing people at high levels of the government.⁵⁹ In fact, the finest moments of the IG community over the past 48 years have been when it has spoken truth to power, and enforced accountability for waste, fraud, abuse, and misconduct.

⁵⁸ See, e.g., U.S. Interior Press (@interiorpress47), X (Sept. 12, 2026), <https://x.com/interiorpress47/status/2098824375214506096?s=20>.

⁵⁹ To this end, we request that these investigations be conducted in accordance with the CIGIE Quality Standards for Investigations and the independence standards of Generally Accepted Government Auditing Standards, and that your offices' findings be reported to the heads of your agencies and to Congress as the IG Act requires. See John Roth, *Restoring Independence to Government Watchdogs*, BRENNAN CTR. FOR JUST. (Aug. 28, 2026), <https://www.brennancenter.org/our-work/analysis-opinion/restoring-independence-government-watchdogs>.

VI. Conclusion

The events surrounding the renovation and repair of the Reflecting Pool and the nightmare lived by Mr. Hearn beginning June 19 demand a prompt and exhaustive investigation by professional investigators in the DOJ and DOI Offices of the Inspector General. Your oaths require nothing less, and Mr. Hearn and the public deserve nothing less.

Respectfully submitted,



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October 6, 2026

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Appendix A – Examples of Joint IG Investigations

a. Good Ol' Boy Roundup – 1995

In 1995, public reporting disclosed that for the previous 15 years, federal and state law enforcement personnel had attended an annual event called the “Good Ol’ Boy Roundup” in southern Tennessee. The event had been founded by a Bureau of Alcohol, Tobacco, and Firearms agent and by 1995 had grown from 58 attendees to 341. Preliminary reporting alleged that the gathering was limited to whites and resembled a “Klan rally” at which federal agents engaged in openly racist activities, posted racist signs, wore racist t-shirts, performed racist skits, and played racist music.⁶⁰

The Department of Justice and Department of Treasury IGs conducted parallel investigations focused on whether law enforcement agents from DOJ or Treasury attended the event and either witnessed or participated in racist activities. The investigations by the DOJ and Treasury IGs were conducted in parallel, and DOJ and Treasury published separate reports in early 1996. Those reports concluded that some of the most serious allegations were false or exaggerated, but that in several years there was credible evidence of “blatantly racist signs, skits, and actions” at the Roundup.⁶¹

b. CIA-Crack Cocaine Conspiracy – 1997

In August 1996, the San Jose Mercury News published a series of articles entitled “Dark Alliance: The Story Behind the Crack Explosion.” The articles, written by Mercury News reporter Gary Webb, alleged that individuals associated with the Nicaraguan Contras, in cooperation with the CIA, had flooded South Central Los Angeles with crack cocaine in order to finance the Contras’ fight against the regime in Nicaragua. The articles went further and alleged that these activities had sparked the crack epidemic not only in California but across the country, and that personnel in the Department of Justice and CIA had shielded the Nicaraguan individuals from accountability and facilitated lenient treatment by agents and prosecutors in the federal criminal justice system.⁶²

⁶⁰ Michael Abramowitz, *Early Roundup’ Allegations Were Ignored by ATF Officials*, Wash. Post (July 22, 1995), <https://www.washingtonpost.com/archive/politics/1995/07/22/early-roundup-allegations-were-ignored-by-atf-officials/e83332eb-8565-45e3-b841-aaefbb1f833a/>.

⁶¹ U.S. Dep’t of Just., Off. of the Inspector Gen., *The Good O’ Boy Roundup Report Executive Summary* (Mar. 1996), <https://oig.justice.gov/sites/default/files/archive/special/9603/exec.htm>.; U.S. Dep’t of the Treasury, Off. of Inspector Gen., *Report of the Good O’ Boys Roundup Policy Review* (Apr. 1996), <https://babel.hathitrust.org/cgi/pt?id=mdp.39015041313944&seq=9>.

⁶² Peter Kornbluh, *Crack, the Contras, and the CIA: The Storm over “Dark Alliance”*, NAT’L SEC. ARCHIVE, (1997), <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB113/storm.htm>.

The allegations prompted hearings by the House and Senate and caused substantial unrest in Black communities throughout the country. The uproar in South Central Los Angeles was so great that then-CIA Director John Deutch decided to meet with community residents in person to assure them that a full and complete investigation would be conducted.⁶³ In response to the allegations and the unrest, the DOJ and CIA IGs conducted parallel investigations fully exploring the allegations. Neither investigation developed credible evidence that the CIA was responsible for introducing crack cocaine into South Central Los Angeles or anywhere else in the United States, and both concluded that the lenient treatment of the Nicaraguan nationals by federal prosecutors and federal judges who were the focus of Mr. Webb's articles was fully explained by the fact that they had provided extensive cooperation against co-conspirators in the drug trade.⁶⁴

c. Post 9/11 President's Surveillance Program Reviews—2008

Following the September 11, 2001, attacks, the U.S. government's domestic electronic surveillance powers were substantially expanded to enhance the nation's counterterrorism efforts. Six weeks after 9/11, Congress passed the USA Patriot Act, which substantially expanded the ability of national security and law enforcement agencies to conduct domestic surveillance without individualized suspicion.⁶⁵ In 2005, the Bush Administration was heavily criticized after disclosure of the National Security Agency's (NSA's) warrantless wiretapping program.⁶⁶ In response, Congress enacted Title III of the Foreign Intelligence Surveillance Act (FISA) Amendments of 2008. Section 301 of the legislation required the inspectors general of all five agencies involved in the President's Surveillance Program (PSP) to conduct a joint, coordinated review of the program.⁶⁷

⁶³ B. Drummond Ayers Jr., *CIA Chief Visits Watts to Counter Crack Talk*, N.Y. TIMES (Nov. 16, 1996), <https://www.nytimes.com/1996/11/16/us/cia-chief-visits-watts-to-counter-crack-talk.html>.

⁶⁴ U.S. Dep't of Just., Off. of the Inspector Gen., *The CIA-Contra-Crack Cocaine Controversy: A Review of the Justice Department's Investigations and Prosecutions* (Dec. 1997), <https://oig.justice.gov/sites/default/files/legacy/special/9712/index.htm>.

⁶⁵ Elizabeth Goitein, *Rolling Back the Post-9/11 Surveillance State*, BRENNAN CTR. FOR JUST. (Aug. 25, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/rolling-back-post-911-surveillance-state>.

⁶⁶ *U.S. Domestic Surveillance*, Council on Foreign Rel. (last updated Dec. 18, 2013), <https://www.cfr.org/backgrounders/us-domestic-surveillance>.

⁶⁷ The legislation specifically mandated reviews by the OIGs of the Department of Justice, Department of Defense, the National Security Agency, the CIA, and the Director of National Intelligence. H.R. 6304, 110th Cong. § 803 (2008), <https://www.congress.gov/bill/110th-congress/house-bill/6304>.

In July 2009, the five inspectors general jointly released a 37-page unclassified summary of their investigations.⁶⁸ The unclassified summary described the background to the PSP, the original legal justification for the PSP by DOJ's Office of Legal Counsel, and its revised assessment of the legality of aspects of the program. A substantial portion of the unclassified summary recounted the details of disagreements between high-level DOJ officials and Bush White House officials about the legality of certain aspects of the PSP. The disagreements led to threats of resignation by senior DOJ officials, including the Deputy Attorney General and FBI Director, before the disagreements were resolved.⁶⁹ Separate highly classified reports were prepared by each IG and delivered to the heads of their respective agencies and the relevant congressional oversight committees. Portions of the classified reports were declassified many years later.⁷⁰

d. Post-Hurricane Katrina IG Reviews—2005

In August 2005, Hurricane Katrina, a powerful and devastating tropical cyclone, wreaked havoc on portions of the southeastern United States, centered in and around New Orleans, Louisiana. Katrina killed 1,833 people and caused property damage estimated to be in excess of \$100 billion.⁷¹ The federal government's response came to be viewed as an example of feckless and wasteful government action.

Separate reports prepared by the inspectors general of various federal agencies focused on different issues that involved waste, fraud, abuse, and misconduct. The DHS OIG prepared a report on FEMA's disaster response and management performance following Katrina (characterizing FEMA's response as "slow and ineffective") and performed follow-on targeted audits concerning alleged contractor fraud involving no-bid contracts.⁷² The EPA OIG evaluated hazardous material releases, debris

⁶⁸ Offs. of the Inspectors Gen. of the Dep't of Just. & Def., the Cent. Intelligence Agency, the Nat'l Sec. Agency & the Off. of the Dir. of Nat'l Intelligence, *Unclassified Report on the President's Surveillance Program*, Report No. 2009-0013-AS (July 10, 2009), https://www.eff.org/files/unclassified_psp_report.pdf.

⁶⁹ *Id.* at 19-30.

⁷⁰ Offs. of the Inspectors Gen. of the Dep'ts of Just. & Def., the Cent. Intelligence Agency, the Nat'l Sec. Agency & the Off. of the Dir. of Nat'l Intelligence, *Report on the President's Surveillance Program: Annex, Volume II-A* (July 2009), https://archive.dni.gov/files/documents/424/2009%20Joint%20IG%20Report%20on%20the%20PSP_Annex%20Vol.%20II-A.pdf.

⁷¹ Hurricane Katrina, <https://www.weather.gov/mob/katrina>.

⁷² U.S. Dep't of Homeland Sec., Off. of Inspector Gen., *A Performance Review of FEMA's Disaster Management Activities in Response to Hurricane Katrina* (Mar. 2006), <https://www.oig.dhs.gov/reports/2006-03/performance-review-femas-disaster-management-activities-response-hurricane-katrina>; *Audit: Feds Waster Millions on Katrina Work*, NBC NEWS (Sept. 10, 2008), <https://www.nbcnews.com/id/wbna26647780>.

management, and air quality data integrity in the areas most severely affected by Katrina.⁷³ The Health and Human Services OIG conducted numerous audits that focused on health and medical-related procurements during the response to Katrina.⁷⁴

Each of these examples underscores the ability – and necessity – of inspectors general to respond aggressively and appropriately to high-profile and significant events. That response must consist of professional and detailed investigations that are apolitical, non-partisan, and based on the professional collection of evidence through interviews and review of relevant documents. That is the history of joint IG investigations and the approach that must be used in exploring the Reflecting Pool fiasco in all of its dimensions.

⁷³ U.S. Env't Prot. Agency, Off. of Inspector Gen., *EPA Provided Quality and Timely Information to the Public During Hurricane Katrina*, Report No. 2006-P-00023 (May 2, 2006), <https://www.epa.gov/office-inspector-general/report-epa-provided-quality-and-timely-information-hurricane-katrina>.

⁷⁴ U.S. Dep't of Health & Human Servs., Off. of Inspector Gen., *Emergency Response to Hurricane Katrina and Rita: Audit of the National Institutes of Health's National Heart, Lung, and Blood Institute's Award Process for a Contract with Davison Motor Company, Inc.*, Audit No. A-03-06-00545 (May 16, 2007), <https://oig.hhs.gov/documents/audit/4025/A-03-06-00545-Complete%20Report.pdf>.