

**§ 416. Additional provisions with respect to Inspectors General of the intelligence community**

(a) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMITTEES.—The term “intelligence committees” means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) URGENT CONCERN.—The term “urgent concern” means any of the following:

(A) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

(B) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

(C) An action, including a personnel action described in section 2302(a)(2)(A) of this title constituting reprisal or threat of reprisal prohibited under section 407(c) of this title in response to an employee’s reporting an urgent concern in accordance with this section.

(b) COMPLAINT OR INFORMATION WITH RESPECT TO URGENT CONCERN.—

(1) TO WHOM REPORTS MAY BE MADE.—

(A) INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE.—An employee of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, or the National Security Agency, or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Defense (or designee).

(B) INSPECTOR GENERAL OF INTELLIGENCE COMMUNITY.—An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General of the Intelligence Community.

(C) INSPECTOR GENERAL OF DEPARTMENT OF JUSTICE.—An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Justice (or designee).

(D) OTHER APPROPRIATE INSPECTOR GENERAL.—Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of this title, to have as its principal function the conduct of for-

eign intelligence or counterintelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the appropriate Inspector General (or designee) under this chapter, section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517), or section 103H(k) of the National Security Act of 1947 (50 U.S.C. 3033(k)).

(2) DESIGNEE TO REPORT COMPLAINT OR INFORMATION TO INSPECTOR GENERAL WITHIN 7 DAYS.—If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint or information to the Inspector General within 7 calendar days of receipt.

(3) DESIGNEES OF INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE.—The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.

(c) INITIAL DETERMINATIONS AND TRANSMITTALS.—

(1) CREDIBILITY.—Not later than the end of the 14-calendar day period beginning on the date of receipt of an employee complaint or information under subsection (b), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the head of the establishment notice of that determination, together with the complaint or information.

(2) CONFLICT OF INTEREST.—If the head of an establishment determines that a complaint or information transmitted under paragraph (1) would create a conflict of interest for the head of the establishment, the head of the establishment shall return the complaint or information to the Inspector General with that determination and the Inspector General shall make the transmission to the Director of National Intelligence and, if the establishment is within the Department of Defense, to the Secretary of Defense. In such a case, the requirements of this section for the head of the establishment apply to each recipient of the Inspector General’s transmission.

(d) FORWARDING TRANSMITTALS.—Upon receipt of a transmittal from the Inspector General under subsection (c), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the head of the establishment considers appropriate.

(e) SUBMITTING COMPLAINT OR INFORMATION TO CONGRESS.—

(1) IN GENERAL.—If the Inspector General does not find credible under subsection (c) a complaint or information submitted to the Inspector General under subsection (b), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (c), the employee (sub-

ject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

(2) LIMITATION.—The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee—

(A) before making such a contact, furnishes to the head of the establishment, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the intelligence committees directly; and

(B) obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

(3) INTELLIGENCE COMMITTEE RECEIPT OF COMPLAINT OR INFORMATION.—A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee’s official capacity as a member or employee of that committee.

(f) NOTIFICATION.—The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

(g) NO JUDICIAL REVIEW.—An action taken by the head of an establishment or an Inspector General under subsections (b) through (f) shall not be subject to judicial review.

(h) NOTICE OF SUBMISSION AND DATE.—An individual who has submitted a complaint or information to an Inspector General under this section may notify any member of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, or a staff member of either such Committee, of the fact that such individual has made a submission to that particular Inspector General, and of the date on which such submission was made.

(Pub. L. 117–286, §3(b), Dec. 27, 2022, 136 Stat. 4242.)

AMENDMENTS NOT SHOWN IN TEXT

*This section was derived from section 8H of the Inspector General Act of 1978, Pub. L. 95–452, which was set out in the former Appendix to this title, and as it existed as of Oct. 19, 2021. Section 8H of Pub. L. 95–452 was amended by Pub. L. 117–103, div. X, title V, §502(b), Mar. 15, 2022, 136 Stat. 985, and by Pub. L. 117–263, div. F, title LXVI, §6609(b), Dec. 23, 2022, 136 Stat. 3560, prior to being repealed and reenacted as this section by Pub. L. 117–286, §§3(b), 7, Dec. 27, 2022, 136 Stat. 4242, 4361. For applicability of those amendments to this section, see section 5(b) of Pub. L. 117–286, set out in a Transitional and Savings Provisions note preceding section 101 of this title.*

*Section 8H of Pub. L. 95–452 was amended by Pub. L. 117–103 as follows:*

*(1) in subsection (h)(1) [restated as subsection (a)(2) of this section], by redesignating subpara-*

*graphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively (and indenting such clauses accordingly);*

*(2) by redesignating subsection (h)(1) and (2) [restated as subsection (a)(2) and (1) of this section, respectively] as subparagraphs (A) and (B), respectively (and indenting such subparagraphs accordingly);*

*(3) in the matter preceding subparagraph (A), as redesignated, by inserting “(1)” before “In this”; and*

*(4) by adding at the end the following new paragraph:*

*“(2) Within the executive branch, an Inspector General to whom any complaint or information is reported under this section shall have sole authority to determine whether the complaint or information is a matter of urgent concern under this section.”*

*Section 8H of Pub. L. 95–452 was amended by Pub. L. 117–263 in subsection (h)(1)(A)(i) by striking “involving” and all that follows through “policy matters.” and inserting “of the Federal Government that is—*

*“(I) a matter of national security; and  
“(II) not a difference of opinion concerning public policy matters.”*

*Subsection (h)(1)(A)(i) of former section 8H of Pub. L. 95–452 was restated by Pub. L. 117–286 as subsection (a)(2)(A) of this section.*

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
416 .....	5 U.S.C. App. (IGA §8H)	Pub. L. 95–452, §8H, as added Pub. L. 105–272, title VII, §702(b)(1), Oct. 20, 1998, 112 Stat. 2415; amended Pub. L. 107–108, title III, §309(b), Dec. 28, 2001, 115 Stat. 1400; Pub. L. 107–306, title VIII, §825, Nov. 27, 2002, 116 Stat. 2429; Pub. L. 110–417, [div. A], title IX, §931(b)(2), Oct. 14, 2008, 122 Stat. 4575; Pub. L. 111–259, title IV, §431(b), Oct. 7, 2010, 124 Stat. 2731; Pub. L. 113–126, title III, §310, title VI, §603(a), July 7, 2014, 128 Stat. 1398, 1420; Pub. L. 116–92, div. E, title LXVII, §6726(c), Dec. 20, 2019, 133 Stat. 2236.

§ 417. Special provisions concerning the Department of Homeland Security

(a) IN GENERAL.—

(1) AUTHORITY OF SECRETARY OF HOMELAND SECURITY OVER CERTAIN AUDITS AND INVESTIGATIONS.—Notwithstanding the 2d sentence and last sentence of section 403(a) of this title, the Inspector General of the Department of Homeland Security shall be under the authority, direction, and control of the Secretary of Homeland Security with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

- (A) intelligence, counterintelligence, or counterterrorism matters;
- (B) ongoing criminal investigations or proceedings;
- (C) undercover operations;
- (D) the identity of confidential sources, including protected witnesses;