

United States Senate

WASHINGTON, DC 20510

October 25, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

Dear Secretary Mayorkas:

According to unclassified legally protected whistleblower disclosures, on July 3, 2024, the U.S. Secret Service (USSS) Protective Intelligence Division (PID) received approval for a One Time Read In (OTRI) to brief certain Secret Service employees on “some sensitive reporting pertinent to your assignment” relating to their responsibilities to protect former President Trump.¹ The email records show that PID sent these employees nondisclosure agreements, which they were required to sign as a condition for the OTRI briefing.² Moreover, additional records provided to our offices show that after the briefing, PID sent a follow up message to these employees reminding them to sign the nondisclosure agreement, and it required three signatures for the “acknowledgement, brief, and debrief” related to the OTRI briefing.³ We write to you today for information about these nondisclosure agreements and whether they contained the anti-gag provision as required by law.

The Whistleblower Protection Enhancement Act (WPEA) clearly and unequivocally states that no federal agency nondisclosure policy, form, agreement, or related documents may be implemented or enforced if it does not contain specific language notifying the employee of their rights to disclose waste, fraud, abuse, or misconduct to Congress, an Inspector General, or the Office of Special Counsel (OSC).⁴ Further, the anti-gag provision included in the Consolidated Appropriations Act provides that no funds appropriated may be used by federal agencies to implement or enforce any nondisclosure, policy, form, agreement, or related documents unless it contains the specific language notifying employees of their aforementioned whistleblower rights.⁵

In conducting our congressional oversight, we’ve noticed a trend among federal agencies to require their employees to sign nondisclosure and related agreements without the inclusion of

¹ Attached enclosure.

² Attached enclosure.

³ Attached enclosure.

⁴ 5 U.S.C. § 2302 (b)(13).

⁵ Pub. L. No. 118-47.

the anti-gag provision. On March 11, 2024, Ranking Member Grassley wrote to all 74 Inspectors General requesting they conduct a review of their parent agency's nondisclosure policies, forms, agreements, and related documents to ensure they contained the anti-gag provision as required by law.⁶ Moreover, on April 3, 2024, in recognition of the importance of federal employees knowing their constitutional and statutory rights to blow the whistle, the Office of Special Counsel released a statement saying "OSC will continue to aggressively enforce the prohibition against nondisclosure agreements and communications that discourage employees from blowing the whistle."⁷ Yet, on May 7, 2024, the DHS Office of the Inspector General (OIG) responded to Ranking Member Grassley's March letter stating that a 2018 DHS OIG report found many of DHS settlement agreements failed to include the anti-gag provision as required by law.⁸ The DHS OIG also said that during the Biden-Harris administration, "DHS employees had been told that they should not provide documents directly to OIG" without prior review by DHS attorneys.⁹ The DHS OIG said that "this review process could violate the Whistleblower Protection Enhancement Act (WPEA), which prohibits an agency from implementing or enforcing a policy that restricts employees' communications with an OIG concerning waste, fraud, or abuse."¹⁰

The importance of whistleblowers knowing their rights under the law cannot be stated enough, and federal agencies should encourage their employees to disclose allegations of waste, fraud, and abuse through all appropriate channels. Federal agencies cannot conceal their wrongdoing behind illegal non-disclosure policies and related actions. With DHS's reportedly long history of lack of transparency, retaliation, and attempts to silence whistleblowers, it's critically important to know whether the nondisclosure policies and related documents provided in these whistleblower disclosures and DHS-wide contain the anti-gag provision as required by law.¹¹ Further with ongoing Congressional, OIG, and other investigations into the July 13 and

⁶ See *Grassley Calls on All 74 Federal Inspectors General to Fortify Whistleblower Protections*, (Mar. 12, 2024) <https://www.grassley.senate.gov/news/news-releases/grassley-calls-on-all-74-federal-inspectors-general-to-fortify-whistleblower-protections>.

⁷ Office of Special Counsel, *OSC Strongly Enforces the Prohibition Against Employee Gag Orders that Chill Whistleblowing*, Press Release (Apr. 3, 2024) <https://osc.gov/News/Pages/24-11-Prohibition-Gag-Orders-Whistleblowing.aspx>.

⁸ Letter from DHS OIG Cuffari to Senator Charles E. Grassley, (May 7, 2024), on file with committee staff.

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Press Release, *Grassley, Loudermilk: DHS Must Stop Interfering in Inspector General Investigations*, (Aug. 20, 2024) <https://www.grassley.senate.gov/news/news-releases/grassley-loudermilk-dhs-must-stop-interfering-in-inspector-general-investigations>; Press Release, *Grassley Delivers Opening Remarks at Roundtable on DHS Whistleblower Retaliation, Ongoing Failure to Collect DNA at the Southern Border*, (Jul. 23, 2024) <https://www.grassley.senate.gov/news/remarks/grassley-delivers-opening-remarks-at-roundtable-on-dhs-whistleblower-retaliation-ongoing-failure-to-collect-dna-at-the-southern-border>; Floor Remarks, *Grassley Calls Out Customs and Border Protection's Persistent Whistleblower Retaliation*, (Dec. 11, 2023) <https://www.grassley.senate.gov/news/remarks/grassley-calls-out-customs-and-border-protections-persistent-whistleblower-retaliation>; Press Release, *Grassley Demands CBP 'Immediately Institute Corrective Action' Amid Reports of Ongoing Whistleblower Retaliation*, (Aug. 22, 2023) <https://www.grassley.senate.gov/news/news-releases/grassley-demands-cbp-immediately-institute-corrective-action-amid-reports-of-ongoing-whistleblower-retaliation>; DHS OIG, *DHS Non-disclosure Forms and Settlement Agreements Do Not Always Include the Required*

September 15 assassination attempts against former President Trump, it's crucial that DHS embrace transparency to the American people and show that it isn't seeking, through its nondisclosure agreements or otherwise, to chill DHS employee communications to Congress, the OIG, and the OSC.¹²

Accordingly, so that Congress may conduct independent oversight on this matter, please provide no later than November 8, 2024 all DHS, including its component agencies, nondisclosure policies, forms, agreements, and related documents. In addition, provide a detailed description with respect to the threat assessment rubric used to justify and deploy protective details to government and non-government protectees.¹³ In your answer, precisely describe how the threat in the aforementioned emails altered and impacted former President Trump's and any other current or former government officials' protective detail.

Thank you for your prompt review and response. If you have any questions, please contact Senator Grassley's Committee staff at (202) 224-0642 and Senator Johnson's Committee staff at (202) 224-2627.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

Statement from the Whistleblower Protection Enhancement Act of 2012, OIG-18-73 (Aug. 10, 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-08/OIG-18-73-Aug18.pdf>.

¹² See Letter from Sen. Charles E. Grassley, Ranking Member, Senate Budget Committee to the Honorable Alejandro Mayorkas, Secretary, Department of Homeland Security and USSS Director regarding the Trump assassination attempt (Jul. 16, 2024), https://www.grassley.senate.gov/imo/media/doc/grassley_to_dhs_uss_s_-_trump_assassination_attempt.pdf; Letter from Sen. Charles E. Grassley, Ranking Member, Senate Budget Committee to USSS regarding USSS Post Standings (Jul. 20, 2024), https://www.grassley.senate.gov/imo/media/doc/grassley_to_uss_s_-_post_standings.pdf; Letter from Sen. Charles E. Grassley, Ranking Member, Senate Budget Committee to Secret Service Acting Director Rowe regarding USSS Operational Security Plan (Jul. 23, 2024), https://www.grassley.senate.gov/imo/media/doc/grassley_to_dhs_uss_s_-_operational_security_plan.pdf; Letter from Sen. Charles E. Grassley, Ranking Member, Senate Budget Committee to Secret Service Acting Director Rowe regarding USSS Acting Director Rowe Testimony (Aug. 9, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_uss_s_-_ad_rowe_testimony.pdf; Press Release, *Grassley Oversight Unveils 'Most Detailed Picture Yet' of Trump Assassination Attempt*, (Jul. 29, 2024) <https://www.grassley.senate.gov/news/news-releases/grassley-oversight-unveils-most-detailed-picture-yet-of-trump-assassination-attempt>; Letter from Sen. Charles E. Grassley, Ranking Member, Senate Budget Committee to Secret Service Acting Director Rowe regarding coverage of AGR complex, (Sep. 17, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_secret_service_-_follow_up.pdf.

¹³ John Sakellariadis, Politico, *Iran has a hit list of former Trump aides. The U.S. is scrambling to protect them* (Oct. 11, 2024), <https://www.politico.com/news/2024/10/11/iran-trump-assassination-plans-00183488>.

cc: The Honorable Sheldon Whitehouse
Chairman
Committee on the Budget

The Honorable Richard Blumenthal
Chairman
Permanent Subcommittee on Investigations

The Honorable Hampton Dellinger
Special Counsel
Office of Special Counsel

The Honorable Joseph Cuffari
Inspector General
Department of Homeland Security

Mr. Ronald Rowe
Acting Director
United States Secret Service

RE: OTRI Briefing

Reply Reply All Forward ...

Mon 7/8/2024 10:43 AM

[Redacted] (PID)
To: [Redacted] (OTD); [Redacted] (OTD)
Cc: [Redacted] (WPB); [Redacted] (PID)

[Redacted] OTRI NDA.pdf .pdf File
[Redacted] OTRI NDA.pdf .pdf File

Cell:

From: [Redacted] (PID) <[Redacted]@ussc.dhs.gov>
Sent: Wednesday, July 3, 2024 1:50:10 PM
To: [Redacted] (OTD) <[Redacted]@ussc.dhs.gov>; [Redacted] (OTD) <[Redacted]@ussc.dhs.gov>
Cc: [Redacted] (WPB) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>; [Redacted] (PID) <[Redacted]@ussc.dhs.gov>
Subject: OTRI Briefing

Good afternoon,

PID has received approval for a One Time Read in (OTRI) to some sensitive reporting pertinent to your assignment. We will need to schedule a secure call in the FBI SCIF for both of you to receive the information, as we have done with [Redacted] in the past. We can either provide you both with the information at the same time, or schedule separate briefings.

Please let us know when you would like to receive this briefing.

Thank you!

[Redacted]

USSS/PID
[Redacted]
[Redacted]
(C)
(O)
[Redacted]

Secure comms (phone/email) available upon request

RE: OTRI Briefing

Reply Reply All Forward ...

Mon 7/8/2024 10:43 AM

To: [Redacted] (PID)
Cc: [Redacted] (DTD); [Redacted] (DTD)
[Redacted] (WPB); [Redacted] (PID)

[Redacted] OTRI NDA.pdf .pdf File
[Redacted] OTRI NDA.pdf .pdf File

Good morning,

The secure phone number to call for today's briefing will be [Redacted] if you have any issues, you will be reach us on the nearby unclassified phone at [Redacted] I've also attached the NDAs for today's OTRI. If you could please sign them on the blue highlighted lines and return, it would be much appreciated. A Digital signature is fine if that is easier.

Let me know if you have any questions!

Thanks,

[Redacted]

From: [REDACTED] (PID) <[REDACTED]@usss.dhs.gov>
Sent: Monday, July 8, 2024 2:07 PM
To: [REDACTED] (OTD) <[REDACTED]@usss.dhs.gov>; [REDACTED] (OTD) <[REDACTED]@usss.dhs.gov>
CC: [REDACTED] (PID) <[REDACTED]@usss.dhs.gov>
Subject: OTRI NDAs

Good afternoon,

It sounds like the OTRI brief went well. Please sign the blue highlighted areas of the NDA [REDACTED] sent earlier. There will be three signatures per NDA (acknowledgement, brief, and debrief).

The NDAs may be digitally or manually signed, whichever is more convenient for you.

Then, please send me the signed NDAs to complete the OTRI processing.

Thank you,

[REDACTED]

Respectfully,

[REDACTED]
[REDACTED]
[REDACTED]

PID: [REDACTED]

U.S. Secret Service (DHS)