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December 17, 2010

Mr. Gordon Heddell
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202

Dear Inspector General Heddell:

I write you today in an effort to follow-up on serious allegations regarding the performance of the Defense Criminal Investigative Service (DCIS) in failing to adequately investigate allegations that Department of Defense (DoD) employees purchased child pornography. I remain concerned that an accurate count of DoD employees, to include active military members, civilian workers and contractors, continues to elude your agency. I am concerned that DCIS is unable to proactively identify DoD individuals that allegedly engaged in the sexual exploitation of children and continue to hold sensitive security clearances.

On December 9, 2010, members of my staff hosted a briefing with agents from Immigration and Customs Enforcement (ICE) agency who initiated "Operation Flicker", an investigation into U.S. citizens who purchased and trafficked in child pornography. The case involved websites that illegally profited from the commercial distribution of child pornography by allowing users to subscribe to their site and download images of children engaged in sexual acts. The ICE agents described, in detail, their approach to investigating, apprehending and ultimately disbanding the individuals responsible for perpetrating the heinous crimes that were identified by "Operation Flicker". My staff was impressed with the aggressive approach agents from ICE displayed in protecting such a valuable asset as our nation's children.

Upon receiving your response to my November 5, 2010, letter to Secretary Gates and reviewing the information provided by your office, numerous questions remain as to the conduct of DCIS personnel, specifically their failure to properly investigate these serious allegations. It is my understanding that the decision to terminate the DCIS portion of "Operation Flicker" was made based on the opinion that child pornography was "not one of DCIS' investigative priorities."¹ The failure of DCIS management to recognize the potential national security implications of DoD service members, civilian employees and contractors allegedly purchasing child pornography is disturbing.

¹ From document titled, "Responses to Questions" attached to IG Heddell's November 19, 2010, letter.

It is due to this mindset that I reiterate my call that a thorough and independent investigation of this matter, to include a peer review of the DCIS by an unbiased Inspector General, should be conducted. I believe it is imperative that accountability within DCIS is established, specifically within management, to address any future potential national security issues.

I would also like to know more about the following issues pursuant to information received by my staff from your office, the respective Military Criminal Investigation Organizations (MCIO) and ICE so that I may better understand the direction DCIS management intends to proceed:

- 1) Your office has indicated that they received approximately 5,200 names of individuals alleged to have purchased child pornography from ICE; however, DCIS did not conduct database checks on all of the names received. Has DCIS now conducted database checks on all of the names? Did DCIS headquarter staff or anyone authorized to speak on behalf of DCIS formally notify ICE that not all of the names were previously checked? If so, what individual communicated that information and what was/is their title and/or job description?
- 2) Why was the decision to terminate the DCIS role in "Operation Flicker" not documented yet DCIS maintained a copy of the approximately 5,200 names provided by ICE?
- 3) You indicate that DCIS is currently conducting database checks on the remaining 1,700 names that were never checked. When does DCIS anticipate completion of those database checks? Does DCIS have specific target date? If so, what is that date?
- 4) DCIS states that they discovered 302 names "believed to have some affiliation with the Department [of Defense] – as an employee, a contractor, a retiree, or a DoD dependent"² and that only 29 cases and 70 individuals were investigated. Why were the aforementioned 70 individuals specifically chosen for investigation while the remaining 232 were virtually ignored?
- 5) On July 26, 2010, DCIS personnel indicated to House Armed Services Committee Chairman Ike Skelton (D-MO) that 264 DoD individuals had been identified as allegedly purchasing child pornography, yet my staff was subsequently told the number was 302? How did DCIS discover the additional 38 individuals?

² From document titled, "Responses to Questions" attached to IG Heddell's November 19, 2010, letter.

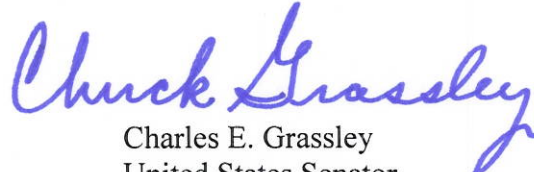
- 6) It is my understanding that the respective MCIOs (Army CID, Air Force OSI and NCIS) have received referrals for investigation and will assist DCIS with "Operation Flicker". I also understand that NCIS alone received approximately 260 leads for investigation. If DCIS maintains that they have only discovered 302 names of DoD employees associated with "Operation Flicker", does the referral of 260 names mean that 260 out of 302 were Navy personnel? How many investigative leads were forwarded to Army CID and Air Force OSI? How many referrals were made jointly to two or more MCIOs?
- 7) With the understanding that a significant amount of time has passed and the criminal element to these allegations is considerably dated, has DCIS refocused their investigative efforts more toward administrative action? Who in DCIS is responsible for ensuring administrative notifications are conducted when applicable?
- 8) When does DCIS anticipate completing their analysis of how many DoD employees implicated in "Operation Flicker" have sensitive clearances to include SCI and Top Secret? If DCIS does not anticipate completing this portion of the investigation, what DoD entity will be held responsible for completing this analysis?
- 9) I understand that DCIS does not have the authority to revoke clearances; however, has DCIS initiated contact with the DoD entity responsible for potentially revoking clearances and shared the pertinent information relevant to DCIS' inquiry? If so, who has been made the point of contact for DCIS?
- 10) Does DCIS still believe that the investigation of DoD employees purchasing child pornography is "not one of DCIS' investigative priorities"³?

I remain concerned that the DCIS still does not have a true grasp of the number of DoD individuals involved in these allegations nor does DCIS seem to exhibit the critical initiative to pursue this matter with the urgency the American taxpayer deserves. While I appreciate the successful investigation conducted by ICE, it only further demonstrates the inadequacies displayed by DCIS. It is only upon receiving scrutiny by members of the media and members of Congress did DCIS initiate an internal review of their conduct. Consequently, I believe it is imperative that an independent Inspector General perform a peer review of DCIS so that failures like this never happen again.

³ From document titled, "Responses to Questions" attached to IG Heddell's November 19, 2010, letter.

Thank you for your cooperation and attention to this important matter.

Sincerely,


Charles E. Grassley
United States Senator

cc: The Honorable Robert M. Gates
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington D.C., 20301