

**TREASURY INSPECTOR GENERAL'S OFFICE
INVESTIGATION OF FBI FILES MATTER:
HEARING BEFORE A SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS, UNITED
STATES SENATE, ONE
HUNDRED FOURTH CONGRESS, SECOND
SESSION, SPECIAL HEARING**

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TREASURY INSPECTOR GENERAL'S OFFICE INVESTIGATION OF FBI FILES MATTER

MONDAY, DECEMBER 2, 1996

U.S. SENATE,
SUBCOMMITTEE ON TREASURY, POSTAL SERVICE,
AND GENERAL GOVERNMENT,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:03 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard Shelby (chairman) presiding.
Present: Senators Shelby and Kerrey.
Also present: Senator Hatch.

CONGRESSIONAL WITNESSES

OPENING REMARKS OF SENATOR SHELBY

Senator SHELBY. The subcommittee will come to order.

I want to thank today's witnesses in advance for their willingness to appear before the subcommittee this afternoon.

We have called this hearing to answer questions and concerns that have arisen about an investigation that we understand is being conducted by the Treasury Inspector General's Office into congressional testimony given by Secret Service agents on behalf of their agency in the FBI files matter.

The subcommittee hopes today to clarify the conflicting information it has received about the nature and the purpose of the investigation, as well as address some very serious issues and concerns that have been raised by several national law enforcement organizations.

On October 22, I received a letter from Senator Grassley informing the subcommittee that a potentially criminal investigation had been initiated by the Treasury Inspector General's Office into the congressional testimony of two Secret Service agents who appeared on behalf of their agency before the House Committee on Government Reform and Oversight on the FBI files matter.

According to Senator Grassley's letter, on October 16, 1996, his staff was informed by the counsel for Treasury Inspector General that the Inspector General's Office had initiated a potentially criminal investigation into the two Secret Service agents who had testified on behalf of their agency before the House on the FBI files matter and that the investigation was requested by Senator Ted Stevens and Congresswoman Cardiss Collins.

Senator Grassley then sent a similar letter to Senator Ted Stevens making him aware of the investigation and the fact that the

Inspector General's Office was representing that the investigation was being conducted, in part, due to his request, Senator Stevens' request.

On October 24, 1996, Senator Stevens wrote to the Treasury Inspector General, Valerie Lau, who's with us today, demanding that she clarify that he had nothing to do with the request for such an investigation.

Ms. Lau responded later that same day to Senator Stevens' request, writing that she was well aware—telling this to Senator Stevens—that you have never requested the investigation of the two Secret Service agents and that her office has not represented to either the Service or the office of Senator Grassley that any specific agents are the subjects of a potentially criminal investigation.

On that same day, October 24, 1996, Senator Bond and I wrote to the Secretary of the Treasury demanding a full and complete explanation of the investigation. On November 1, 1996, we received a letter from Edward Knight, the General Counsel of the Treasury, informing us that Congresswoman Collins' request had been forwarded to the Treasury Inspector General for whatever action she deemed appropriate.

On November 7, 1996, Senator Bond and I again wrote to Secretary Rubin asking that he respond directly to our request for an explanation. We received a response from the Secretary to our November 7 letter this morning.

Over the past month, the subcommittee has received numerous letters raising serious concerns about the inspector general's investigation.

Specifically, the subcommittee received a copy of an October 31, 1996, letter to Secretary Rubin from the Fraternal Order of Police questioning the motivation and validity of the inspector general's investigation.

On November 5, 1996, the Federal Law Enforcement Officers Association wrote to the subcommittee asking that a full and open inquiry be made by the Senate as to why the Treasury Inspector General initiated an investigation into the testimony of these two career law enforcement officers.

Both letters questioned the propriety of the inspector general's investigation, raised the specter of retribution, and noted the chilling effect it could have on law enforcement personnel who testify before Congress on behalf of their respective agencies.

In light of the significant concerns this investigation raises about the ability of career law enforcement officers and civil servants to testify before Congress without fear of reprisal and the conflicting information about the exact nature of this investigation, including whether it is potentially a criminal investigation, who requested it, who is being investigated and for what, we have called this hearing today to resolve these inconsistencies and hopefully address the broader concerns that have been brought to the subcommittee's attention by the Fraternal Order of Police and the National Law Enforcement Officers Association.

Today I want to be clear, however, that this hearing is not—and I say again, is not—about the FBI files matter. We are not here today to look into the truth or facts of that matter which in the

subcommittee's view is properly being considered by the independent counsel.

In addition to the Treasury Inspector General and representatives from the Fraternal Order of Police and the National Law Enforcement Officers Association, the subcommittee also requested that the Secret Service appear to testify about their knowledge of the Treasury Inspector General's investigation. The subcommittee received a letter from the Secret Service on November 27, 1996, providing a chronology of events in lieu of providing testimony before the subcommittee today.

The letter explains—and I quote from the letter:

Given what has already transpired in this matter and given that, as is set out below, the Secret Service does not know exactly what the Treasury Inspector General is investigating, we do not feel at this time that it would be appropriate for Secret Service representatives to give testimony concerning the Treasury Inspector General's investigation.

The letter then goes on to state for the record that—and I am now quoting from the letter again.

On October 16, 1996, Senator Charles Grassley wrote to Treasury Secretary Robert E. Rubin requesting that Secret Service Agents John Libonati and Jeffrey Undercoffer answer certain questions concerning an August 1, 1993, WAVES computer list relevant to the FBI background files case. These criminal investigators constitute two of the Secret Service agents serving as agency contacts in connection with congressional inquiries involving the FBI background files case.

Senator Grassley's request followed a September 25, 1996, letter to Secretary Rubin from Representative Cardiss Collins regarding a June 1993 Secret Service WAVES computer list also relevant to the FBI background files case. In naming Secret Service Agents Libonati and Undercoffer specifically, it appeared that Representative Collins was requesting that the Treasury Inspector General investigate the preparation of testimony before her committee by these Secret Service agents on the grounds that their testimony was erroneous.

The letter further reads:

Since involvement by Special Agents Libonati and Undercoffer in responding to Senator Grassley's October 16 request might be problematic in light of Representative Collins' letter, the Secret Service's Chief Counsel, John Kelleher, contacted Ms. Lori Vassar, Counsel to the Treasury Inspector General, on Friday, October 18, 1996. On that date it was confirmed that the Treasury Inspector General was pursuing an investigation regarding Special Agents Libonati and Undercoffer based upon two referrals: (1) Representative Collins' letter dated September 25; and (2) a June 18, 1996, letter from Senator Ted Stevens to Inspector General Valerie Lau.

As a consequence, on October 18, 1996, the Secret Service first became aware that the Treasury Inspector General investigation involving its agents had been opened based upon these congressional letters. Senator Stevens' letter had not been brought previously to our attention by the Treasury Inspector General.

On Monday, October 21, 1996, Inspector General Lau requested a meeting with Secret Service officials to discuss the pending investigation. Assistant Director for Inspection K. David Holmes and Chief Counsel Kelleher attended on behalf of the Secret Service. Treasury Inspector General Lau, Counsel Vassar, Deputy Inspector General Richard B. Calahan, and Regional Inspector General for Investigations Emily Coleman met with these Secret Service representatives. At this meeting, the Secret Service was again advised that there was an active investigation of Special Agents Libonati and Undercoffer, and, further, that this matter was potentially a criminal investigation. The Office of Inspector General representatives would not divulge with any specificity precisely what these agents were alleged to have done wrong, or what exactly the Treasury Inspector General would be investigating. The Secret Service still has not received any such information.

Since the Secret Service will not be testifying before the subcommittee this afternoon, I am submitting the entire letter for the record. It will be made part of the record without objection.

In addition to the members of this subcommittee, there are several other Senators who share a concern in this matter. Specifically, Senator Grassley, that I mentioned earlier, Senator Bond, Senator Stevens, and Senator Hatch. I have invited them to join us today if they have any questions or would like to submit a statement for the record.

Again, I would like to state at the outset that I very much appreciate the Treasury Inspector General's willingness to appear today and to hopefully assist the committee in addressing the concerns that have been raised and clarify the conflicting information the subcommittee has received about the nature of this investigation.

We have asked the Fraternal Order of Police and the National Law Enforcement Officers Association to appear before the subcommittee on the first panel so that the Treasury Inspector General has an opportunity to fully respond to any concerns that they raise in their testimony.

Senator Kerrey.

STATEMENT OF SENATOR KERREY

Senator KERREY. Thank you very much, Mr. Chairman.

First of all, just briefly, I look forward to the witnesses.

I alert the witnesses that my principal area of concern is the criteria that the inspector general uses not just to pursue an investigation, but what criteria the inspector general would use to say no to a Member of Congress who has put in a request for an investigation of this type and what precedents exist for doing an investigation of the testimony that was offered before a congressional committee.

I am not interested in hearing objections that people might have to an inspector general's evaluation based upon the fear that in and of itself the investigation could be harmful to a career.

I must say that we have done many investigations and witnessed many investigations in the executive branch. Both Senator Shelby and I sit on the Intelligence Committee. We had an inspector general investigation of CIA personnel that not only ruined their career but put them in jail. So, the fact that this ruffles feathers, the fact that it makes people upset is not all by itself cause for us to say that the investigation should not go forward.

But I must say that I do find it unusual—and I am going to alert you right at the moment—that an investigation would proceed based upon a single letter from a Member of Congress where the investigation is occurring as a consequence of testimony that was delivered to Congress. I searched my own memory to try to recollect whether or not I have got an incident in my own memory bank where this has happened in this fashion, and I do not come up with one.

Though it might be difficult at times to say no to a Member of Congress, I am sure that you have got criteria that would lead you to a conclusion to say, no, we are going to not only have to send a prompt letter, but we are going to have to send a letter to the Member of Congress and say, no, we do not do investigations of this kind of thing. If you want to have the witness back up before your committee, fine, have them come back before your committee,