



**COUNCIL OF THE INSPECTORS GENERAL
ON INTEGRITY AND EFFICIENCY**
INTEGRITY COMMITTEE

July 18, 2023

Honorable Jason Miller
Executive Chairperson
Council of the Inspectors General on Integrity and Efficiency
1750 H Street NW, Suite 400
Washington, DC 20006

Report of Findings for Integrity Committee Case 20-035

Dear Executive Chairperson Miller:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG). Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings and recommendations regarding Assistant Inspector General for Investigations (AIGI) Daniel O'Rourke, Legal Services Corporation (LSC).

The IC also provided its findings and recommendation to the LSC Chairman, the CIGIE Chairperson, LSC IG Tom Yatsco, and AIGI O'Rourke, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Thomas A. Monheim
Vice Chairperson
Integrity Committee

Enclosure



COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

July 18, 2023

Honorable Mark Lee Greenblatt
Chairperson
Council of the Inspectors General on Integrity and Efficiency
1750 H Street NW, Suite 400
Washington, DC 20006

Report of Findings for Integrity Committee Case 20-035

Dear Chairperson Greenblatt:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG). Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings and recommendations regarding Assistant Inspector General for Investigations (AIGI) Daniel O'Rourke, Legal Services Corporation (LSC).

The IC also provided its findings and recommendation to the LSC Chairman, the CIGIE Executive Chairperson, LSC IG Tom Yatsco, and AIGI O'Rourke, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Thomas A. Monheim
Vice Chairperson
Integrity Committee

Enclosure



**COUNCIL OF THE INSPECTORS GENERAL
ON INTEGRITY AND EFFICIENCY**
INTEGRITY COMMITTEE

July 18, 2023

The Honorable Gary C. Peters II
Chairman
Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Rand Paul
Ranking Member
Committee on Homeland Security and
Government Affairs

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
2517 Rayburn House Office Building
Washington, DC 20515

The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability

The Honorable Bernie Sanders
Chairman
Committee on Health, Education, Labor
and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Dr. Bill Cassidy
Ranking Member
Committee on Health, Education, Labor
and Pensions

The Honorable Jim Jordan
Chairman
Judiciary Committee
2318 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerrold Nadler
Ranking Member
Judiciary Committee

Report of Findings for Integrity Committee Case 20-035

Dear Chairpersons and Ranking Members:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG). Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings and recommendations regarding Assistant Inspector General for Investigations (AIGI) Daniel O'Rourke, Legal Services Corporation (LSC).

After thoroughly reviewing the report of investigation and supporting evidence, the IC determined by a preponderance of the evidence that AIGI O'Rourke engaged in conduct that undermines the integrity reasonably expected of a Covered Person. The IC provided its findings and recommendation to the LSC Chairman, the CIGIE Executive Chairperson, the CIGIE Chairperson, LSC IG Tom Yatsco, and AIGI O'Rourke, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Thomas A. Monheim
Vice Chairperson
Integrity Committee

Enclosure



COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

July 18, 2023

Via Email

Mr. Tom Yatsco
Inspector General
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007

Report of Findings for Integrity Committee Case 20-035

Dear Inspector General Yatsco:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General. Pursuant to 5 U.S.C. § 424(d)(8)(A), the IC hereby forwards its findings and recommendations regarding Assistant Inspector General for Investigations (AIGI) Daniel O'Rourke, Legal Services Corporation (LSC).

The IC also provided its findings and recommendation to the LSC Chairman, the CIGIE Executive Chairperson, the CIGIE Chairperson, and AIGI O'Rourke, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Thomas A. Monheim
Vice Chairperson
Integrity Committee

Enclosure



**COUNCIL OF THE INSPECTORS GENERAL
ON INTEGRITY AND EFFICIENCY**
INTEGRITY COMMITTEE

July 18, 2023

Via Email

Daniel O'Rourke
Assistant Inspector General for Investigations
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007

Report of Findings for Integrity Committee Case 20-035

Dear Mr. O'Rourke:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG).

On May 18, 2021, the IC initiated an investigation into allegations against you and engaged the U.S. Department of Justice OIG to conduct the investigation. After thoroughly reviewing the evidence and your comments, the IC determined by a preponderance of the evidence that you engaged in conduct that undermined the integrity reasonably expected of a Covered Person by creating the appearance of using your position for an improper purpose.

The IC provided the enclosed findings and recommendation to the Legal Services Corporation (LSC) Chairman, the appropriate Congressional committees of jurisdiction, the CIGIE Executive Chairperson, the CIGIE Chairperson, and LSC IG Tom Yatsco, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Thomas A. Monheim
Vice Chairperson
Integrity Committee

Enclosure



COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

INTEGRITY COMMITTEE

July 18, 2023

Chairman John G. Levi
Legal Services Corporation
Board of Directors
3333 K Street, NW
Washington, DC 20007

Report of Findings for Integrity Committee Case 20-035

Dear Chairman Levi:

This letter sets forth the findings, conclusions, and recommendations of the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) regarding allegations of misconduct against Assistant Inspector General for Investigations (AIGI) Daniel O'Rourke, Legal Services Corporation (LSC) Office of Inspector General (OIG). Pursuant to 5 U.S.C., Chapter 4 (IG Act), the IC is providing this report to you for information and to LSC Inspector General (IG) Tom Yatsco for appropriate action.¹

The IC finds by a preponderance of the evidence that AIGI O'Rourke engaged in conduct that undermined the integrity reasonably expected of a Covered Person.² A brief synopsis of the allegations and the IC's findings and recommendations are provided below. The Report of Investigation (ROI) and AIGI O'Rourke's response are also enclosed.

IC Jurisdiction and Case History

Congress designated the IC, which is composed of four IGs, a representative from the Federal Bureau of Investigation, and a representative from the Office of Government Ethics, to be the independent mechanism that ensures senior officials in the IG community "perform their duties with integrity and apply the same standards of conduct and accountability to themselves as they apply to the agencies that they audit and investigate."³

¹ In the case of a report relating to an IG of a designated Federal entity or any employee of that IG, 5 U.S.C. § 424(d)(8)(A)(ii) requires the IC to refer its investigative findings to the head of the designated Federal entity. However, under the IG Act, an IG or Acting IG, as appropriate, has the sole authority to make personnel decisions regarding subordinate OIG employees, such as AIGI O'Rourke.

² The IC considers allegations of wrongdoing against any of the following individuals (Covered Persons): an IG, a staff member of an OIG whose position is designated under 5 U.S.C. § 424(d)(4)(C), the Special Counsel and the Deputy Special Counsel of OSC, and anyone serving in an Acting or Interim capacity in a position listed above. Integrity Committee Policies and Procedures (2018) (ICP&P), Section 4.

³ U.S. House Committee on Oversight and Government Reform, *Improving Government Accountability Act*, 110th Cong. (Sept. 27, 2007) (H. Rept. 110-354).

On February 27, 2020, the IC received a complaint alleging AIGI O'Rourke improperly used his official email and signature block in correspondence with his homeowners association (HOA) during a personal dispute among private parties. Pursuant to its procedures, the IC investigated the allegations with the assistance of the U.S. Department of Justice Office of Inspector General (DOJ OIG) (IC investigators). Specifically, the IC investigators were asked to determine whether AIGI O'Rourke engaged in conduct that undermines the integrity reasonably expected by Covered Persons under the IC's standards.⁴

At the conclusion of their fieldwork, the IC investigators provided a draft ROI to the IC on February 10, 2023. On February 21, 2023, in accordance with 5 U.S.C. § 424(d) the IC provided AIGI O'Rourke the opportunity to respond to the draft ROI before the IC made its findings. AIGI O'Rourke's response, which was received by the IC on April 3, 2023, is enclosed.⁵ The IC received the final ROI, which details the findings of the investigators, on June 28, 2023.⁶

Investigative Findings and Analysis

AIGI O'Rourke's Conduct Undermined the Integrity Reasonably Expected of a Covered Person by Creating the Appearance of Using His Position for an Improper Purpose.

AIGI O'Rourke is a very experienced member of the OIG community.⁷ The ROI established that AIGI O'Rourke's signature block would have automatically appeared on any email AIGI O'Rourke sent, replied to, or forwarded from his LSC OIG computer.⁸ AIGI O'Rourke confirmed that he would have seen his email signature block on email chains and threads over time, but he said it was not a "focus of his attention."⁹ From mid-November 2017 to June 2018, AIGI O'Rourke sent emails to his HOA through his LSC OIG email account regarding a personal dispute he was having with his neighbor, and nine of the emails he sent to the HOA during this period contained his official signature block.¹⁰ As the ROI established, these facts on

⁴ The IC had originally requested the IC investigators investigate: (1) whether AIGI O'Rourke abused his authority and violated any LSC standards when he used his official title and government time and equipment for a personal HOA grievance and (2) whether AIGI O'Rourke engaged in conduct that undermines the integrity reasonably expected of a Covered Person. After subsequent consultations between the IC and IC investigators, the scope of the investigation was narrowed to whether AIGI O'Rourke engaged in conduct that undermines the integrity reasonably expected of a Covered Person under IC standards.

⁵ Enclosure (Encl.) 2.

⁶ Encl. 1.

⁷ AIGI O'Rourke has more than 20 years of OIG experience. He worked at the U.S. Postal Service OIG for many years in the 1990s to early 2000s; subsequently served for 10 years at the Small Business Administration OIG as AIGI; and has been AIGI at LSC OIG since 2014. Encl. 1, Ex. 4 at 5; Ex. 13 at 10-11.

⁸ Encl. 1, Ex. 7 at 41-43, 47-49.

⁹ Encl. 1, Ex. 4 at 18-19, 49-50. The IC notes the font type and size of AIGI O'Rourke's signature block were larger than the regular text of his emails, and the block appeared in a blue hue. Encl. 1, Ex. 11.

¹⁰ Encl. 1, Ex. 3 at 58-74. A LSC OIG IT professional said one possible explanation for three emails that were sent from AIGI O'Rourke's LSC OIG official email account that did not include his official signature block is that he

their face create the appearance that AIGI O'Rourke was misusing his official position as AIGI in a personal dispute among private parties.

In his response to the IC, AIGI O'Rourke said he believed his use of his LSC OIG-owned computer to send personal emails "was within LSC's de minimis use policy" and that using his LSC OIG-owned computer to send complaints to the HOA was "based upon convenience."¹¹ AIGI O'Rourke further stated that he wrote the emails as a "concerned homeowner" rather than as a public official.¹² AIGI O'Rourke acknowledged, however, that his use of his official email constituted a "lapse in judgment" and also acknowledged "I understand there is a need for OIG employees to avoid even the appearance of impropriety."¹³

The IC is unpersuaded by AIGI O'Rourke's response. As an initial matter, the basis for the IC's conclusions is not AIGI O'Rourke's use of the official email account or using government time (both of which have "de minimis" exceptions in applicable law and policy), but rather misuse of his official position and engaging in conduct that undermines the integrity reasonably expected of a Covered Person (which does not have any "de minimis" exception).¹⁴ Moreover, AIGI O'Rourke's assertion that the emails make "no reference to my position" is contradicted by the evidence, as his signature block prominently indicates his position.¹⁵

The IC is also concerned that AIGI O'Rourke's assertion that his use of his official email was within the acceptable range of the "de minimis" use policy of the LSC fails to recognize the seriousness of his conduct. His emails informed the HOA that he works at a senior level in a federal law enforcement entity, which inherently risks creating a coercive tone to his communications with that private entity, even if it did not result in actual influence.

The ROI examined whether AIGI O'Rourke knew his signature block was appearing on his emails. AIGI O'Rourke emphasized to IC investigators multiple times his lack of understanding of how an official signature block works or how it is generated, his need for IT assistance, and

could have sent these emails from his LSC OIG iPhone without having enabled the signature block feature for his iPhone. Encl. 1, Ex. 7 at 27-28.

¹¹ Encl. 1, Ex. 3 at 46.

¹² Encl. 1, Ex. 3 at 48.

¹³ Encl. 1, Ex. 4 at 48.

¹⁴ As noted above, the IC investigation was narrowed to not include the portion of the original allegations regarding AIGI O'Rourke's alleged misuse of government time and equipment. However, IC investigators did establish that AIGI O'Rourke's dispute with his neighbors, and his emails to the HOA, were about personal gain – specifically AIGI O'Rourke's personal interest and financial stake in maintaining his property value, as AIGI O'Rourke acknowledged to the investigators. See Encl. 1, Ex. 4 at 85-86.

¹⁵ Encl. 1, Ex. 3 at 48. See also Encl. 1, Ex. 11, where the evidence clearly shows AIGI O'Rourke's signature block contains his official title and position, and the font and size of the signature block is larger than the regular text of the email and is in a blue hue that contrasts with the black text of a standard email. AIGI O'Rourke also described his signature block as a "big chunk of bolded information with [his] name and title," reinforcing this fact. Encl. 1, Ex. 4 at 48.

how he is someone who is “not IT savvy.”¹⁶ While the IC accepts AIGI O’Rourke’s description of his limited technical abilities, the IC determined, based on the evidence in the ROI, that he knew or should have known that his signature block appeared in email chains. Moreover, AIGI O’Rourke’s apparent belief that his signature block was “appended” after he sent emails is not supported by the evidence.¹⁷

Having found that AIGI O’Rourke knew or should have known that his signature block was added to emails he sent to the HOA regarding a personal matter,¹⁸ the IC concludes he should have realized the risk of creating the appearance he was using his official position for an improper purpose. AIGI O’Rourke’s failure to recognize this and his creation of this appearance undermined the integrity reasonably expected of a Covered Person.

Conclusions and Recommendations

The IC finds by a preponderance of the evidence that AIGI O’Rourke’s engaged in conduct that undermines the integrity reasonably expected of a Covered Person. Accordingly, the IC recommends appropriate disciplinary action. The IC has also provided its findings, conclusions, and recommendations to the LSC Inspector General, the CIGIE Executive Chairperson, the CIGIE Chairperson, AIGI O’Rourke, and the Congressional committees of jurisdiction, as required by 5 U.S.C. § 424(d)(8)(A).

Sincerely,

(b) (6)

Thomas A. Monheim
Vice Chairperson¹⁹
Integrity Committee

Enclosures:

1. DOJ OIG Report to the Integrity Committee
2. AIGI O’Rourke Response to OIG Report

¹⁶ Encl. 1, Ex. 4 at 16, 97, 99.

¹⁷ Encl. 1, Ex. 7 at 21-22, 41-43; Ex. 3 at 46-47. The IC notes this language in AIGI O’Rourke’s response was apparently suggested by a co-worker assisting AIGI O’Rourke with his draft Response to the IC. Encl. 1, Ex. 15. Furthermore, AIGI O’Rourke’s assertion that he did not “focus” on the fact that his signature block was visible when sending emails from his government email account to private parties in a personal dispute does not change the IC’s conclusion that it undermines the integrity reasonably expected of a Covered Person.

¹⁸ Encl. 1 at 12.

¹⁹ Chairperson Kevin Winters was recused from this matter and played no part in the IC’s determinations or the review or completion of this report or letter.

Enclosure 1



Report of Investigation of
Alleged Misconduct by
Assistant Inspector General
for Investigations
Daniel O'Rourke

★ ★ ★

June 2023

Executive Summary

On June 11, 2021, the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency requested that the U.S. Department of Justice Office of the Inspector General (DOJ OIG) investigate an allegation of wrongdoing against Daniel O'Rourke, Assistant Inspector General for Investigations at the Legal Services Corporation (LSC) Office of Inspector General (LSC OIG). The allegation concerned O'Rourke using his official title and LSC OIG email account to lodge complaints against his neighbor about a personal homeowners' association (HOA) dispute.

The IC takes action on allegations of wrongdoing against Inspectors General (IG) and designated members of an IG's staff, among others, that involve an abuse of authority in the exercise of official duties or while acting under color of office; substantial misconduct, such as gross mismanagement, gross waste of funds, or a substantial violation of law, rule, or regulation; or conduct that undermines the independence or integrity reasonably expected of such persons.¹ After consultation with the IC, the IC requested the DOJ OIG to evaluate whether O'Rourke engaged in conduct that undermines the integrity reasonably expected of a Covered Person.²

To conduct this investigation, the DOJ OIG reviewed the complaint that was filed against O'Rourke with the IC; O'Rourke's written response to the IC, with which O'Rourke included the emails he sent from his LSC OIG email account to HOA representatives regarding the dispute with his neighbor (some of these emails contained emails that O'Rourke sent to HOA representatives from his personal email account); conducted interviews of O'Rourke, LSC OIG (b) (6), (b) (7)(C) [REDACTED], and LSC OIG (b) (6), (b) (7)(C) [REDACTED]; and, in addition to reviewing the emails O'Rourke provided to the IC with his response, examined all of O'Rourke's email communications from his LSC OIG email account for the time period between June 12, 2018 (the date of his last email to HOA representatives that contained his official title), and March 30, 2020 (the date O'Rourke submitted his response to the IC).

For the reasons described in this report, DOJ OIG concluded that O'Rourke engaged in conduct that undermines the integrity reasonably expected of a Covered Person. Specifically, we found that O'Rourke's use of his LSC OIG email account to send multiple

¹ Integrity Committee Policies and Procedures (ICP&P), Sections 2, 4, and 7A (2018), www.ignet.gov/sites/default/files/files/ICP%26PRevised_Jan-2018_Rev1_Finalx.pdf (accessed February 9 2023). Section 2 of the ICP&P states that the Integrity Committee "considers allegations of wrongdoing against any of the following individuals (Covered Persons):" (A) an IG; (B) a staff member of an OIG whose position is designated under Section 4 of the ICP&P; (C) the Special Counsel and the Deputy Special Counsel of the Office of Special Counsel; and (D) anyone serving in an acting or interim capacity in a position set forth in A through C.

² After the IC requested that the DOJ OIG conduct this investigation, the IC directed the DOJ OIG to assess O'Rourke's conduct under the IC's standards rather than LSC policy and standards.

emails with a signature block containing his official title, in connection with a personal dispute that he was having with his neighbor, created the appearance that he was using his position for an improper purpose.

The IC applies the preponderance of the evidence standard in determining whether a Covered Person has committed misconduct. Integrity Committee Policies and Procedures (ICP&P), Section 10C.

Factual Findings

For approximately 8 years—2012 to 2020—O'Rourke had an ongoing dispute with his neighbor over the allegedly unkept nature of his neighbor's yard. (Exhibit 1, Complaint, Bates 2-3; Exhibit 3, Response to IC Letter, March 30, 2020, Bates 46-49) During the first 4 years of this dispute, O'Rourke complained to HOA representatives through anonymous letters. (Exhibit 4, O'Rourke 1, Tr. 26, 97-98; Exhibit 3, Letters Provided to IC, Bates 80-83) In 2017, O'Rourke started to complain to HOA representatives about his neighbor's property through his personal email account and then through his LSC OIG email account. (Exhibit 3, Emails Provided to IC, Bates 58-66 (OIG account), 84-94 (personal account)) Some of the emails O'Rourke sent to HOA representatives through his LSC OIG email account included an official signature block that contained O'Rourke's LSC OIG title and office. (Exhibit 3, Emails Provided to IC, Bates 58-74) In 2019, O'Rourke's neighbor filed a civil lawsuit against the HOA, and the HOA subsequently filed a counterclaim against O'Rourke's neighbor.³ (Exhibit 1, Complaint, Bates 2-3) During the discovery process in that lawsuit, O'Rourke's neighbor obtained emails containing O'Rourke's official signature block that O'Rourke sent to HOA representatives from his LSC OIG email account. (Exhibit 1, Complaint and Attachments, Bates 2-3, 5-17)

On February 27, 2020, O'Rourke's neighbor filed a complaint with the IC against O'Rourke alleging that O'Rourke misused and undermined the integrity of his position by including his official signature block in emails to HOA representatives. (Exhibit 1, Complaint and Attachments, Bates 2-3, 5-17) The following day, February 28, O'Rourke was questioned about these emails during a deposition taken by his neighbor's attorney in the civil lawsuit. (Exhibit 3, Response to IC Letter, March 30, 2020, Bates 46; Exhibit 4, O'Rourke 1, Tr. 31-33, 51) On March 2, 2020, O'Rourke notified the LSC Inspector General that he had used his LSC OIG email account to email complaints to HOA representatives and that the emails contained his official signature block. (Exhibit 3, Response Letter to IC, Bates 46)

³ (b) (6), (b) (7)(C)

[REDACTED]. Sometime between late 2020 and early 2021, the parties settled the matter. *Id.* (stipulation of dismissal filed on Jan. 5, 2021); (Exhibit 5, Email to IC on June 10, 2021, Bates 299 (referencing a settlement agreement made with the HOA on an unspecified earlier date)

We set forth our factual findings in five parts: (1) the neighbor's complaint and O'Rourke's written response to the IC; (2) O'Rourke's use of an email signature block in emails sent from his LSC OIG email account; (3) O'Rourke's communications with HOA representatives about the dispute with his neighbor via personal letters O'Rourke sent anonymously and via emails O'Rourke sent from his personal and work email accounts; (4) O'Rourke's discussions with the LSC Inspector General following O'Rourke's deposition on February 28, 2020; and (5) O'Rourke's discussions with (b) (6), (b) (7)(C) [REDACTED], about this investigation.

1. Neighbor's Complaint and O'Rourke's Written Response to the IC

In a complaint dated February 27, 2020, the complainant (O'Rourke's neighbor) alleged that O'Rourke misused his position, in violation of 5 C.F.R. § 2635.702, and engaged in conduct that undermines the integrity reasonably expected of someone in his position by using his LSC OIG email account and OIG title to pursue a personal HOA grievance regarding his neighbor's yard.⁴ (Exhibit 1, Complaint, Bates 2-3) To support this allegation, the complainant provided the IC with seven attachments, which included O'Rourke's complaints about his neighbor's property that he sent from his LSC OIG email account to HOA representatives between November 2017 and August 2018. (Exhibit 1, Complaint and Attachments, Bates 2-3, 5-17) In five of the attachments, O'Rourke's LSC OIG official signature block—containing his full name, OIG title, OIG office, OIG address, and OIG work phone number—appeared at least once in the email chain or email message. (Exhibit 1, Attachments, Bates 5-6, 9, 12, 14-15) The complainant obtained O'Rourke's emails through discovery in the civil lawsuit between the complainant and the HOA. (Exhibit 1, Complaint, Bates 2)

On March 13, 2020, the IC notified O'Rourke that it was reviewing allegations raised against him in the complaint and requested a response from him regarding those allegations. In particular, the IC requested that O'Rourke provide in writing: (1) a response as to whether O'Rourke used his official email account and signature block to file complaints with the HOA and related parties regarding a personal matter as a homeowner, including copies of any such emails; and (2) an explanation of the circumstances surrounding any such communications and whether he used any other email address to communicate with the HOA. (Exhibit 2, IC Letter, Bates 44-45)

On March 30, 2020, O'Rourke provided his written response to the IC. (Exhibit 3, Response Letter, Bates 46-49) In his response, O'Rourke acknowledged that he sent complaints from a personal email account and from his LSC OIG email account to his HOA and related

⁴ Under 5 C.F.R. Part 2635, the Office of Government Ethics has promulgated standards of ethical conduct for employees of the executive branch of the federal government, such as standards on Misuse of Position set forth in 5 C.F.R. Subpart G §§ 2635.701-705. However, the LSC is not a federal entity and its employees are not federal employees. See 42 U.S.C. §§ 2996b and 2996d. Thus, the standards in 5 C.F.R. Part 2635 do not apply to O'Rourke.

parties regarding a personal homeowner matter, and he acknowledged that the emailed complaints from his LSC OIG email account included “an automatic appended signature block.” (Exhibit 3, Response Letter, Bates 46-47) O’Rourke estimated that he sent approximately 28 emails from his LSC OIG email account to HOA representatives between 2017 and 2020, and he provided copies of these emails to the IC. (Exhibit 3, Response Letter/Emails, Bates 47, 58-139)

O’Rourke stated in his response to the IC that he used his LSC OIG computer to email complaints to HOA representatives “based upon convenience and with the belief that [he] was working within the LSC’s policy on de minimis usage of LSC OIG-owned equipment.”⁵ (Exhibit 3, Response Letter, Bates 46) With respect to use of his official signature block on these emails, O’Rourke characterized those actions as “inadvertent.” (Exhibit 3, Response Letter, Bates 48) O’Rourke told the IC that he needed an IT specialist to set up his email signature block on his LSC OIG email account when he started at the LSC OIG in 2014, and that he did not understand how the feature worked. (Exhibit 3, Response Letter, Bates 46) O’Rourke further stated in his response to the IC that when he composed emails, he did not see his email signature block, but it was “automatically appended” to the emails he sent to HOA representatives. (Exhibit 3, Response Letter, Bates 46)

O’Rourke also stated in his response that he wrote the emails as a “concerned homeowner,” not in his official LSC OIG capacity, and never referenced his OIG position in the body of the emails. (Exhibit 3, Response Letter, Bates 48) He added that he did not use his OIG computer or official OIG title for personal gain and did not attempt to use, or believe he was using, his official position to influence HOA decisions. (Exhibit 3, Response Letter, Bates 48) He stated that he did not realize that his official signature block was on his email complaints to HOA representatives until he was deposed on February 28, 2020, in his neighbor’s (complainant) civil suit against the HOA. (Exhibit 3, Response Letter, Bates 46) O’Rourke acknowledged, however, that his use of his official email account on this personal matter was a “lapse in judgment” and said that he “recognize[d] the high standards of integrity” expected of all OIG employees, “especially those in leadership positions,” and understood the “need for OIG employees to avoid even the appearance of impropriety.” (Exhibit 3, Response Letter, Bates 48)

⁵ In his testimony to DOJ OIG, rather than reference LSC’s de minimis use policy, O’Rourke referenced the LSC OIG’s policy on de minimis personal use of LSC OIG’s systems and equipment. (Exhibit 4, O’Rourke 1, Tr. 26-27) Although both the LSC OIG and LSC have policy provisions allowing for the de minimis personal use of property, both of which are binding on LSC OIG employees, the LSC OIG’s policy does not use the term “de minimis use.” (Exhibit 8, LSC Employee Handbook at Bates 212; Exhibit 9, OIG Electronic Devices, Services and Systems Policy at Bates 283-86) It instead prohibits “extended personal use” of LSC OIG systems and equipment. We refer to both policies in this report as de minimis use policies.

2. O'Rourke's Creation and Use of an Official Signature Block

O'Rourke used an official signature block on emails sent using his LSC OIG email account beginning in 2014, when he started at the LSC OIG, until July 2018, when his signature block ceased being appended to his emails. (Exhibit 4, O'Rourke 1, Tr. 14-15; Exhibit 3, Response Letter, Bates 46; Exhibit 6, (b) (6), (b) (7)(C) MOI) In total, O'Rourke sent nine emails from his LSC OIG email account to HOA representatives that contained his official signature block. (Exhibit 3, Emails Provided to IC, Bates 59-74) O'Rourke told us that he recognized that his official signature block identified to the HOA representatives where he worked and what position he held. (Exhibit 4, O'Rourke 1, Tr. 66-70)

According to LSC OIG (b) (6), (b) (7)(C), the LSC OIG has used the same email application, Microsoft Outlook, since before his arrival at the LSC OIG in 2015. (Exhibit 7, (b) (6), (b) (7)(C) Tr. 5, 8-9, 21) (b) (6), (b) (7)(C) told us that if an email signature block was enabled on the LSC OIG email system, it would appear automatically on the screen as soon as the user created a new email—before the user even began to type the email. (Exhibit 7, (b) (6), (b) (7)(C) Tr. 21-22, 41-43) As a result, (b) (6), (b) (7)(C) said that if the email signature block feature is enabled, the user would see the signature block on the email before composing or sending it. (Exhibit 7, (b) (6), (b) (7)(C) Tr. 26-27, 41-43) (b) (6), (b) (7)(C) also said the user could delete the signature block before sending an email if the user did not want it to appear. (Exhibit 7, (b) (6), (b) (7)(C) Tr. 25-27, 44-45) After reviewing emails that O'Rourke sent to HOA representatives between November and December 2017, (b) (6), (b) (7)(C) confirmed that O'Rourke had his official signature block enabled to appear on any email he sent, replied to, or forwarded from his LSC OIG computer. (Exhibit 7, (b) (6), (b) (7)(C) Tr. 41-43, 47-49)

O'Rourke told us that in 2014, when he started at the LSC OIG, he requested the then LSC OIG IT Specialist to set up an email signature block for him because he did not know how. (Exhibit 4, O'Rourke 1, Tr. 14-15; Exhibit 3, Response Letter, Bates 46) O'Rourke described himself to DOJ OIG as someone who is "not IT savvy." (Exhibit 4, O'Rourke 1, Tr. 16, 97, 99) Other witnesses gave similar descriptions of O'Rourke's IT abilities. (b) (6), (b) (7)(C) told us that O'Rourke needed "some hand-holding" for the majority of IT-related tasks. (Exhibit 7, (b) (6), (b) (7)(C) Tr. 5, 14-15, 21) Similarly, (b) (6), (b) (7)(C) said that O'Rourke needed help with technology and that "people take care of it for him." (Exhibit 10, (b) (6), (b) (7)(C) Tr. 5-6, 20-21)

The electronic copies of O'Rourke's emails that the LSC OIG provided in response to DOJ OIG's document request showed that, after the automated feature was enabled, O'Rourke's official signature block appeared at the bottom of any new email he created in Arial font and 12 point, as follows:

Daniel J. O'Rourke
Assistant Inspector General for Investigations

Legal Services Corporation OIG
3333 K Street, NW 3rd Floor
Washington, DC 20007

(b) (6), (b) (7)(C)

(Exhibit 4, O'Rourke 1, Tr. 15-16, 41-42, 49-50, 61-62, 68-69; see e.g., Exhibit 3, Emails Bates 58-59, 66, 72-73) The font type and size of O'Rourke's official signature block was larger than the text in the body of his emails, which used Calibri font and 11 point. (Exhibit 11, Email on July 11, 2018) O'Rourke's signature block also appeared in a blue hue, in contrast to the black email text. O'Rourke described his official signature block on his emails to us as a "big chunk of bolded information with [his] name and title." (Exhibit 4, O'Rourke 1, Tr. 48)

O'Rourke told us that he did not understand how the signature block feature functioned, how to check it, or how to turn it off. (Exhibit 4, O'Rourke 1, Tr. 14-25, 44) O'Rourke also told us that he did not recall seeing his official signature block appear at any point prior to sending an email and assumed—because he saw the official signature block on the emails he provided to the IC—that it was "automatically appended" at some point after he sent an email and before the recipient received it. (Exhibit 4, O'Rourke 1, Tr. 18-19) However, O'Rourke acknowledged during his DOJ OIG interview that he would have seen his signature block appear in email chains and threads on the same topic over time—as it did on the emails he provided to the IC—but he said it was not a "focus of [his] attention." (Exhibit 4, O'Rourke 1, Tr. 18-19, 49-50) According to O'Rourke, the first time he focused on the fact that his official signature block was on the emails that he sent to HOA representatives was when his neighbor's attorney noted this fact to him during the February 2020 deposition taken in connection with his neighbor's civil lawsuit against the HOA. (Exhibit 4, O'Rourke 1, Tr. 31-33, 51) O'Rourke said that he has never asked anyone how to prevent his official signature block from appearing on a particular email and added that the appearance of the official signature block is "of no importance" to him, and therefore he had no reason to ask anyone how to turn off the feature. (Exhibit 4, O'Rourke 1, Tr. 25-26)

We noted, however, that O'Rourke's official signature block did not appear on all of his emails to HOA representatives that he provided to the IC—it did not appear on three emails dated November 20, 2017, November 21, 2017, and March 5, 2018, and last appeared in a June 12, 2018 email to the HOA's attorney. (Exhibit 3, Email Bates 60-61, 69, 74; Exhibit 6, (b) (6), (b) (7)(C) MOI) O'Rourke could not explain to DOJ OIG why his official signature block ceased to appear after June 12, 2018, as reflected in the 16 emails that he sent to HOA representatives after that date. (Exhibit 4, O'Rourke 1, Tr. 98-99) O'Rourke told us that he was unaware that the signature block was no longer enabled on his LSC OIG email. (Exhibit 4, O'Rourke 1, Tr. 102) In addition, O'Rourke could not recall seeing his official

signature block appear in any recent email chains and said that he had never asked anyone to turn off this feature.⁶ (Exhibit 4, O'Rourke 1, Tr. 19-21, 98-99)

We sought to determine when O'Rourke's signature block ceased being appended to his emails and to assess O'Rourke's statement to the IC that, when he composed emails, he did not see his email signature block as it was "automatically appended" to the emails he sent to HOA representatives. DOJ OIG reviewed all of O'Rourke's LSC OIG emails that he sent between June 12, 2018, the date of his last email to an HOA representative with his signature block on it, and March 30, 2020, the date he submitted his response to the IC. This review showed that O'Rourke's official signature block appeared on every email that he sent from his LSC OIG account from June 12, 2018, through 10:55 a.m. on July 11, 2018 (during this time period, O'Rourke did not send any emails to HOA representatives), and that it did not reappear at any time thereafter through March 30, 2020.⁷ (Exhibit 6, [REDACTED] MOI; Exhibit 11, Email on July 11, 2018, at 10:55am, last email containing official signature block) Thus, when O'Rourke submitted his written response to the IC on March 30, 2020, his official signature block had not appeared on any of his emails for over 20 months. (Exhibit 3, Response to IC Letter, March 30, 2020, Bates 46; Exhibit 6, [REDACTED] MOI; Exhibit 11, Email on July 11, 2018, at 10:55am, last email containing official signature block) Further, at the time of his initial DOJ OIG interview in November 2021, O'Rourke's official signature block had not appeared on any of his emails for more than 3 years.

3. O'Rourke's Communications with the HOA Regarding the Dispute with His Neighbor

As described above, O'Rourke's dispute with his neighbor took place over an 8-year time period. During that period, the OIG reviewed 40 emails that O'Rourke sent to HOA representatives—12 emails from his personal email account, 9 emails from his LSC OIG email account that contained his official signature block; and 19 emails from his LSC OIG email account that did not contain his official signature block. (Exhibit 3, Emails Provided to IC, Bates 58-79, 115-19, 122-25, 127, 130, 132-33, 138) We reviewed these emails and other communications O'Rourke sent to HOA representatives, during the following three different time periods, to compare the content and tone of the communications O'Rourke sent to HOA representatives: (a) communications O'Rourke sent by anonymous letters and from his personal email account from September 2012 to November 2017; (b) communications O'Rourke sent from his LSC OIG email account that contained his official signature block from mid-November 2017 to June 2018 and (c) communications O'Rourke

⁶ DOJ OIG also observed that O'Rourke's official signature block did not appear in any emails that he sent to DOJ OIG in connection with scheduling his initial interview in November 2021. (Exhibit 4, O'Rourke 1, Tr. 22)

⁷ DOJ OIG obtained O'Rourke's LSC OIG emails between June 12, 2018, and March 30, 2020, pursuant to a document request to the LSC OIG. DOJ OIG determined that from June 12, 2018, through July 11, 2018, O'Rourke's signature block was set up to appear on all emails that he sent, replied to, or forwarded from his LSC OIG email account. (Exhibit 6, [REDACTED] MOI)

sent from his LSC OIG email account that did not contain his official signature block from mid-July 2018 to February 2020.

a. September 2012 to November 2017: Emails Sent from Personal Email Account

O'Rourke told us that his complaints about his neighbor's yard to HOA representatives initially were made through anonymous letters, as shown in copies of letters dated September 2012 to May 2015 that O'Rourke provided the IC. (Exhibit 4, O'Rourke 1, Tr. 26, 97-98; Exhibit 3, Letters Provided to IC, Bates 80-83) In these anonymous letters, O'Rourke alleged that the condition of his neighbor's property was in violation of HOA rules, that he could not enjoy his own property due to the "mess of a jungle" his neighbor had created, and that remedial action was required. (Exhibit 3, Letters Provided to IC, Bates 80-83)

Beginning in September 2017, O'Rourke began sending similar complaints to HOA representatives using his personal email account and under his name. (Exhibit 3, Emails Provided to IC, Bates 84) Between September 9 and November 3, 2017, O'Rourke sent several email complaints from his personal email account requesting remedial action to bring his neighbor's property into compliance with HOA rules. (Exhibit 3, Emails Provided to IC, Bates 84-94) For example, in an email dated October 19, 2017, O'Rourke claimed that his neighbor had violated HOA covenants and architectural guidelines by planting certain-sized shrubs and plants, displaying certain signs, and failing to maintain the yard. (Exhibit 3, Email Provided to IC, Bates 91-92) O'Rourke claimed in the email that the value of his property would be reduced at the time of sale due to the "mess" next to him. O'Rourke stated rhetorically in the email, "[D]oes this owner get away with not following the rules" and urged the HOA Board of Directors to "take the necessary action, including legal action, to enforce compliance." (Exhibit 3, Email Provided to IC, Bates 91-92)

b. Mid-November 2017 to June 2018: Emails Sent from LSC OIG Email Account with Signature Block

In mid-November 2017, O'Rourke began communicating with HOA representatives about his complaints against his neighbor through his LSC OIG email account. (Exhibit 3, Emails Provided to IC, Bates 58-59) O'Rourke stated that he began doing this for "convenience" and because he thought it was permissible under the de minimis use policy. (Exhibit 3, Response Letter, Bates 46; Exhibit 4, O'Rourke 1, Tr. 26-27) During this 8-month period, O'Rourke sent nine emails from his LSC OIG email account with his official signature block to HOA representatives pertaining to complaints against his neighbor. (Exhibit 3, Emails Provided to IC, Bates 58-74) However, three additional emails that O'Rourke sent from his

LSC OIG email account to HOA representatives during this timeframe did not include his official signature block.⁸ (Exhibit 3, Emails Provided to IC, Bates 61-63, 69)

In several of the emails with his signature block, O'Rourke urged action against his neighbor's property for alleged HOA rule violations; and in others, he provided additional information or requested status updates regarding his past complaints. We highlight three examples below:

- On December 7, 2017, O'Rourke emailed HOA representatives to note that it had been approximately "90 days" since he made his complaint and the architectural committee reviewed his neighbor's yard for compliance. O'Rourke stated that his neighbor had taken "no action" since that time to bring his yard "in[to] compliance with the guidelines" and that the yard was "still a mess"; and inquired as to "what action is planned to enforce compliance for this property?" (Exhibit 3, Email Provided to IC, Bates 66)
- On April 25, 2018, O'Rourke emailed HOA representatives that his neighbor's "DIGGING HAS BEGUN" to plant a variety of vegetation, likely without any approval, and that soon his neighbor's property would "attract snakes, rodents, deer, and mosquitos," "resembl[e] a jungle," and appear "abandoned." O'Rourke noted that he began the complaint process in September 2017 and requested its status, including whether a court date had been set, given he had been told that his complaint would likely be resolved through a court proceeding. (Exhibit 3, Email Provided to IC, Bates 72-73)
- On May 8, 2018, O'Rourke emailed the HOA's attorney to complain that his neighbor continued to dig and plant, and that an unnamed member of the architectural committee told O'Rourke's wife that his neighbor was "aggressive..., abusive and very difficult to deal with." (Exhibit 3, Email Provided to IC, Bates 72)

c. Mid-July 2018 to End of February 2020: Emails Sent from LSC OIG Email Account Without Signature Block

Between mid-July 2018 and the end of February 2020, O'Rourke sent 16 emails from his LSC OIG email account, none containing his official signature block, to the HOA's attorney in two limited time periods—between August and October 2018 and between January and February 2020. (Exhibit 3, Emails Provided to IC, Bates 75-79, 115-19, 122-25, 127, 130, 132-33, 138) In 2019, in between those time periods, O'Rourke used his personal email

⁸ [REDACTED] told us that one possible explanation for the missing signature block is that O'Rourke sent these emails from his LSC OIG iPhone without enabling the signature block feature specifically for his iPhone. (Exhibit 7, [REDACTED] Tr. 27-28, 52) O'Rourke told us that he never asked anyone to set up an official signature block on his LSC OIG iPhone. (Exhibit 4, O'Rourke 1, Tr. 24-25)

account, rather than his LSC OIG email account, to send emails to HOA representatives, as reflected in an email chain he forwarded from his personal email account to his LSC OIG email account. (Exhibit 3, Emails Provided to IC, Bates 75-79, 115-19, 122-25, 127, 130, 132-33, 138; Exhibit 6, (b) (6), (b) (7)(C) MOI; Exhibit 12, Email forwarded from O'Rourke's personal account to OIG account on June 21, 2019, at 11:49 a.m.)

O'Rourke's emails between August and October 2018 related to an HOA board hearing in early September regarding his neighbor's property, and those between January and February 2020 related to O'Rourke's February 2020 deposition in the civil lawsuit his neighbor filed against the HOA. In these emails, O'Rourke also raised complaints regarding the "mess" and problems from his neighbor's yard and expressed frustration at the lack of HOA enforcement. For example:

- In August 2018, the HOA's attorney notified O'Rourke that the HOA board had scheduled a hearing in September 2018 to consider assessing fines against his neighbor for rule violations and inquired whether O'Rourke would be available to attend and make statements. (Exhibit 3, Emails Provided to IC, Bates 78, 111-113) O'Rourke replied from his LSC OIG email account that he would make statements, but he emphasized that the HOA "need[s] to act...[;] it's clear he is in violation" and that a failure to act would "be a defeat to the goals of the HOA." (Exhibit 3, Emails Provided to IC, Bates 78, 111-113) O'Rourke stated:

My blood pressure rises every time I look at his property. I cannot enjoy my property due to the mess he has created.

...

I have never complained to [my neighbor] about his lawn. I have written to complain to the American Community Association for about seven years...the first five years anonymously...the last two years using my name....I couldn't take it anymore. He needs to pull everything out of the ground and plant grass...bring it back to being a lawn....[I]t's supposed to be a lawn not a jungle....

(Exhibit 3, Emails Provided to IC, Bates 78, 111-113)

O'Rourke also stated in the email that he previously served as the HOA architectural committee chair for 4 years in the early 1990s. O'Rourke included his office and cell phone numbers for questions, but he did not add his OIG title or OIG office. (Exhibit 3, Emails Provided to IC, Bates 78, 111-113)

- In early October 2018, O'Rourke emailed the HOA's attorney from his LSC OIG email account and wrote that there was "no change" in his neighbor's yard, and thus he presumed the HOA intended to enforce compliance in court. (Exhibit 3, Email Provided to IC, Bates 126) O'Rourke stated he would be willing to testify in support of the HOA. O'Rourke closed the email with his home address and office and home

phone numbers, but he did not add his OIG title or OIG office. (Exhibit 3, Email Provided to IC, Bates 126) The attorney responded that the HOA board had made a decision regarding next steps, but he could not discuss the board's plans. (Exhibit 3, Email Provided to IC, Bates 125) O'Rourke replied via his LSC OIG email account: "Hope the 'bully on the block' does not win this one." (Exhibit 3, Email Provided to IC, Bates 125)

- In January and February 2020 O'Rourke sent seven emails from his LSC OIG email account to the HOA's attorney primarily to address issues related to his upcoming deposition, such as scheduling and accepting service of the deposition notice. (Exhibit 3, Emails Provided to IC, Bates 122-124, 130-31) O'Rourke also emailed the attorney a copy of his most recent pest control bill and a narrative of harassing incidents involving his neighbor that he had compiled. (Exhibit 3, Emails Provided to IC 127-29, 132-39) Other emails O'Rourke sent expressed his continued frustration with the situation (e.g., "And how do [they] respond to me after I do complain in a public setting at the HOA[—]they harass and threaten my family to the point where I need to call the police." (Exhibit 3, Email Provided to IC, Bates 122)) and his persistent efforts to pressure the HOA to act (e.g., "I hope the...HOA representatives are more decisive, assertive and declarative since the last go-around when they are deposed on this issue. The HOA representatives, and their position on this issue, is key to winning on this matter, not my testimony." (Exhibit 3, Email Provided to IC, Bates 122)) O'Rourke did not add his OIG title or OIG office to any of the emails sent during this time period. (Exhibit 3, Emails Provided to IC, Bates 122-124, 127-39)

4. O'Rourke's Communications with the Inspector General Regarding the Deposition and His Use of His LSC OIG Email Account

On March 2, 2020, after he was questioned during his February 28 deposition in connection with the civil litigation about the use of his LSC OIG email account, O'Rourke notified the LSC Inspector General that he had used his LSC OIG email account to email complaints to HOA representatives and that the emails contained his official signature block. (Exhibit 3, Response Letter to IC, Bates 46) O'Rourke told us that he notified the LSC Inspector General because the issue came up during the deposition and it related to work—that is, using his LSC OIG email account to send emails with his official signature block on a personal matter. (Exhibit 4, O'Rourke 1, Tr. 33-34, 53-54)

O'Rourke said he was not concerned about his use of the LSC OIG email account because he believed the use fell within the de minimis use policy, but he still felt it was appropriate to notify the LSC Inspector General. (Exhibit 4, O'Rourke 1, Tr. 33-34, 53-54) O'Rourke said that even though he did not know the exact number of emails he had sent to HOA representatives using his LSC OIG email account at that time, he did not think it was extensive and stated that both he and the Inspector General agreed that his activities fell within the scope of the de minimis use policy. (Exhibit 13, O'Rourke 2, Tr. 7-8) O'Rourke

said that he did not even consider whether use of his official signature block could constitute misconduct until the IC notified him of the allegation in mid-March 2020. (Exhibit 4, O'Rourke 1, Tr. 35)

5. O'Rourke's Discussions with (b) (6), (b) (7)(C) Regarding the IC's Letter

A few days after O'Rourke received the IC's letter of March 13, 2020, he shared it with (b) (6), (b) (7)(C), and sought his input in responding to it. (Exhibit 14, O'Rourke email to (b) (6), (b) (7)(C) March 16, 2020, at 7:07a; Exhibit 13, O'Rourke 2, Tr. 9; Exhibit 10, (b) (6), (b) (7)(C) Tr. 40-41) (b) (6), (b) (7)(C) told us that he gave assistance to O'Rourke on this IC matter as a friend, and O'Rourke did not direct him to do so. (Exhibit 10, (b) (6), (b) (7)(C) Tr. 14-15, 23-24, 26, 38-39) O'Rourke likewise told us that, after he received the IC letter, he discussed it with (b) (6), (b) (7)(C) as a friend and colleague whom O'Rourke has known for more than 20 years and whose opinion O'Rourke trusts.⁹ (Exhibit 13, O'Rourke 2, Tr. 9-10) O'Rourke added that he asked (b) (6), (b) (7)(C) to review his response to the IC and verify that he was providing the right policies and obtaining emails correctly because he is "not that sharp with the IT stuff" and wanted to ensure that he provided a complete and accurate response to the IC. (Exhibit 13, O'Rourke 2, Tr. 10, 12) O'Rourke also told us that he shared his draft response to the IC with (b) (6), (b) (7)(C) because he wanted another "set of eyes," and he did not view (b) (6), (b) (7)(C) as an "interested party" and thus "didn't think it was a big deal." (Exhibit 13, O'Rourke 2, Tr. 24-25)

One of (b) (6), (b) (7)(C) suggested edits to O'Rourke's draft response to the IC was to add the following phrase after the term "signature block": "is appended to the message as it is sent." (Exhibit 15, Email from (b) (6), (b) (7)(C) to O'Rourke, March 17, 2020 at 3:40pm) (b) (6), (b) (7)(C) told us that this comment reflected his understanding that the user does not see a signature block when sending emails, but rather it is "appended automatically" after the email is sent. (Exhibit 10, (b) (6), (b) (7)(C) Tr. 11, 31, 65-66, 77-79, 48-49, 82-84) (b) (6), (b) (7)(C) told us that he is not familiar with email signature blocks and has not enabled this feature on his LSC OIG email account (Exhibit 10, (b) (6), (b) (7)(C) Tr. 8-9), and acknowledged that his understanding is based on a guess. (Exhibit 10, (b) (6), (b) (7)(C) Tr. 10-11, 14-15, 31-33, 48-49) O'Rourke told us that he understood (b) (6), (b) (7)(C) feedback to mean that the signature block is added after the email is sent and that is the meaning O'Rourke intended to convey in his IC response when he referred to the signature block being "automatically appended."¹⁰ (Exhibit 13, O'Rourke 2, Tr. 19, 22, 26, 42-43) O'Rourke told us that regardless of

⁹ O'Rourke and (b) (6), (b) (7)(C) worked together at the (b) (6), (b) (7)(C) for several years in the 1990s to early 2000s. Thereafter, O'Rourke served as Assistant Inspector General for Investigations for 10 years at the Small Business Administration OIG before O'Rourke joined the LSC OIG. (Exhibit 4, O'Rourke 1, Tr. 5; Exhibit 13, O'Rourke 2, Tr. 10-11) O'Rourke and (b) (6), (b) (7)(C) have occasionally socialized outside of work during the time that they have known each other. (Exhibit 13, O'Rourke 2, Tr. 11-12)

¹⁰ As described earlier, O'Rourke's (and (b) (6), (b) (7)(C)) understanding of signature blocks and when a user would see them on emails was incorrect.

(b) (6), (b) (7)(C) suggested edits, he took “ownership” of the response to the IC. (Exhibit 13, O’Rourke 2, Tr.13, 26, 42)

O’Rourke told us that he never spoke with (b) (6), (b) (7)(C) (or anyone else) regarding whether he would see his official signature block on an email sent from his LSC OIG email account before sending the email (Exhibit 13, O’Rourke 2, Tr. 46-47) and said that when he sent his final response to the IC on March 30, 2020, his understanding of how his email signature block worked was based upon the feedback from (b) (6), (b) (7)(C) and his own review of the emails that he provided to the IC. (Exhibit 13, O’Rourke 2, Tr. 47-49)

Analysis and Conclusion

The IC requested that DOJ OIG evaluate whether O’Rourke, a “Covered Person” under the Integrity Committee Policies and Procedures, engaged in conduct that undermines the integrity reasonably expected of an individual in his position when he used his official title and LSC OIG email account to lodge complaints against his neighbor in a personal HOA dispute. Based upon the investigative record described in this report, we concluded that O’Rourke’s conduct did undermine the integrity reasonably expected of the LSC OIG Assistant Inspector General for Investigations. We found that O’Rourke’s use of his LSC OIG email account to send multiple emails with a signature block containing his official title to his HOA, in connection with a personal dispute that he was having with his neighbor, created the appearance that he was using his position for an improper purpose.¹¹

O’Rourke told us that when he began his employment with the LSC OIG, he requested that an IT specialist activate the automated official signature block feature for emails sent from his LSC OIG email account. According to O’Rourke, he is “not IT savvy,” was ignorant about every aspect of how the feature worked, and thought his official signature block was “automatically appended” at some point before the recipient received the email but after O’Rourke drafted the email—because, O’Rourke maintained, he did not see his official signature block appear at any point prior to sending emails. However, the OIG was informed by the LSC OIG (b) (6), (b) (7)(C) that the feature that was set up for O’Rourke’s work email account caused the official signature block to be added to the body of an email at the moment O’Rourke created the new email—before he even began drafting any text. Moreover, in reviewing O’Rourke’s emails, we observed that the official signature block used a larger font size, and was darker, than the text in the body of the email. Indeed,

¹¹ The IC provided O’Rourke with an opportunity to review and provide comments to a draft of this report. In response, O’Rourke’s counsel argued that there is no evidence that O’Rourke intended to use his position to influence, or attempt to influence, the HOA and argued that O’Rourke’s use of his title did not in fact influence the HOA. However, O’Rourke’s intent and the effect of his actions on the HOA are not relevant considerations to our finding. We determined that the mere use of his LSC OIG title in his signature block on emails he sent to the HOA, regardless of whether he included that information to influence the HOA, was inconsistent with the integrity reasonably expected of a Covered Person and that it created an *appearance* that he was using his position to influence the HOA, regardless of whether his actions in fact influenced the HOA.

when DOJ OIG showed O'Rourke these emails during our interview, he himself described his official signature block on the emails as a "big chunk of bolded information with [his] name and title."

We thus found O'Rourke's testimony concerning. However, we noted that, at the time of his testimony, O'Rourke's signature block had not appeared on his emails for more than 3 years, which may have contributed to his mistaken belief of how the signature block feature works. Moreover, O'Rourke's lack of IT sophistication was corroborated by the testimony of the other witnesses we interviewed, and his incorrect understanding of the operation of the official signature block feature was reinforced by his friend and colleague with whom he consulted on this matter, (b) (6), (b) (7)(C).

However, the fact remains that upon joining the LSC OIG, O'Rourke affirmatively requested that the official signature block feature be activated. O'Rourke therefore knew that, at some point in the process, his official signature block would be appended to emails sent from his LSC OIG email account when using his work computer. Moreover, given how the feature operates, we believe O'Rourke knew or should have known that his official signature block would be appended on emails he drafted while the feature was activated. Indeed, O'Rourke acknowledged to us that he would have seen his official signature block in email threads with HOA representatives, where the block would have been visible to him in the preceding messages that he sent. On this basis, we found that O'Rourke knew or should have known that his official signature block was being added to emails he sent to HOA representatives from his LSC OIG email account, and that this knowledge and awareness should have caused O'Rourke to recognize the inappropriateness of doing so in connection with a personal matter.

In his communications with the IC and in his DOJ OIG interview, O'Rourke repeatedly stated his belief that the de minimis use policy permitted him to use his LSC OIG email account to send emails to the HOA. O'Rourke's belief is misplaced: the conduct at issue is O'Rourke's use of his official title in emails to the HOA, and not whether his use of his LSC OIG email account complied with applicable de minimis use policies. O'Rourke's statements to the IC and DOJ OIG also fail to recognize the seriousness of sending emails to HOA representatives from his LSC OIG account that identified O'Rourke as a senior investigatory official in the organization. By sending emails to HOA representatives with his official signature block affixed, O'Rourke created the appearance that he was seeking to influence the actions of the HOA on a personal matter inappropriately. Further, O'Rourke's official signature block informed the HOA representatives that his employment relates to investigative work, potentially creating an inherently coercive tone that intimated an ability to seek other recourse if the HOA did not take the actions O'Rourke was demanding. In addition, by sending emails that included his official signature block, O'Rourke created the appearance that the LSC OIG in some manner endorsed him during his dispute with his neighbor. Also, while identifying himself through his signature block as an LSC OIG official, O'Rourke engaged in rhetoric that had the potential to erode the reputation of his official

position as well as that of the LSC OIG. As noted above, we additionally were disappointed that O'Rourke, in his communications with the IC and in his DOJ OIG interview, seemingly failed to fully understand the significance of the issues created by his actions.¹²

In sum, we found that O'Rourke's use of his LSC OIG email account to send multiple emails with a signature block containing his official title and office to an outside entity about a personal matter was inconsistent with the integrity reasonably expected of an Assistant Inspector General for Investigations and created the appearance that he was using his position for an improper purpose.

Exhibits

1. Complaint (with attachments), dated February 27, 2020
2. IC Letter to Mr. O'Rourke and Request for Response, dated March 13, 2020
3. Mr. O'Rourke's Response to the IC (with attachments), dated March 30, 2020
4. Transcript of Interview of Mr. O'Rourke, November 12, 2021 ("O'Rourke 1")
5. (b) (6), (b) (7)(C) email to IC, dated June 10, 2021
6. (b) (6), (b) (7)(C), Memorandum of Investigation (MOI), August 3, 2022
7. Transcript of Interview of (b) (6), (b) (7)(C), October 7, 2021
8. LSC Employee Handbook, dated December 5, 2019
9. LSC OIG Electronic Devices, Services and Systems Policy, dated February 9, 2017
10. Transcript of Interview of (b) (6), (b) (7)(C), May 2, 2022
11. Mr. O'Rourke email, dated July 11, 2018 (last email containing official signature block)
12. Mr. O'Rourke email, dated June 21, 2019
13. Transcript of Interview of Mr. O'Rourke, June 3, 2022 ("O'Rourke 2")
14. Mr. O'Rourke email, dated March 16, 2020
15. (b) (6), (b) (7)(C) email, dated March 17, 2020

¹² Although O'Rourke acknowledged in his written response to the IC that using his official email account on a personal matter was a "lapse in judgment" as referenced above, he repeatedly relied and focused on the de minimis use policy and disclaimed responsibility for the appearance of his signature block. His reliance and focus on whether he was permitted to use his LSC OIG equipment to send several personal emails demonstrates that he failed to appreciate the consequences of using his official email account containing his signature block for a personal dispute. (Exhibit 3, Response Letter, Bates 48)

Enclosure 2

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

April 3, 2023

BY EMAIL Integrity-WG@cigie.gov

Mr. Robert P. Storch
Vice Chairperson
Integrity Committee
Counsel of the Inspectors General
On Integrity and Efficiency
1717 H Street, N.W.
Suite 825
Washington, D.C. 20006-3900

Re: Response to Draft Report of Investigation
Integrity Committee Case Number 20-035

Dear Mr. Storch:

I represent Legal Services Corporation (“LSC”) Office of Inspector General (“OIG”) employee Mr. Daniel J. O’Rourke. I am writing in response to your letter of February 23, 2023, which enclosed a Draft Report regarding an outside investigation of Mr. O’Rourke. Thank you for the courtesy of allowing us additional time to respond, to and including April 3, 2023.

We have reviewed the Draft Report accusing Mr. O’Rourke of abusing his authority and violating Legal Services Corporation (“LSC”) standards when he allegedly used his official title and government time and equipment for personal purposes in violation of the applicable regulations.

The complaint from (b) (6), (b) (7)(C), who is clearly self-identified in Exhibit 5 to the Draft Report as Mr. O’Rourke’s next-door neighbor, seeks to use your committee and the LSC OIG as part of her continuing vendetta against Mr. O’Rourke. (b) (6), (b) (7)(C) filed suit

against the Beech Creek Homeowners Association (“the HOA”) in Howard County Circuit Court in Maryland because they did not want to comply with the HOA’s Architectural Guidelines. [REDACTED]

[REDACTED] The HOA filed a counterclaim. The matter was settled prior to trial.

On February 28, 2020, during the course of that litigation, counsel for [REDACTED] took Mr. O’Rourke’s deposition and asked him questions about emails that Mr. O’Rourke had sent to the HOA about [REDACTED] refusal to comply with the HOA’s Architectural Guidelines. On February 27, 2020, the day before counsel for [REDACTED] took Mr. O’Rourke’s deposition, [REDACTED] filed the instant complaint against Mr. O’Rourke with the Integrity Committee.

[REDACTED] accused Mr. O’Rourke of writing intimidating emails to the Homeowners Association in 2017, emails of which she was unaware until 2020 that she now claims were improper. [REDACTED] accused Mr. O’Rourke of conducting a campaign against her under cover of his official position. It is reasonable to infer that [REDACTED] filed her February 27, 2020 complaint against Mr. O’Rourke to gain leverage in her litigation against the HOA.

After [REDACTED] settled their HOA litigation, [REDACTED] continued her vendetta against Mr. O’Rourke. Draft Report Exhibit 5 shows [REDACTED] motives are clear, as she complains that, “Our family has lost much” and “our family spent over \$60,000 in legal fees” on this matter. [REDACTED] [REDACTED] appears to be dissatisfied with the settlement agreement which she reached with the HOA, even though her property was in clear and obvious violation of the HOA rules and regulations.

[REDACTED] accusations are based on the false belief that Mr. O’Rourke is a government employee who is subject to 5 CFR, Subpart G. As we show below, this is incorrect.

[REDACTED] asserts, without any support, that Mr. O’Rourke’s allegations about the condition of her property and her violation of the HOA’s Architectural Guidelines are “spurious” and that his

claims against (b) (6), (b) (7)(C) are false. These accusations are inconsistent with the fact that (b) (6), (b) (7)(C) filed suit against the HOA and that (b) (6), (b) (7)(C) settled that lawsuit because they recognized that they were in blatant and obvious violation of the HOA's rules and regulations.

(b) (6), (b) (7)(C) is attempting to use Mr. O'Rourke's employer, LSC OIG, as a vehicle for obtaining revenge against Mr. O'Rourke. LSC OIG should not allow her to do so, because there is no evidence to support (b) (6), (b) (7)(C) accusations of wrongdoing by Mr. O'Rourke. Nor is there evidence in the Draft Report which would justify any disciplinary action because the Draft Report is based on the implicit assumption that (b) (6), (b) (7)(C) accusations have merit, an assumption that is contrary to the evidence.

BACKGROUND

A. Incorrect Initial Premises

The Draft Report contains numerous factual errors and substitutes opinion for evidence. Mr. O'Rourke acknowledges that he inadvertently used his office email for a few communications with his HOA. LSC OIG is not a government agency and O'Rourke did not use a government email account. Rather, he used his LSC OIG email account to send 9 emails which had his LSC OIG signature block.

For example, the Draft Report identifies Mr. O'Rourke as a senior law enforcement official in the organization." Draft Report at 13. Mr. O'Rourke is not, however, currently a "senior law enforcement official." This statement is based on a fundamental misunderstanding of his position and the nature of the LSC OIG.

Not only is Mr. O'Rourke not a senior law enforcement official, Mr. O'Rourke does not possess any law enforcement powers. Neither Mr. O'Rourke nor his team is empowered to make arrests. Nor do they carry firearms or execute search warrants.

Mr. O'Rourke is an executive with LSC OIG with an investigative job description, function, and mission. While his office does at times assist other law enforcement entities as they make arrests and execute search warrants only from a distance and in conjunction with other sworn law enforcement officers. LSC OIG is simply not law enforcement, federal or otherwise.

Further, there is no way that his HOA representatives would have any reason to believe that Mr. O'Rourke is a senior federal law enforcement official just from reading his signature block. The HOA (a homeowners' association of which O'Rourke was also a longtime member, as O'Rourke was (b) (6), (b) (7)(C) next-door neighbor) had no idea what Mr. O'Rourke does for a living. (b) (6), (b) (7)(C) just confected that accusation, even though she knew or should have know that the LSC is not a federal government agency. [This fact is well known, easily discoverable, and regularly publicized, even by LSC itself.]

B. Adequacy of the Investigation

The Draft Report is based on an incomplete investigation and the unsupported assumption that there is merit to (b) (6), (b) (7)(C) accusations. There is no indication that the investigators ever asked (b) (6), (b) (7)(C) whether she had any evidence that Mr. O'Rourke's November 14, 2017 email caused the HOA to take action against her.

Nor did the investigators ever seek statements from the President of the HOA, or its counsel, to determine the severity of the alleged offense or whether Mr. O'Rourke's emails were indeed coercive. The outside investigators apparently believed that (b) (6), (b) (7)(C) unsupported accusations tell the entire story. The Draft Report asserts that Mr. O'Rourke's conduct "undermines the integrity reasonably expected of a covered person" without having made any serious effort to consider all of the evidence. As we show below, this conclusion is incorrect.

C. Seriousness of the Allegations

The Draft Report stated that Mr. O'Rourke failed to recognize the "seriousness" of sending emails to his HOA. This is incorrect. Mr. O'Rourke did not learn of the presence of his employer's signature block on some emails until his deposition on Friday, February 28, 2020. Mr. O'Rourke immediately informed his supervisor, on the next business day, the following Monday, March 2, 2020.

Further, the Draft Report never explains the standards or criteria for evaluating or measuring the "seriousness" of Mr. O'Rourke sending these emails with his auto signature. The investigators never interviewed the President of the HOA to ascertain whether he viewed the use of Mr. O'Rourke's signature block as a serious matter or whether those 9 emails influenced the actions or decisions of the HOA Board. There is no evidence that anyone thought the presence of Mr. O'Rourke's signature block on 9 emails was "serious" or even of any import at all.

As the attached Declaration of (b) (6), (b) (7)(C) demonstrates, the Draft Report overstates the claimed "seriousness" of Mr. O'Rourke's use of his signature block. (b) (6), (b) (7)(C) stated under oath that (b) (6), (b) (7)(C) claims that Mr. O'Rourke was "attempting to intimidate the Board of Directors of the HOA are unsupported by any evidence." (b) (6), (b) (7)(C) Declaration at ¶7. "None of Mr. O'Rourke's emails to the HOA were threatening or intimidating." (b) (6), (b) (7)(C) Declaration at ¶7. (b) (6), (b) (7)(C) stated under oath that "Mr. O'Rourke's sporadic use of his LSC signature block in his emails did not create 'an inherently coercive tone' or give the impression that the LSC 'endorsed him during his dispute with his neighbor.'" (b) (6), (b) (7)(C) Declaration at ¶7.

(b) (6), (b) (7)(C) stated: "The presence of Mr. O'Rourke's signature block reflecting his employment with the Legal Services Corporation had no impact whatsoever on the HOA's decision to proceed to enforce the HOA's Architectural Guidelines, as the Board had a fiduciary duty to

enforce those Guidelines.” [REDACTED] Declaration at ¶8. [REDACTED] further observed: “Mr. O’Rourke’s signature block was irrelevant to our decisions.” [REDACTED] Declaration at ¶8.

[REDACTED] rejected the accusation that Mr. O’Rourke’s emails created the appearance that he was using his position for an improper purpose. The identity of Mr. O’Rourke’s employer was irrelevant to the HOA Board’s decisions. We understand that as a homeowner and an HOA member Mr. O’Rourke was raising his concerns about [REDACTED] blatant and obvious violations of the HOA’s Architectural Guidelines that were discussed by the Board as early as 2012. [REDACTED] Declaration at ¶9.

Thus, [REDACTED] rejects the central contention in the Draft Report that Mr. O’Rourke’s emails had an “inherently coercive tone” or “created the appearance that he was seeking to influence the actions of the HOA on a personal matter inappropriately.” Nor did Mr. O’Rourke create the appearance that the LSC OIG in some manner endorsed him in this dispute with his neighbor. Nothing in the emails had the potential to erode the reputation of his official position or the reputation of the LSC OIG. There is no evidence to support these accusations; as [REDACTED] Declaration makes clear, all of the evidence is to the contrary.

The record is clear that Mr. O’Rourke regrets his inadvertent use of his signature block on 9 emails sent to his HOA and he acknowledges that he should not have done so. But the reasoning behind the Draft Report’s accusation that he “seemingly failed to fully understand the significance of the issues created by his actions” is circular. In view of [REDACTED] Declaration and the undisputed evidence that Mr. O’Rourke never intentionally used his position to influence his HOA, the Draft Report’s claim of a failure “to fully understand the significance” of his actions exaggerates the “significance” of those actions. There is simply no logical connection between his writing his HOA using his LSC OIG signature block and Mr. O’Rourke’s duties, position, and responsibilities.

ARGUMENT

The Draft Report finds that Mr. O'Rourke's use of the LSC OIG email account itself "did not appear to violate the *de minimis* use policy." Draft Report at 13. We agree.

The Draft Report, however, criticizes Mr. O'Rourke for sending emails that included his LSC OIG signature block. Draft Report at 13. Accordingly, our Response will focus solely on Mr. O'Rourke's sporadic use of his signature block in a fraction of the emails he sent to his HOA from his LSC OIG account.

The Draft Report is deeply flawed in numerous respects. Mr. O'Rourke's is not a senior law enforcement official and he never identified himself that way to his HOA. Further, Mr. O'Rourke is not an employee of the federal government and thus the same standards should not apply to a private non-membership, nonprofit corporation.

The Draft Report confuses (b) (6), (b) (7)(C) unsupported accusations against Mr. O'Rourke with actual evidence and uncritically accepts (b) (6), (b) (7)(C) opinions regarding Mr. O'Rourke's intentions and state of mind. The Draft Report also accepts (b) (6), (b) (7)(C) opinions that are at odds with those of the HOA.

(b) (6), (b) (7)(C) accusations are premised on her erroneous belief that Mr. O'Rourke is a federal law enforcement official and an employee of the federal government and subject to 5 C.F.R.Subpart G. This is incorrect. (b) (6), (b) (7)(C) also accuses Mr. O'Rourke of sending the emails on government time, another accusation without any factual foundation

Mr. O'Rourke did not use his LSC OIG signature block to intimidate the HOA into doing his bidding. While (b) (6), (b) (7)(C) did make that accusation, which the draft report accepted as true, there is no evidence that Mr. O'Rourke did so or that he intended to use his LSC OIG email to do so.

A. Absence of Evidence of Intent

First, a review of the text of the emails demonstrates there is nothing in the text or tone of any of Mr. O'Rourke's emails that can reasonably be construed as an attempt to "intimidate" the HOA. Mr. O'Rourke was frustrated with the refusal of (b) (6), (b) (7)(C) to comply with the HOA's rules and regulations and his frustration is certainly understandable because informal efforts by the HOA Board failed to persuade (b) (6), (b) (7)(C) to comply with the HOA's Architectural Guidelines. Mr. O'Rourke's frustration is justified because he had a legal right to insist on compliance with the HOA's Architectural Guidelines. But nothing in the text of the emails at issue supports the accusation that Mr. O'Rourke was attempting to use his position to "intimidate" the HOA.

Second, as the enclosed Declaration from (b) (6), (b) (7)(C), former President of the HOA Board, makes clear, the HOA did not view Mr. O'Rourke emails as "intimidating," or constituting an attempt by Mr. O'Rourke to use his position with the LSC to "intimidate" the HOA.

Further, the HOA began proceedings against (b) (6), (b) (7)(C) *prior* to its receipt of the first email containing Mr. O'Rourke's LSC OIG signature block, which was sent on November 14, 2017. In that email, Mr. O'Rourke is thanking the HOA for taking action on his complaint, thus confirming that the HOA Board had already sent his concerns to its outside counsel. Thus, (b) (6), (b) (7)(C) contention that the HOA took action against her because of Mr. O'Rourke's emails is false. Rather the HOA was acting on the basis of prior complaints, including complaints from Mr. O'Rourke. (b) (6), (b) (7)(C) claims of damages based on the accusation that Mr. O'Rourke's emails caused the HOA to take action is contrary to the evidence of record. In fact, the President of the HOA indicated the HOA Board had discussions on the violations concerning (b) (6), (b) (7)(C) property as far back as 2012.

A large portion of the "investigation" and the draft Report focused on Mr. O'Rourke's

understanding of how the signature block on his electronic devices worked. Mr. O'Rourke freely admitted that he did not understand when and why the signature block appeared and there is no indication from the emails which shows whether a particular email was sent from his desk top or from his I-phone. We submit that it is equally plausible to find there were malfunctions or glitches in the software which controlled when the signature block appeared or did not appear.

We respectfully request that you reject the speculative testimony set forth in Exhibits to the Draft Report, particularly since this testimony is based on what could or might have happened years ago. This testimony has no probative value.

B. Sporadic Use of Signature Block

In his March 30, 2020 letter, Mr. O'Rourke explained his lack of understanding of how his official signature block was set up and whether it worked correctly. Mr. O'Rourke further stated that he believed his use of his official signature block was "inadvertent." There is no evidence to the contrary.

The evidence shows that Mr. O'Rourke sent 28 emails to the HOA from his LSC OIG equipment. Only 9 of these contained Mr. O'Rourke's signature block. Review of the emails attached to (b) (6), (b) (7)(C) complaint confirms that Mr. O'Rourke's use of the signature block was sporadic and indeed appears random.

If Mr. O'Rourke had intended to use his position with the LSC OIG in the emails in connection with his complaints about his neighbors, he certainly would have included his LSC OIG signature block in every email he sent to the HOA. The fact that Mr. O'Rourke's use of his LSC OIG signature block on only a small fraction of the emails he sent to his HOA supports the conclusion that Mr. O'Rourke did not consciously or unconsciously intend to use his LSC OIG position in an attempt to "coerce" his HOA to take action against (b) (6), (b) (7)(C) for their violations

of the HOA's Architectural Guidelines.

Mr. O'Rourke wrote the emails as a concerned homeowner and was not abusing his authority or misusing his authority or position. Mr. O'Rourke was not seeking to use his position at LSC OIG to coerce or influence any decision by the HOA.

Mr. O'Rourke did not realize that some of the emails he sent contained the LSC OIG signature block until he was deposed by counsel for (b) (6), (b) (7)(C) on Friday, February 28, 2020. Mr. O'Rourke brought the matter to the attention of his supervisor Jeffery Schanz, Inspector General, LSC OIG on the following business day.

Mr. O'Rourke's prompt notification to Mr. Schanz of the existence of the emails with his signature block confirms that he was concerned about these emails and he promptly sought to keep his supervisor fully informed. Mr. O'Rourke's doing so negates any possibility that he used the signature block with an improper intent.

ABSENCE OF ANY JUSTIFICATION FOR PENALTY

You should consider the *Douglas* factors in assessing whether any penalty is justified.¹

Factor #1 is: "The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated."

Factor # 1 favors no penalty being imposed because Mr. O'Rourke did not commit any offense that is serious enough to justify any penalty because (b) (6), (b) (7)(C) accusations are not supported by any evidence. (b) (6), (b) (7)(C) accusations, which were erroneously ratified and adopted in the Draft Report, are inconsistent with the evidence of record, particularly the Declaration

¹ The *Douglas* factors refers to the twelve factors articulated in *Douglas v. Veterans Administration*, 5 M.S.P.R. 313 (1981).

of (b) (6), (b) (7)(C).

Further, Mr. O'Rourke's sporadic use of his LSC OIG signature block on 9 emails was inadvertent and was not committed maliciously or for personal gain. Mr. O'Rourke was clearly writing as an aggrieved homeowner.

Finally, Mr. O'Rourke's use of his LSC OIG signature block on 9 emails was unrelated to his "duties, position, and responsibilities." Mr. O'Rourke continued to receive "Outstanding" Performance Evaluations in his three most recent evaluations, for 2018, 2019 and 2020.² Mr. O'Rourke's use of the LSC OIG signature block clearly had no negative impact on his high level of job performance. Thus, no harm was done to the LSC OIG.

Factor #2 is: "The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position." Factor # 2 favors no penalty being imposed because Mr. O'Rourke's actions were not taken in a supervisory or fiduciary role and had nothing to do with his job performance.

Factor #3 is: "The employee's past disciplinary record." Factor #3 favors no penalty being imposed because Mr. O'Rourke has a spotless record during his decades with the federal government and for his almost a decade of service to the LSC OIG. There is no record of prior disciplinary action against Mr. O'Rourke.

Factor #4 is: "The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability." Factor # 4 favors no penalty being imposed because Mr. O'Rourke has had a spotless record during his decades with the federal government and for his almost decade of service to the LSC OIG. Mr. O'Rourke has an exemplary

² Since the permanent Inspector General retired, there are no performance evaluations of Mr. O'Rourke, for calendar years 2021 and 2022.

work record at a very high level of performance, as demonstrated by his performance evaluations which are attached hereto. Mr. O'Rourke gets along well with his fellow workers and is very dependable.

Factor #5 is: "The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties." Factor # 5 favors no penalty being imposed because Mr. O'Rourke's inadvertent and sporadic use of his LSC OIG signature block has had no impact on his ability to perform at an "Outstanding" level. Under the circumstances present here, there is no basis for concluding there would be any loss confidence in light of Mr. O'Rourke's job performance.

In fact, on March 2, 2020, Mr. O'Rourke advised his supervisor, Inspector General Jeff Schanz, of his discovery of the emails with the LSC OIG signature block well before he even became aware of (b) (6), (b) (7)(C) complaint on March 13, 2020. Mr. O'Rourke's doing so provides support for maintaining confidence in his integrity and job performance.

Since the receipt of the IC complaint, Mr. O'Rourke has continued to work successfully in his position over three years after the underlying allegation was received and been known by his supervisor.

While the IC investigation was ongoing, through Mr. O'Rourke's leadership, the investigative team for the LSC OIG has compiled one arrest, four indictments, six convictions, one debarment, and over \$3,280,442 in recoveries, restitution, grants suspended or cancelled, funds directed for another purpose, and a referral to LSC for recovery of over \$1.5 million owed to LSC. In addition, four other cases have been accepted for prosecution and are pending. These recoveries in these last three years equate to almost 90% of all recoveries received by the LSC OIG team since 2014.

These results are historic numbers for the LSC OIG, which are even more notable because they were completed during an ongoing pandemic, during remote work, and with restrictions on travel. These oversight activities, investigative actions, and related recoveries offer Congress and the LSC Board assurance that oversight of LSC programs is being conducted in a robust manner to deter fraud, waste and abuse.

Since March 13, 2020, the investigative team also investigated a significant \$1.1 million theft of LSC grant funds through a Business Email Compromise scheme. Upon completing the investigation, the LSC OIG submitted 20 suggestions to LSC in order to improve their internal controls related to distributing grant remittances. LSC management acted on 19 of the 20 suggestions Mr. O'Rourke's referred to them.

The LSC OIG investigative team has a high-level of *esprit de corps*, unity, effectiveness, and dedication to the LSC OIG mission. Morale is high, as the team effectively investigates complex issues with a strong team-oriented focus. Since 2015, the team has retained the same personnel within the investigative unit with no loss of personnel in over eight years, and has provided outstanding results for the LSC OIG.

Mr. O'Rourke has 40 years of combined service with the federal government and LSC OIG. He became an employee of LSC OIG in 2014. During 31 years of service, Mr. O'Rourke has been a supervisor. The allegations at issue in the Draft Report are based on the first and only complaint concerning his conduct during Mr. O'Rourke's 40 years of service.

Factor #6 is: "Consistency of the penalty with those imposed upon other employees for the same or similar offenses." We are unaware of anyone being punished for inadvertent and sporadic use of the LSC OIG signature block in similar circumstances. We request the opportunity to conduct discovery to address whether any other LSC OIG employees have been disciplined in

similar circumstances in the event you decide any disciplinary action is appropriate.

Factor #7 is: "Consistency of the penalty with any applicable agency table of penalties."

We are unaware of anyone being punished for inadvertent and sporadic use of the LSC OIG signature block in similar circumstances or of the existence of any applicable table of penalties. We request the opportunity to conduct discovery to address whether any other LSC OIG employees have been disciplined in similar circumstances.

Factor #8 is: "The notoriety of the offense or its impact upon the reputation of the agency."

This factor favors no penalty being imposed because this personnel matter is private and according to the Handbook will remain confidential, as such information is not subject to the Freedom of Information Act. Further, the HOA did not view Mr. O'Rourke's sporadic use of his LSC OIG signature block as having any notoriety or any impact on the reputation of the LSC OIG.

Factor #9 is: "The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question." Factor # 9 favors no penalty being imposed because Mr. O'Rourke was never placed on notice that his sporadic and unintentional use of the LSC OIG signature block would place him in jeopardy.

Factor #10 is: "The potential for the employee's rehabilitation." Factor 10 demonstrates that under these circumstances, there is high potential for rehabilitation, particularly in view of Mr. O'Rourke's outstanding performance in the five years since he sent the emails at issue. Thus, Factor # 10 favors no penalty being imposed. To the extent this is a factor, the evidence shows that Mr. O'Rourke has already been "rehabilitated."

Factor #11 is: "Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter." There are clearly mitigating circumstances where b6

(b) (6), (b) (7)(C) refused to comply over many years with the HOA's Architectural Guidelines leading to Mr. O'Rourke's frustration. Accordingly, Factor # 11 favors no penalty being imposed.

Factor #12 is: "The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others." Factor 12 favors no penalty being imposed because there is no reason to deter Mr. O'Rourke from using his LSC OIG signature block because it stopped working in 2018. After DOJ OIG told Mr. O'Rourke that his LSC OIG signature block had stopped working years ago, Mr. O'Rourke chose not to re-create his signature block.

We respectfully suggest that applying the *Douglas* factors, there is no evidentiary basis in the record for taking any disciplinary action against Mr. O'Rourke.

CONCLUSION

We respectfully request that you close this file without taking any disciplinary action against Mr. O'Rourke. Even though the LSC shall not be considered a department, agency, or instrumentality of the Federal Government. 42 USC § 2996d(e)1, the *Douglas* Factors, which are often used by federal agencies provide a solid framework and are very instructive and helpful for analyzing the mitigating circumstances present here. We submit that application of the *Douglas* factors makes inappropriate the imposition of any penalty on Mr. O'Rourke for his inadvertent use of his LSC OIG signature block on the 9 emails at issue under the circumstances present here.

Very truly yours,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

cc: Daniel O'Rourke
enclosures:

Declaration of (b) (6), (b) (7)(C)
2020 Performance Evaluation for Daniel O'Rourke
2019 Performance Evaluation for Daniel O'Rourke
2018 Performance Evaluation for Daniel O'Rourke

DECLARATION OF (b) (6), (b) (7)(C)

I, (b) (6), (b) (7)(C), being duly sworn, depose and state:

1. I served as President of the Beech Creek Homeowners Ass'n, Inc. ("the HOA") for more than fifteen years. I make this Declaration at the request of Daniel O'Rourke,

2. I was President of the HOA when (b) (6), (b) (7)(C) filed suit against the HOA in 2019 to block enforcement of the HOA Board's decision to enforce the HOA's architectural guidelines.

3. Pursuant to its fiduciary duty to enforce the HOA's architectural guidelines, the HOA Board of Directors notified (b) (6), (b) (7)(C) that they were in violation of the architectural guidelines. The Board issued a cease and desist order to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) then filed suit against the HOA.

4. Mr. O'Rourke's complaint about the condition of (b) (6), (b) (7)(C) property was not the only complaint made to the HOA against (b) (6), (b) (7)(C), as other homeowners shared Mr. O'Rourke's concerns.

5. I understand that (b) (6), (b) (7)(C) complained to Mr. O'Rourke's employer that Mr. O'Rourke's allegations were "spurious," that Mr. O'Rourke made "false allegations," and that he raised "false claims" against her. (b) (6), (b) (7)(C) claimed that the sporadic presence of Mr. O'Rourke's signature block on a number of emails sent to the HOA constituted "an apparent attempt to intimidate the HOA into doing his bidding" and "to get the results he desired."

6. (b) (6), (b) (7)(C) claims that Mr. O'Rourke was attempting to intimidate the Board of Directors of the HOA are unsupported by any evidence. None of Mr. O'Rourke's emails to the HOA were threatening or intimidating. Mr. O'Rourke's sporadic use of his LSC signature block in his

emails did not create “an inherently coercive tone” or give the impression that the LSC “endorsed him during his dispute with his neighbor.”

7. The presence of Mr. O’Rourke’s signature block reflecting his employment with the Legal Services Corporation had no impact whatsoever on the HOA’s decision to proceed to enforce the HOA’s architectural guidelines, as the Board had a fiduciary duty to enforce those guidelines. Mr. O’Rourke’s signature block was irrelevant to our decisions.

8. Mr. O’Rourke’s emails did not create the appearance that he was using his position for an improper purpose. The identity of Mr. O’Rourke’s employer was irrelevant to the HOA Board’s decisions. We understood that Mr. O’Rourke was raising his concerns as a homeowner and an HOA member about HOA violations by (b) (6), (b) (7)(C) that were discussed by the Board as early as 2012.

9. (b) (6), (b) (7)(C) claim that the Board did not “pursue” Mr. O’Rourke’s allegations at an earlier date because the allegations “were obviously false” is absolutely untrue. Rather, the Board of the HOA adopted a low key approach to address the condition of (b) (6), (b) (7)(C) property to informally persuade (b) (6), (b) (7)(C) to comply with the HOA’s architectural guidelines to resolve the conflict and avoid unnecessary and costly litigation with (b) (6), (b) (7)(C).

Sworn and subscribed to under penalty of perjury on this 29th day of March, 2023.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(c)(7)(b)(9), (b)(9)

(c)(7)(b)(9),
(b)(9)

(c)(7)(b)(9),
(b)(9)

(b) (6), (b) (7)(C)

(c)(7)(C)
(b)(9),
(b)(9)(q)

(c)(7)(C)
(b)(9),
(b)(9)(q)

(c)(7)(b)(9),
(b)(9)

(b) (6), (b) (7)(C)

(c)(7)(C)
(b)(9),
(b)(9)(q)

(c)(7)(C)
(b)(9),
(b)(9)(q)

(c)(7)(C)
(b)(9),
(b)(9)(q)