

United States Senate Committee on Finance
Hearing on Tax Court and Treasury IG nominees
June 4, 2024

Senator Cortez Masto

Question 1

Background: There are significant opportunities for Artificial Intelligence to extend the abilities of an Inspector General in assuring accountability of government agencies.

Question: *If confirmed to this role, will you commit to investigate how AI can be implemented to help provide independent, objective, and unbiased reviews of the department's operations?*

Answer: Artificial intelligence technologies hold great promise for the government sector and present enhanced opportunities for government agencies to benefit the public and increase mission effectiveness. If confirmed, I commit to exploring the ways in which artificial intelligence technologies can be leveraged to improve the work of Treasury's Office of Inspector General, including by enhancing the OIG's ability to analyze data to identify patterns that indicate possible waste, fraud, and abuse. I commit that any such use of these technologies will be undertaken with structured governance and that I will make myself available to work with you and your staff on this important issue.

Question 2

Background: A March 6, 2024 Treasury Office of Inspector General Report (OIG-24-025) found that OFAC complied with requirements regarding Ukraine-/Russia-related Sanctions but documentation was not consistently complete nor timely closed.

Given your previous experiences, I am sure you understand the importance of effective and efficient anti-money laundering programs to prevent terrorist financing.

Question: *If confirmed to this role, how will you work with the offices within Treasury to ensure speedy and accurate compliance of all rules, regulations, and statutes?*

Answer: Having been a member of the Inspector General community for over thirty years, mostly in the national defense space, I certainly understand the importance of a robust OIG that holds agencies accountable for maintaining compliance with all rules, regulations, and statutes. Both Congress and the American people must have confidence that their government is working for them, and I have seen firsthand how an effective OIG can greatly enhance transparency and accountability, leading to better government.

Throughout my career, I have learned that successful Inspectors General respectfully and professionally engage agency leaders to elicit timely and necessary information, while remaining wholly independent, objective, and impartial in their reviews. If confirmed, I commit that I will approach the Inspector General role at Treasury in this manner, exhibiting the diligence and

integrity that I have shown throughout my entire career to achieve successful outcomes. Further, I will do everything I can to ensure that all OIG employees have the tools and resources necessary to be successful at their jobs.

Senator Charles E. Grassley Questions for the Record
Senate Finance Committee
Nominations Hearing
Questions for James R. Ives
June 7, 2024

During the hearing you testified that “over the past 30 years, I’ve never shied away from investigations that potentially require the delivery of very bad news to the Department or the Congress for that matter” and “just last week, an investigation involving a very senior military official, now a former military official, who has been charged with bribery, was reported in media circles. And my organization played a very critical role in that investigation.” I asked whether this was in reference to the approximately \$106 million dollars that former Army civilian employee Janet Mello was convicted of stealing in March of 2024, and you said no.

Regarding Janet Mello, on March 19, 2024, I first wrote to Defense Finance Accounting Service (DFAS) Director Davis requesting answers how Janet Mello could have obtained 43 fraudulent payments from DFAS totaling approximately \$106 million over the course of 7 years for a fake company created and owned in Mello’s name. I’ve included my March 19, 2024, letter and my May 28, 2024, follow up letter to DFAS.

Please answer the following:

1. Has the DoD OIG opened or plan to open an investigation into the circumstances that allowed Janet Mello to steal the approximately \$106 million from taxpayers over 7 years? If not, why not?

Answer: The DoD OIG component that I currently oversee, the Defense Criminal Investigative Service (DCIS), played no role in the investigation at issue. My understanding is that the investigation was conducted by the U.S. Army’s Criminal Investigation Command (Army CID) in conjunction with the Internal Revenue Service’s (IRS) Criminal Investigations Division and the Department of Justice.

As DoD OIG’s law enforcement arm, DCIS ’s role is typically limited to the investigation of potential criminal violations, whereas other OIG components, by virtue of their responsibilities, explore the circumstances that may have resulted in deficiencies that could lead to fraud, waste, or abuse. Since the underlying investigation is complete and the subject of the investigation has pleaded guilty, DCIS does not plan to launch its own investigation. My responsibilities at DoD OIG are specific to DCIS, so I am

uncertain whether other OIG components plan to open inquiries (audits, evaluations, etc.) that are directly or indirectly related to this matter.

2. When did the DoD OIG become aware of Mello's fraudulent conduct?

Answer: See above. The investigation at issue was conducted by Army CID and IRS. DCIS played no role in the investigation. I first became aware of the matter when reviewing a Department of Justice press release and related media coverage referencing Mello's indictment on December 6, 2023. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

3. Did the DoD OIG receive any tips concerning Mello's fraudulent conduct prior to and after the criminal investigation leading to her arrest? If yes, please describe in detail the actions taken by the DOD OIG office to investigate these tips.

Answer: See above. DCIS was not involved in the investigation at issue. To the best of my knowledge, DCIS has never received tips or other complaints pertaining to Mello. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

4. Reports and court records indicate the IRS first caught wind of Mello's fraudulent activity. When did the IRS first contact DoD about suspicions concerning Mello?

Answer: See above. DCIS was not involved in the investigation at issue. I am unaware of the particulars regarding the IRS's interactions with Army CID. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

5. Did the DoD or DoD OIG open and then initiate an investigation into Mello after being notified about the IRS investigation? If not, why not?

Answer: See above. DCIS was not involved in the investigation involving Mello. I am unaware of the particulars regarding the IRS's interactions with Army CID. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

6. Have any corrective actions been taken against employees who allowed Janet Mello to fraudulently steal the approximately \$106 million from Army? If yes, please provide a detailed description of the corrective actions. If not, why not?

Answer: See above. As DCIS played no role in the investigation at issue, I am unaware of the corrective action(s) the Army has taken – or plans to take – in response to this

matter. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

In your testimony, you stated that “I initially served as the organization's Deputy Inspector General for Overseas Contingency Operations before returning to DCIS, where I currently serve as principal deputy director. Since returning to DCIS, a primary focus has been ensuring we provide timely oversight of DOD’s Ukraine response efforts. I am extremely proud of the extent to which the entire DOD IG workforce has embraced this critical mission.”

On October 17, 2023, I wrote to DoD Secretary Austin concerning the DoD OIG report titled, *The DoD’s Accountability of Equipment Provided to Ukraine*, which found non-U.S. weaponry was, at one point, stolen from Ukraine fighters by criminals, volunteer fighters, and arms traffickers. The DoD OIG report “found that the DoD was unable to provide end-use monitoring (EUM) in accordance with DoD policy because of limited U.S. presence in Ukraine.” While some oversight efforts have been reportedly improved since the IG report, DoD OIG has indicated that oversight of U.S.-provided weaponry continues to be an issue as recent as May and June of 2023. It is imperative that the government properly oversees how taxpayer funds and military equipment, supported by the taxpayer, have been used and that the equipment is not trafficked to arm our enemies.

1. Since the release of the report DoD OIG report mentioned above, what efforts has the DoD OIG taken to:
 - a. Ensure DoD has the adequate number of personnel to access and track U.S. provided weapon deliveries to Ukraine.
 - b. Account for how much U.S. weaponry is missing and the total dollar amount of that equipment.
 - c. Ensure DoD has taken steps to prevent U.S. provided weaponry to Ukraine is not sold on the black market or by other illicit means.

Answer: The report referenced above was issued by DoD OIG’s Evaluations component. The DoD OIG component that I currently oversee, DCIS, did not play a substantive role in the review that resulted in the issuance of the report, nor was I personally involved in the review. Given this fact, I cannot speak to the report’s findings or the follow-on actions associated with the report. However, DCIS has assigned senior investigators to Embassy Kiev who routinely engage with U.S. and host nation officials regarding criminal allegations involving related matters. DCIS is currently prioritizing any/all investigations involving the potential diversion of U.S. defense articles destined for Ukraine and other fraudulent schemes involving DoD’s Ukraine-response efforts.

2. How many DoD personnel currently have on-the-ground access to U.S.-provided weapons deliveries in Ukraine? How do they track U.S. equipment and at what stages in the delivery process do they track it?

Answer: See above. The DoD OIG component that I currently oversee, DCIS, did not play a substantive role in the review that resulted in issuance of the report. Given this fact, I am unable to elaborate on the report's findings or follow-on actions associated with the report. I would respectfully refer you to DoD OIG's Evaluations component for more information about their work.

3. How much U.S.-provided weaponry to Ukraine is unaccounted for? What is the total dollar amount of that equipment?

Answer: See above. The DoD OIG component that I currently oversee, DCIS, did not play a substantive role in the review that resulted in issuance of the report. Given this fact, I am unable to elaborate on the report's findings or follow-on actions associated with the report. I would respectfully refer you to DoD OIG's Evaluations component for more information about their work.

What steps have you taken to ensure U.S.-provided weaponry to Ukraine is not sold on the black market or by other illicit means? To-date, has DoD encountered any diverted, U.S.-provided equipment intended for Ukraine? If so, please explain the details of the equipment, the facts surrounding each diversion, and whether the equipment was recovered.

Answer: DCIS is one of several law enforcement organizations responsible for investigating the alleged diversion of U.S.-provided equipment intended for Ukraine, to include items sold on the black market or by other illicit means. At my direction, the component is currently prioritizing these investigations. To date, DCIS's investigations have not substantiated any such instances, however, we continue to aggressively pursue any/all allegations involving potential diversion.

You were not present at the DOD Office of Inspector General (OIG) during the investigation that led up to the OIG's 2020 Report on the Joint Enterprise Defense Infrastructure (JEDI) Cloud Procurement. However, you returned to the DOD OIG in 2021, a time period when I and other members of Congress were criticizing that report and serious omissions that rendered its conclusions questionable. Since then, members have asked for the names of OIG officials who worked on the report, but the office has failed to provide that information to Congress. I addressed the U.S. Senate on March 14, 2024, highlighting failures in the report related to its analysis of ethics issues involving Senior Advisor to Secretary James Mattis, Sally Donnelly, and her business partner, Andre Pienaar.

The OIG has failed to respond to that address or to my inquiry about how new information I revealed in 2022 may have affected its JEDI conflicts analysis. This information included the identity of the company that purchased Ms. Donnelly's firm as she entered DOD service, which the DOD OIG failed to obtain during its investigation. Internal emails omitted from the OIG's report show Ms. Donnelly working behind the scenes to favor Amazon in the early stages of the JEDI procurement, even though she was receiving payments for the sale of her company to an

Amazon-affiliated company. Despite this, the OIG found no areas where Ms. Donnelly violated any of her ethical obligations.

1. Did you have any role at all, or did you discuss with anyone in DOD, in the DOD OIG, or outside DOD at any time, any of the inquiries I have made related to the JEDI procurement? If so, please describe your role and the content of those conversations to the best of your memory.

Answer: No. I did not play any role in the DoD OIG inquiry at issue, nor have I discussed related matters with anyone in DoD, in the DoD OIG, or outside DoD at any time.

Did you have any role in the DOD OIG's response to my October 24, 2022, letter, which provided details related to the sale of Ms. Donnelly's company, SBD Advisors? If so, describe that role and whether you played any role in the OIG's failure to answer the issues I raised.

Answer: No. I did not play any role in this matter.

2. Did anyone at DOD OIG raise concerns with you about the integrity of the OIG's JEDI report at any time? If so, what were those concerns, and who raised them?

Answer: No. I did not play any role in this matter. No one at DoD OIG has raised concerns with me regarding this matter.

Have you heard of the concept of "rounding" OIG reports? If so, what do you take that term to mean, and are you aware of any instances where the practice was employed at the DOD OIG?

Answer: No. I am unfamiliar with the term "rounding." I have not heard this term referenced in discussions with any DoD OIG employees.

3. Do you believe an Inspector General has the right to refuse to supply the names of public servants who worked on a report, paid for by the taxpayer, where Congress requests that information due to serious concerns about the work product? Will you pledge to provide the names of those who work on reports in your new role, if Congress asks for that information?

Answer: I believe that an Inspector General should be as transparent as possible when receiving requests from Congress. If confirmed, I will pledge to review all Treasury OIG policies relating to the release of information requested by Congress in conjunction with the organization's Office of Counsel, and ensure said policies advance transparency and comply with acceptable legal standards and relevant governing principles.

4. Do you know the names of any OIG officials who worked on the 2020 JEDI report? If so, please name all officials you know who worked on the report and their role in it.

Answer: Since I did not play any role in the review or responding to follow-on inquiries, I am not able to name the OIG officials who worked on the report and/or describe their roles.

5. Have you worked on any other matters at DOD OIG where anyone alleged Amazon had received improper preference in any contract, or had improperly been awarded a contract? If so, please describe the subject of the investigation, your role in it, and the status and/or conclusion of that investigation.

Answer: No.

6. If you are confirmed, how would you handle a similar inquiry from Congress that questions the integrity and conclusions of one of your reports? Please distinguish what steps you would take and how they would differ from the steps the DOD OIG has taken in responding to congressional inquiries related to JEDI.

Answer: Since I did not play any role in the review or responding to follow-on inquiries, I am unable to comment on the steps that DoD OIG has taken in responding. However, if I were confirmed and Congress were to raise concerns regarding the integrity and conclusions of any Treasury OIG report, I would ensure that those concerns were thoroughly investigated. And if necessary, I would ensure that appropriate corrective action was taken in the event a report was found to be deficient.

United States Senate Committee on Finance
Hearing to Consider the Nominations of James R. Ives, Rose E. Jenkins, Adam B. Landy,
and Kashi Way
June 4, 2024

Questions for the Record for James R. Ives, of Virginia, to be Inspector General,
Department of the Treasury, vice Eric M. Thorson.

Senator Young

While the questions below are numerically separated by theme for clarity and convenience, some may include sub-part questions denoted alphabetically. **Please note that individual responses to each sub-question are expected** and that a single response to multiple sub-questions will be treated as unresponsive.

For the purposes of questions that clearly end in “yes or no,” answers other than “yes” or “no” will similarly be deemed unresponsive to such questions.

Question 1

In your opinion, is it ever acceptable for an IRS employee or contractor to disclose confidential taxpayer data illegally, yes or no? If your answer is “yes,” please provide examples of the circumstances you believe would warrant such illegal activity.

Answer: No. The safety and security of taxpayer data are of critical importance, and IRS employees and contractors have a duty to safeguard this confidential information and comply with all legal obligations that govern the sharing of taxpayer data. Any individual who unlawfully discloses confidential taxpayer information should be held accountable under the law. It is my understanding that the Treasury Inspector General for Tax Administration (TIGTA) has jurisdiction over Internal Revenue Service matters, including unlawful disclosures of taxpayer information. However, if confirmed to lead Treasury's Office of Inspector General, I commit to working closely with TIGTA and Treasury leadership to ensure that the security of taxpayer data is a top priority.

Question 2

In the event that an IRS employee or contractor illegally discloses confidential taxpayer information, in your opinion as a lay person do you believe that individual should be criminally charged for each individual offense, yes or no? If your answer is "no," please explain. Note that this question asks your opinion as a lay person and does not ask how you would approach any kind of recommendation if you were to be confirmed to this position.

Answer: It is my understanding that TIGTA has jurisdiction over Internal Revenue Service matters, including the unlawful disclosure of taxpayer information, and that the Department of Justice is responsible for making charging decisions where an individual has violated the law. I am aware that the Internal Revenue Code imposes strict confidentiality requirements with respect to taxpayer data and imposes penalties for unlawful disclosures of this information. Any individual who unlawfully discloses confidential taxpayer information should be held accountable under the law.

Having spent more than three decades in the Inspector General community—a substantial part of which was in the DoD IG's law enforcement arm, I appreciate the critical importance of holding criminal wrongdoers accountable. Throughout my career, my investigations have resulted in successful criminal prosecutions and civil penalties and fines. If confirmed, I commit to you that I will continue to vigorously investigate potential violations of law within the purview of Treasury's Office of Inspector General to help ensure that individuals who break the law are held accountable.

Question 3

As a current inspector general, does it strike you as surprising or alarming that it took over two years for the ProPublica leaker, Charles Littlejohn, to be charged for his crimes? Why or why not?

Answer: I believe this government functions best when there is robust, rigorous, and timely oversight of alleged waste, fraud, and abuse. The American people and Congress deserve transparency and accountability from their government agencies, and IG offices have a responsibility to act expeditiously to deliver clarity and provide answers as promptly as possible.

From my time in the Inspector General community, I know that investigation timelines can vary substantially. For example, complex investigations that involve a large number of parties and require substantial forensic analysis can take longer to conduct, but it is critically important that these investigations be thorough and comprehensive so that no one escapes accountability. Throughout my career, I have always prioritized being both timely and thorough in my work, and, if confirmed, I will ensure that Treasury's Office of Inspector General conducts its investigations in this manner.

Question 4

If you were to be confirmed to this position and there were to be another incident of illegal IRS data disclosure during your tenure, do you commit to investigating the matter as promptly as possible and providing both majority and minority staff of this committee with monthly updates regarding the investigation, yes or no? If your answer is "no," please explain and provide an alternative periodic update schedule that you commit to maintain if this issue were to arise.

Answer: I deeply respect the important oversight role of Congress and, having spent my career in the IG community, understand that Congress can be an important partner to IG offices. I recognize that Congress requires timely information from the Executive Branch, including IG offices, in order to conduct its work, and, if confirmed, I will ensure that me and my team regularly engage with this Committee on a bipartisan basis to provide timely and accurate responses to your questions.

With respect to unlawful disclosures of taxpayer information, it is my understanding that TIGTA has jurisdiction over these and other Internal Revenue Service matters. However, if confirmed to lead Treasury's Office of Inspector General, I will be a close partner to TIGTA and will certainly raise your concerns about the security of taxpayer data with TIGTA's leadership.

Question 5

Do you agree with the Supreme Court's holding in Americans for Prosperity v. Bonta, yes or no? If your answer is "no," please explain.

Answer: A key responsibility of OIGs is to ensure that the government agencies they oversee comply with both statutes and applicable judicial holdings. In executing this responsibility, OIG employees must always act independently and impartially, regardless of their personal views on the state of the law. If confirmed, I would be happy to meet with you to discuss how Treasury's Office of Inspector General ensures that the Department adheres to legal requirements imposed on it by statute and case law.

Question 6

Do you believe that charitable giving serves a valuable role in society and existing laws regarding illegal disclosure of charitable donor information should be vigorously enforced, yes or no? If your answer is "no," please explain.

Answer: While I certainly agree that charitable giving serves a valuable role in society, if confirmed, I would need to look into this issue and the role of Treasury’s Office of Inspector General in this space vis-à-vis TIGTA. It is my understanding that TIGTA has jurisdiction over Internal Revenue Service matters, including unlawful disclosures of taxpayer information. If confirmed, I commit to working with you and your staff regarding your interest in this issue.

Question 7

On May 14, 2024, I introduced S. 4326, the *Protecting Charitable Giving Act*, with Senator Lankford. I am attaching a copy of that legislation to these questions for your reference.

In your opinion as a lay person, do you support this legislation, yes or no? If your answer is “no,” please explain. Note that this question asks your opinion as a lay person and does not ask how you would approach any kind of recommendation if you were to be confirmed to this position.

Answer: A key function of an Inspector General is to ensure that laws, as enacted, are being complied with. In fulfilling this duty, an IG must always act in an impartial and unbiased manner, without showing preference towards a particular policy position or proposed legislation. If confirmed, I commit that I will carry out my duties impartially and independent of any personal policy views, as I have done throughout my long career in the IG community.

Question 8

As you know, my Republican colleagues and I are concerned about the alarming incidents of fraud in the various COVID pandemic relief programs. We want to ensure that taxpayer dollars were used efficiently and effectively, and that fraudsters are identified and brought to justice. I understand that pandemic fraud as a whole is still under investigation. The Department of the Treasury Inspector General has jurisdiction over the CARES Act’s Coronavirus Relief Fund (CRF) and the American Rescue Plan Act’s State and Local Fiscal Recovery Funds (SLFRF) program. Both were significant sums of money given to states and localities to use for a broad range¹ of purposes². I am interested in learning the answers to the following two questions:

- (a) How much money from each fund that was improperly spent by localities has been recouped?
- (b) What steps are being taken in terms of audits and investigations? For example, how many audits and/or investigations are active and what is their status?

If you are confirmed, do you commit to providing my staff, along with the majority and minority committee staffs, a briefing on the above requests within sixty days of taking office, yes or no? If

¹ See, e.g., https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf

² See, e.g., <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

your answer is “no,” please provide an alternative timeframe to which you are willing to commit.

Answer: Throughout my career, I have seen how well-executed OIG initiatives can detect and deter fraud and abuse and return millions of dollars of ill-gotten gains to the government. My work over the past three decades has entailed uncovering elaborate fraud schemes, including one investigation that resulted in the largest health care fraud recovery in our nation’s history at the time. If confirmed as Treasury Inspector General, I commit that investigating fraud will be a top priority for the office.

Because I am not currently in Treasury’s Office of Inspector General, I do not know the answers to your questions (a) and (b) above, but I will look into these issues promptly, if I am confirmed. Further, if confirmed, I commit to working with you and other members of the Committee concerning your interest in pandemic relief programs. I believe it is important for IGs to be close partners to Congress, and I know this is an issue in which there is significant congressional interest.