



UNITED STATES CAPITOL POLICE

WASHINGTON, DC 20510

March 20, 2024

INSPECTOR GENERAL

MEMORANDUM

TO: J. Thomas Manger
Chief of Police

FROM: David T. Harper 
Inspector General

SUBJECT: *Management Advisory Report: "Anti-gag" Provisions in Nondisclosure Agreements* (Report Number OIG-2024-05)

In a letter dated March 11, 2024, Senator Grassley requested that the United States Capitol Police (USCP or the Department) Office of Inspector General (OIG) review USCP nondisclosure policies, forms, agreements, and related documents for the inclusion of required "anti-gag" provisions. Recent appropriation bills have required the inclusion of "anti-gag" provisions in nondisclosure agreements. For example, Public Law 117-328 states that:

No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling." :Provided, That notwithstanding the preceding provision of this section, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

OIG spoke with USCP officials in order to gain an understanding of the use of nondisclosure agreements within the Department. We also reviewed all available nondisclosure policies, forms, agreements, and related documents.

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Chief of Police
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USCP does not currently require all employees to sign any nondisclosure agreements. However, in order to protect security information, as defined by 2 U.S.C. § 1979, USCP has developed a draft nondisclosure agreement that all new employees and employees receiving a promotion will be required to sign. USCP's draft nondisclosure agreement includes the "anti-gag" provisions required by law.

However, USCP has several other nondisclosure agreements and policies that apply to specific bureaus or offices within the Department. OIG identified four nondisclosure agreement forms ([REDACTED]) and one policy (Standard Operating Procedure [REDACTED], dated July 17, 2019) related to nondisclosure utilized by specific offices or bureaus within USCP that did not include "anti-gag" provisions.

Recommendation 1: We recommend that the United States Capitol Police review all nondisclosure policies, forms, agreements, and related documents and update them to include "anti-gag" provisions as required by Public Law 117-328 and other appropriation bills.

Due to the nature and brevity of this work, OIG did not conduct this work in accordance with generally accepted government auditing standards. Had we followed such standards, other matters might have come to our attention, and we may have identified additional issues.

cc: Assistant Chief Jason R. Bell, Standards and Training Operations
Assistant Chief Ashan M. Benedict, Protective and Intelligence Operations
Assistant Chief Sean P. Gallagher, Uniformed Operations
Ms. Magdalena Boynton, Chief Administrative Officer
[REDACTED] Audit Liaison