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RECOMMENDATIONS AND REFORMS FROM THE INSPECTORS GENERAL

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

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CONTENTS

	Page
Hearing held on November 15, 2017	1

WITNESSES

The Hon. Michael E. Horowitz, Chair, Council of the Inspectors General on Integrity and Efficiency, Inspector General, U.S. Department of Justice	
Oral Statement	5
Written Statement	7
The Hon. Kathy A. Buller, Executive Chair, Legislation Committee, Council of the Inspectors General on Integrity and Efficiency, Inspector General, Peace Corps	
Oral Statement	14
Written Statement	16
The Hon. John Roth, Inspector General, U.S. Department of Homeland Security	
Oral Statement	23
Written Statement	25

APPENDIX

Response from Mr. Horowitz, Inspector General, U.S. Department of Justice, to Questions for the Record	62

RECOMMENDATIONS AND REFORMS FROM THE INSPECTORS GENERAL

Wednesday, November 15, 2017

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The committee met, pursuant to call, at 10:15 a.m., in Room 2154, Rayburn House Office Building, Hon. Trey Gowdy [chairman of the committee] presiding.

Present: Representatives Gowdy, Duncan, Jordan, Amash, Gosar, DesJarlais, Massie, Meadows, Walker, Blum, Hice, Russell, Grothman, Hurd, Palmer, Comer, Mitchell, Cummings, Maloney, Norton, Clay, Lynch, Cooper, Connolly, Kelly, Lawrence, Watson Coleman, Demings, Krishnamoorthi, Raskin, Welch, DeSaulnier, and Gomez.

Chairman GOWDY. The committee will come to order. Without objection, the chair is authorized to declare a recess at any time. I will recognize myself for an opening statement, then my friend from Maryland, and then we'll recognize the witnesses.

When defending against waste, fraud, and abuse, Inspectors General play a critical role within our Federal agencies. While congressional oversight is essential, the 73 inspectors general best understand their agency issues and can clearly identify areas in need of reform. In fiscal year 2015, IGs saved taxpayers roughly $37 billion on the total budget of $2.7 billion, which is a tremendous return on every dollar given to the IGs.

In December 2016, the Inspectors General Empowerment Act was signed into law with bipartisan support. That was an effort lead by the ranking member, Mr. Cummings, and the gentleman from North Carolina, Mr. Mark Meadows. Designed to support and strengthen IG independence, the IG Empowerment Act ensures Federal investigators have full and prompt access to all agency documents needed for the investigatory process.

In addition, the Act streamlines investigative procedures, improves transparency by instituting new reporting requirements and increases efficiency to IG operations.

While the Act implemented much-needed reforms, the IG community still has legislative priorities which could strengthen oversight of Federal programs and resolve challenges facing the inspector general community. The IG community is also currently facing the challenge of filling IG vacancies. Of the 73 IGs across the Federal Government, 14 positions remain vacant because either no nominee has been appointed, or the appointed nominee still awaits Senate confirmation. For example, the Department of the Interior

has not appointed a permanent IG since 2009. Still, no nomination has been made to fill the position. In case of the National Security Agency, which has been without a permanent leader since May 31st of 2016, it's been 147 days since this administration announced a nominee on June 19, 2017. The administration has worked toward filling the vacancies by announcing an intent to nominate or officially nominate individuals to fill vacancies, but these nominees still required a confirmation process.

When a vacancy occurs in an IG office, the agency head appoints an acting AG. These appointed, often perform excellent work, but they are inherently less independent and less effective than one who is Senate confirmed. While the Senate and administration are the key players in insuring timely nominations and confirmations, the House will work with them to help speed appointments, however and wherever we can. The work of our inspectors general is too important for temporary leadership in the investigatory process.

In order to ensure successful investigations, Federal investigators must have access to information. Too often, IGs perform excellent oversight work, but they can't do it fully if an individual retires or resigns and removes them from the IG's jurisdiction. This leads to incomplete audits, incomplete investigations, or, in some instances, closed investigations.

One solution is to grant IGs testimonial subpoena authority. This would allow an IG to subpoena witnesses as necessary when performing the functions of the IG Act. Leaving office would no longer allow a Federal employee to avoid testifying about potential misconduct, or, frankly, any fact pattern.

We look forward to working with our colleagues in the minority and the Senate to create a solution to grant IGs testimonial subpoena authority. I thank our witnesses again for your service to our country and for your appearance today.

With that, I would recognize the gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. And thank you for calling this hearing. Inspectors general serve a critical role by providing an independent check on the executive branch. They investigate waste, fraud, abuse and they provide recommendations to improve agency performance. I want to thank each of the IGs who is testifying here today. And I want to thank all of the IGs who do a phenomenal job in the various agencies.

The work that you and your staff members do is more important now than ever. The Oversight Committee is the primary investigative body in the House, and we rely tremendously on IGs in conducting our own oversight work.

Let me address one key example: In 2015, this committee launched a bipartisan investigation, following revelations by John Roth, who is present with us today, the IG at the Department of Homeland Security. Mr. Roth identified grave concerns about security deficiencies in our Nation's airports. As part of our investigation, our committee heard from numerous whistleblowers who bravely reported security problems at airports, management challenges faced by the Transportation Security Administration. Some of those individuals allege that TSA retaliated against them for making those disclosures.

In March, Carolyn Lerner, who was serving as a special counsel, testified before our committee that TSA was refusing to provide information about whistleblower cases. She also testified that TSA was impairing the ability of the special counsel to fully investigate those cases.

On March 6, 2017, our former chairman, Jason Chaffetz, sent a letter to TSA requesting the information that TSA was withholding. The acting general counsel at DHS responded that the agency, "Objects to the demand," end of quote, that it provides these documents to the committee.

So on March 17, 2017, the committee issued a subpoena for these documents, but DHS—listen to this, DHS still refused to turn over the documents. On March 31st, 2017, the acting general counsel sent a letter to the committee writing that the agency is, and I quote, "not in a position to produce those documents at this time." That was in March.

To address this refusal, Chairman Chaffetz and I joined together in sending a bipartisan letter to the acting administrator of TSA warning that, "Failure to comply with a congressional subpoena may result in serious consequences for you," end of quote. We also requested transcribed interviews with three TSA employees, the deputy administrator, and acting assistant administrator and the chief counsel. None of these witnesses voluntarily complied with our request, which we made in May.

In the meantime, Mr. Roth has continued in his oversight work, and he has issued two classified reports in recent weeks with critical warnings that many security problems remain unresolved. Listen up, listen up, I've often said that if we find out about our problems with Members of Congress, and then we fail to act on them, when we have been given the authority by the American people, then we become a part of the problem.

So I appreciate that the chairman, Chairman Gowdy, agreed to join me in sending a letter to TSA to request the documents related to the IGs' findings. But that request has nothing to do with the documents that we are being—that are being withheld about the whistleblowers. We must also take action to compel TSA to comply with the committee's subpoena, which TSA has been defying for 8 months.

Yesterday, I sent a letter to Chairman Gowdy laying all of this out and requesting the committee enforce its subpoena for these documents. I also requested deposition subpoenas for the three TSA officials who have refused, refused, refused to participate in transcribed interviews. These are issues my staff have been raising for several weeks, if not months.

Here's the bottom line: I do not believe that we can afford to wait. The security of air travel is not a partisan issue. Every person who flies on an airplane, works in an airport, or drives to the airport to pick up a family member wants to know that they will be safe. God forbid if something terrible were to happen, I want to know that we did everything, everything single thing in our power to conduct vigorous oversight to protect the American people. That is what we are sworn to do.

And in addition to that, if we do not protect these whistleblowers, if we let the agency defy the subpoena, and we allow the

agency to flout our interview requests, that will have a negative impact on whistleblowers across the board. And all of us know in this committee that a lot of our work and a lot of the waste, fraud, and abuse that we've been able to discover have been because people have sat at that table, many times with tears in their eyes, trembling, they simply wanted their government to work properly, but they came forward bravely to offer evidence so that we could do our jobs. So, it will act as a deterrent to anyone who is thinking about coming forward to report dangerous security failures or anything else, and that, in turn, will damage our oversight efforts in the operations of our government.

And with that, I thank you, Mr. Chairman.

Mr. Chairman.

Chairman GOWDY. Yes, sir.

Mr. CUMMINGS. Mr. Chairman, for all these reasons pursuant to House rule 11, clause 2(k)(6), I hereby move to subpoena TSA officials Huban Gowadia, Francine Kerner, and Steven Cohen to appear before this committee. And it is public knowledge, Mr. Chairman, that these folks allegedly were a part of the retaliation. That is my motion.

Chairman GOWDY. Well, I want to thank my friend from Maryland for a couple of things. Number one, for the passion with which he spoke on this issue. I've heard you do it before and I know you mean every syllable of what you said. We should not have to resort to compulsory process to gain access to documents or witnesses, but I want every agency that's paying attention to know that we will. And you have my commitment—we are in one accord, you have my commitment Mr. Cummings that when you and I see each other in Baltimore, we're either going to have a date or a voluntary interview, or we're going to have a date for an involuntary interview, but we're going to have a date with an interview, to either gain access to the information or have a much better understanding of the legal basis by which this committee is being denied the information. You have my commitment on that.

Mr. CUMMINGS. With that, Mr. Chairman, let me be clear so that everybody in the room knows when he says "in Baltimore," he's not coming for a walk in the park, although, I'd like for him to come to my city to do that, we have a—that's our next hearing, members of the committee.

With that, Mr. Chairman, I take your word. I want to thank you for working with me and trying to resolve this issue. Mr. Chairman, I—it is embedded in the DNA of my brain, watching people tremble at that table, trying to share their views and knowing that they are—that they could be harmed. And so with that, I withdraw my motion and I look forward to what we have on the 28th. Thank you.

Chairman GOWDY. Well, they have a powerful persuasive advocate in you. And we are in one accord on this and I appreciate you working with me on it.

With that, all of us would welcome our witnesses, I will introduce you en bloc, and then recognize you individually for your 5-minute opening.

From my left to right we are pleased to have The Honorable Michael Horowitz, Chair of the Council on Inspector General on Integ-

rity and Efficiency, and Inspector General at the U.S. Department of Justice; The Honorable Kathy Buller, Executive Chair of Legislative Committee on the Council of the Inspectors General on Integrity and Efficiency, and Inspector General at the Peace Corps; and The Honorable John Roth, Inspector General at the U.S. Department of Homeland Security. Welcome to all of you.

And with that, IG Horowitz, you are recognized.

WITNESS STATEMENTS

STATEMENT OF HON. MICHAEL E. HOROWITZ

Mr. HOROWITZ. Thank you, Mr. Chairman, Ranking Member Cummings, Members of the Committee. Thank you for inviting me to testify today. The IG community appreciates this committee's steadfast bipartisan support, including your efforts last year to get the IG Empowerment Act adopted.

Because of our statutory independence, IGs are uniquely positioned to identify waste, fraud, and abuse. As the chairman indicated in fiscal year 2016, the IG community identified potential cost savings of over $45 billion, compared to our community's budgets combined of about $2.7 billion, that represents about a $17 return on investment.

In addition, IG investigations resulted in almost 5,000 successful criminal prosecutions, over 1,500 civil actions, over 6,000 suspensions and debarments, and over 4,000 personnel actions. And I am pleased to report that for the first time, all public IG reports can be found in one place at a website that the Council of IGs launched on October 1st called oversight.gov.

We also launched on that date our first ever Twitter account at oversight.gov. We hope that everyone who is interested and cares about our work in the IG community visits oversight.gov and follows us on Twitter.

The passage of the IG Empowerment Act greatly enhanced our ability to conduct independent oversight. The Act made it clear that IGs must be given unimpeded and timely access to all agency records. And since the passage of the Act, I am not aware of any IG office facing a legal impediment to IG access. However, there remain concerns by several IGs about the timeliness of our access to information. Foot dragging by agencies delays our work, impacting our ability to identify important issues that could save the taxpayers significant amounts of money, and it's wholly unacceptable. CIGIE will continue to work on these issues and we appreciate the continued support of this committee in those efforts.

The IG Empowerment Act also granted IGs an important tool in our fight in improper and duplicative payments, an exemption from the Computer Matching Act. I can report to you that the IG community this year has been moving forward to use this new tool in appropriate and effective ways, and I expect it will demonstrate real results because of your giving us that authority.

As IG Buller will outline, we believe that some additional authorities would further enhance our ability to be identify wasteful and improper spending. One example is testimonial subpoena authority, as the chairman mentioned. One—my office continues to face issues with regard to getting access to information and testi-

mony from former DOJ employees in our investigations, audits and reviews, including in recent whistleblower retaliation matters and sexual harassment claims. Having subpoena—testimonial subpoena authority would allow us to obtain that critical evidence.

Another area of potential concern to the IG community, which IG Roth will discuss, is the impact that flat or declining budgets would have on our ability to conduct the kind of oversight that the public expects from us. Given our track record of returning to the Federal Treasury far more money than we are budgeted, and our important role in public safety in national security matters, we believe careful consideration should be given before impacting our budgets.

Finally, I'd like to briefly mention an issue that affects my office in particular. Unlike IGs throughout the Federal Government, the DOJ OIG does not have authority to investigate allegations of misconduct by all DOJ employees. While we have jurisdiction to review misconduct by agents and nonlawyers in the Department, the IG Act does not give us that same authority of the Department prosecutors when they act in the capacity as lawyers. In those instances, the IG Act grants exclusive investigative authority to the DOJ's Office of Professional Responsibility. There's no principled reason why FBI misconduct is investigated by a statutorily independent IG, while prosecutorial misconduct is overseen by a DOJ component head appointed to the Department's leadership. I want to thank Congressman Hice for cosponsoring a bill with Congressman Richmond and Congressman Conyers that would fix that issue and address that anomaly.

This concludes my prepared statement, I would be pleased to answer any questions the committee may have.

[Prepared statement of Mr. Horowitz follows:]

Statement of Michael E. Horowitz
Chair, Council of the Inspectors General on Integrity and Efficiency
Inspector General, U.S. Department of Justice

before the

U.S. House of Representatives
Committee on Oversight and Government Reform

concerning

"Recommendations and Reforms from the Inspectors General"

November 15, 2017

Mr. Chairman, Ranking Member Cummings, and Members of the Committee:

Thank you for inviting me today to discuss recommendations and reforms that would further assist Inspectors General in their oversight efforts. Inspectors General (IGs) play a critical role in ensuring that taxpayer money is used effectively and efficiently, and that federal government agencies and employees are held accountable for their actions. We sincerely appreciate the steadfast bipartisan support this Committee has shown to the IG community, including its efforts to help pass the *Inspector General Empowerment Act of 2016* (IG Empowerment Act) nearly one year ago. In my testimony today, I will focus on the recent achievements of IGs, the impact of the IG Empowerment Act on our ability to continue our oversight work, and the continuing challenges faced by IGs.

IGs are uniquely positioned in the federal government to identify waste, fraud, and abuse because of our placement within the agencies we oversee and our statutory authority to independently conduct audits, inspections, and investigations. This independence is essential to IGs' ability to perform non-partisan, objective oversight of federal agencies. We have conducted this crucial oversight work without regard to political parties or ideologies since Offices of Inspectors General (OIG) were established almost 40 years ago.

As Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and the Department of Justice (DOJ) Inspector General, I have observed the positive impact of the IG community's audits, inspections, reviews, and investigations of federal programs. In fiscal year (FY) 2016, the IG community identified potential savings totaling approximately $45.1 billion. This total includes $25.2 billion in potential savings from audit recommendations with which agency management agreed and $19.9 billion from investigative receivables and recoveries. Compared to the IG community's aggregate FY 2016 budget of about $2.7 billion, these recoveries and potential savings represent about a $17 return on every dollar of taxpayer money invested by the Congress in OIGs.

IGs' investigations of administrative or criminal misconduct by federal employees, grantees, and contractors have significant impacts beyond financial recoveries. In FY 2016, the OIGs' investigative work resulted in 4,894 successful criminal prosecutions; 1,580 successful civil actions; 6,448 suspensions and debarments; and 4,315 personnel actions.

These successes illustrate why it is critical that vacant IG positions be filled promptly. During the period of an IG vacancy, acting IGs and career staff carry on the work of their offices, and they do it with the utmost professionalism. However, a sustained absence of permanent leadership is not healthy for any office, particularly one entrusted with the important and challenging mission of an IG. By law, IGs must be selected without regard to political affiliation and based solely on the basis of their integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Under the IG Act, one of CIGIE's responsibilities is to recommend candidates with exemplary qualifications for vacant IG positions to the President for

Presidentially-nominated IGs and to agencies for agency-appointed IGs. We have developed a strong working relationship with the White House Counsel's office and look forward to continuing to work with the Administration to identify and recommend candidates for IG positions who have the expert credentials called for in the IG Act.

There are currently 14 vacant IG positions—12 for Presidentially-appointed, Senate-confirmed IG positions and 2 for agency-appointed IG positions. We are pleased that the President has nominated candidates for seven of the vacancies and those nominations are currently pending before the Senate. We hope that the nominations will be considered expeditiously by the Senate.

The Important Impact of the IG Empowerment Act

The IG community's ability to continue its important work was greatly enhanced by the passage of the IG Empowerment Act. Most importantly, the Act rejected an opinion in 2015 by the DOJ's Office of Legal Counsel that threatened our ability to conduct independent and thorough audits, investigations, and reviews by allowing agencies to limit IGs' access to records that were necessary to perform our oversight work. The IG Empowerment Act makes clear that IGs must be granted timely and complete access to all agency information that we need in order to conduct effective oversight. At the DOJ OIG, we have not had any access issues since the enactment of this law. And while some IGs have had questions raised by managers about their legal right to access certain records, those IGs were able to quickly resolve those issues by pointing their respective agencies to the provisions in the IG Empowerment Act. These examples demonstrate why the work of this Committee and the Congress in passing the IG Empowerment Act was so critically important. Nevertheless, there remain concerns about ensuring that agencies give IGs timely access to information, as demonstrated recently by the failure of the Export-Import Bank to timely provide its IG with data in connection with an IG audit released just a few weeks ago, and one issued earlier this year. This foot-dragging by agency leadership delays IG work, thereby impacting our ability to identify issues, and is wholly unacceptable. CIGIE will continue to support IGs in their effort to obtain timely access to agency information, and we appreciate the continued support of this Committee and the Congress in our efforts.

Unimpeded access to agency records also is critical to IGs' efforts to move forward with our data analytics programs. As you know, the GAO has reported that the annual amount of government-wide improper payments continues to increase, with the amount estimated by GAO to exceed $100 billion annually. In our effort to root out improper and duplicative payments, my office, like many of my fellow IGs, has developed a data analytics program. Critical to these efforts is our ability to obtain data from our agencies in a timely manner so that we can identify waste, fraud, and abuse. For example, in fiscal year 2016, the Federal Bureau of Prisons (BOP) spent over $1.1 billion on inmate health care. My office is gathering data from the BOP on its healthcare spending and, with the help of our colleagues at the Health and Human Services OIG, we are using our data analytics tools to identify potentially fraudulent and improper payments.

The IG Empowerment Act granted IGs an important authority that will significantly advance our data analytics efforts and our fight against wasteful government spending: the ability to request and match datasets across federal agencies by exempting IGs from the Computer Matching Act. Earlier this year, CIGIE put together a working group of IGs that met and put forward guidance to IGs on using this new authority and putting in place appropriate controls. IGs are now in the process of engaging with one another to share agency information in order to identify individuals who are defrauding federal programs. Further, in meetings with the Office of Management and Budget (OMB), we have raised the possibility of launching a pilot program whereby IGs from several cabinet-level agencies could use agency data to determine whether agency employees, contractors, grantees, or other beneficiaries are improperly receiving additional benefits from a benefit program managed by another federal agency. The IG community and CIGIE will continue to explore appropriate and effective ways to utilize this important new tool in our work.

All IG Reports in One Place: The Launch of Oversight.gov

The IG community's oversight work is more impactful when the public and all of our stakeholders, including Congress and OMB, can easily access IG reports. Yet, until last month, the public would have had to regularly visit the websites of all 73 federal IGs in order to follow our work—there was no website that consolidated those IG reports in one place. That changed in October when CIGIE launched Oversight.gov, which provides a "one stop shop" for the public to follow the ongoing oversight work of all federal IGs that release public reports. Moreover, all of the IG reports on Oversight.gov are fully text searchable, so users can find the information they need and identify trends across the federal government. There are currently over 6,400 IG reports on Oversight.gov, and that number grows everyday as IGs release new reports. In addition, metadata from these reports is aggregated to identify, in real time, the total potential cost savings and number of recommendations identified in the IGs' reports. As a result, on the first day of FY 2018, users of Oversight.gov could immediately see that in FY 2017 the IG community had identified over $27 billion in potential cost savings and made more than 8,000 recommendations for improvement to federal agencies. This new website was developed primarily through the voluntary and collaborative efforts of CIGIE members because CIGIE receives no direct appropriation from Congress.

Also in October, CIGIE launched its first-ever Twitter account, @Oversightgov, through which followers are notified every time an IG posts a report to Oversight.gov. In addition, CIGIE uses the account to send followers tweets about important IG and CIGIE news. We hope that everyone interested in the work of the IG community will sign up to follow our Twitter feed.

Oversight.gov is just a beginning point for CIGIE in our effort to better inform the public about the important work of the IG community. We are currently planning to develop additional features for the website. For instance, in the coming months, a new page will be added that details the oversight efforts of the OIGs that

make up CIGIE's Disaster Assistance Working Group, which is chaired by Department of Homeland Security IG John Roth. This new page will provide the public with quick and comprehensive access to IG reports assessing how recent federal disaster assistance funding is being used by federal agencies. It also will include information and content about past IG work, and information from OMB about its work in this area. We also are discussing with GAO how we can include information from GAO on this new web page so that the public has a complete picture of the work that is being conducted by the federal oversight community in this important area.

While we were able to build Oversight.gov and the coming Disaster Assistance Working Group page through the voluntary efforts of our members and without an appropriation, other enhancements to the site would require modest funding to perform the necessary up-front development, as well as to support ongoing monitoring to ensure the information provided on the site is consistent, accurate, and up to date. For example, several Members of Congress have expressed interest in the site serving as a central repository for information about open and pending IG recommendations. We agree that greater transparency regarding the thousands of open IG recommendations is important because implementing these recommendations could potentially save the federal government billions of dollars. Moreover, we have found that transparency has a positive impact on encouraging agencies to address long-standing unimplemented recommendations, which benefits taxpayers. Another feature that has been requested is a cross-agency Hotline form that would allow whistleblowers and concerned citizens to more efficiently and securely direct allegations of waste, fraud, and abuse to the appropriate IG. We believe that a Congressional appropriation to CIGIE of approximately $1 million to $2 million would enable us to both maintain Oversight.gov's existing features, and develop and operate sites with these and other new features that would greatly benefit the public, Congress, OMB, and all of our stakeholders.

Issuing a Capstone Top Management and Performance Challenges

A particularly valuable document for agency leadership is the Top Management and Performance Challenges report that most IGs are required by law to prepare annually for inclusion in their agencies' reports to Congress. The report typically provides a description of the main challenges that an IG has determined its agency is facing based on the IG's work, experience, and expertise. The report also describes the agency's progress in addressing each challenge and provides a summary of ongoing and completed IG work that relates to the challenge.

These reports can provide an effective roadmap for identifying risk in our federal agencies. And for the first time, thanks to Oversight.gov, they will all be found in one place. Additionally, for the first time, CIGIE will issue a capstone report early next year that identifies, based on these IG reports, the top management and performance challenges across the entire federal government, similar to the GAO's list of high risk areas vulnerable to fraud, waste, abuse, and mismanagement. We believe this report will provide this Committee, the Congress,

OMB, and the public important insight into the operations of the federal government.

Challenges Facing Inspectors General

Having highlighted some of the past achievements and ongoing work of the IG community, let me briefly discuss some of the issues we are facing going forward. The IG Empowerment Act gave us several new and important tools that will enable us to build on our past accomplishments, and we are working on using them in an appropriate and judicious manner. We believe that some additional authorities are also necessary for us to be able to fully carry out our mission. My colleague, IG Kathy Buller, addresses those authorities in her testimony. One example is testimonial subpoena authority. My office continues to have situations where the absence of such authority results in our inability to obtain important and relevant information from former DOJ employees in connection with our investigations, audits, and reviews, including in recent matters involving allegations of whistleblower retaliation and sexual harassment.

Another area of potential concern to the IG community is the impact that flat or declining budgets will have on IGs' ability to continue to conduct the kind of oversight that the public expects from their watchdogs, particularly at the same time that many IGs are being asked to increase their oversight responsibilities. As careful stewards of taxpayer money, we fully appreciate and respect the importance of carefully and appropriately allocating federal resources. However, given our track record of returning to the federal treasury far more money than we are budgeted, the increasing responsibilities being placed on us through legislation, and our important role in public safety and national security matters, we believe careful consideration should be given before impacting our budgets. OIGs are at the front lines of identifying waste, fraud, and abuse in the federal government, and we look forward to working with Congress to ensure we can continue that important work. My colleague, IG John Roth, will discuss funding for the IG community in more detail in his testimony.

Challenges Facing the Department of Justice OIG

Finally, I would like to briefly mention an issue that only affects the DOJ OIG. Unlike IGs throughout the federal government, the DOJ OIG does not have authority to investigate all allegations of misconduct within the agency we oversee. While we have jurisdiction to review alleged misconduct by non-lawyers in the Department, including agents at the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives, under Section 8E of the IG Act, we do not have the same jurisdiction over alleged misconduct by Department attorneys when they act in their capacity as lawyers—namely, when they are litigating, investigating, or providing legal advice. In those instances, the IG Act grants exclusive investigative authority to the DOJ's Office of Professional Responsibility, a DOJ component that lacks the same statutory independence and protections the OIG is provided by the IG Act.

This bifurcated jurisdiction creates a system where misconduct by FBI agents and other DOJ law enforcement officers is conducted by a statutorily-independent IG appointed by the President and confirmed by the Senate, while misconduct by DOJ prosecutors is investigated by a component head who is appointed by the Department's leadership and who lacks statutory independence. There is no principled reason for treating misconduct by federal prosecutors differently than misconduct by DOJ law enforcement agents. Indeed, other federal IG are responsible for handling misconduct allegations against agency lawyers, including lawyers with prosecuting authority such as those at the Securities and Exchange Commission. I want to thank the Members of this Committee, Congressman Richmond, Congressman Hice, and Congressman Conyers, for their sponsorship of the *Inspector General Access Act*, H.R. 3154, which would ensure that misconduct by lawyers at the Justice Department is subject to the same independent IG oversight as is currently the case with agents and non-lawyers. I look forward to working with Congress to address this anomaly in our jurisdiction.

Thank you again for the strong bipartisan support for our work, and we look forward to working with the Committee, the Congress, and the Administration as the IG community carries out its crucial oversight mission. This concludes my prepared statement, and I would be pleased to answer any questions that you may have.

Chairman GOWDY. Thank you, Mr. Horowitz.
IG Buller.

STATEMENT OF HON. KATHY A. BULLER

Ms. BULLER. Chairman Gowdy, Ranking Member Cummings, distinguished members of the committee, thank you for inviting me to appear before you today and discuss the work of the inspectors general to promote integrity and efficiency.

As both the inspector general for the Peace Corps and the chairs of legislation committee for the Council of Inspectors General on Integrity and Efficiency, my testimony today underscores our appreciation for the bipartisan support we've received from this committee and from Congress.

For almost 40 years, IGs have helped hold Federal agencies accountable, protected whistleblowers, exposed corruption and mismanagement, and helped Congress make informed decisions about the agencies within their purview.

This work is made easier thanks to the Inspectors General Empowerment Act, which reaffirms a fundamental authority under the Inspector General Act of 1978 that "all" means "all," that IGs may access all materials and documents necessary for our oversight work.

Thanks to the bipartisan efforts of this committee and its staff, the passage of the Inspectors General Empowerment Act restores what Congress intended. IGs must have timely access to all of the materials and documents necessary to oversee their agencies.

At the Peace Corps, I am pleased to report that the IG Empowerment Act has restored critical access that allows us to oversee the Peace Corps' response to sexual assaults. This helps to ensure volunteers who experience sexual assault receive the care and services they deserve. I've seen an appreciable positive change towards a culture of openness and cooperation. I hope this emboldens whistleblowers who are reluctant to step forward in the past.

The IG Empowerment Act also provides the tools to ensure independence and improve our oversight authority. In particular, exemptions from the Computer Matching Act and the Paperwork Reduction Act insure IG independence and help us more efficiently prevent and detect fraud and conduct timely surveys without being subject to approval from the agencies we oversee.

The IG council has taken steps, including creating guides and working groups to help IGs use these new tools thoughtfully and responsibly. I'm encouraged by IG initiatives to use computer matching, such as the one initiated by the IGs at the Department of Labor and VA to detect fraud in Federal benefit programs. Our growing capabilities will improve the data informed oversight sought by Congress.

The legislation committee assists Congress as it considers legislation to improve IGs' ability to carry out oversight of taxpayers. I want to briefly mention three priority items that the IG community has identified to further improve our ability to oversee Federal operations. First, IGs would like to work with Congress to protect information that can be used to exploit cybersecurity vulnerabilities. Our reviews, including congressionally mandated reviews, identify

weaknesses in Federal IT systems. Public disclosure of this information could be a roadmap for malicious entities. While classified and law enforcement information is protected from public disclosure, there is no single protection that covers all IT security vulnerability information.

Second, as other IGs have testified before, the resignation of Federal employees during the course of an audit, investigation, or review, has substantially hampered our work. Most IGs lack the ability to compel the testimony of witnesses who have information that cannot be obtained by any other means. This authority was unanimously supported by this committee and the House during the last Congress, so it was not included in the bill that became law. We are encouraged by this committee's continued consideration and bipartisan support of testimonial subpoena authority for IGs.

Finally, legislative reforms have the potential to turn the Program Fraud Civil Remedies Act from an underutilized tool into an effective mechanism to recover fraud expenditures. CIGIE has proposed several straightforward changes to help agencies use the Act in cases of small dollar fraud or qui tam-related cases where DOJ declines prosecution. If used to its full potential, the recoveries could be significant.

The inspector general community is grateful for the steadfast bipartisan support we have received from Congress. Collaboration with this committee and its dedicated staff, both for the Inspector General Empowerment Act and other initiatives has been incredibly constructive. From our training initiative, "Meet the IGs," to the regular technical assistance we provide, our proactive efforts to keep each other informed have yielded productive results for the taxpayer.

We look forward to continuing to be an important resource to this committee and other congressional stakeholders as you pursue your oversight and legislative work.

I would be happy to answer any questions you might have.

[Prepared statement of Ms. Buller follows:]

PEACE CORPS
Office of
INSPECTOR
GENERAL

Council of the
INSPECTORS GENERAL
on INTEGRITY *and* EFFICIENCY

Statement of Kathy A. Buller

Inspector General, Peace Corps
Chair, Legislation Committee
Council of the Inspectors General for Integrity and Efficiency

before the

U.S. House of Representatives
Committee on Oversight and Government Reform

concerning

"Recommendations and Reforms from the Inspectors General"

November 15, 2017

Introduction

Chairman Gowdy, Ranking Member Cummings, and distinguished Members of the Committee:

Thank you for inviting me to appear before you today to discuss the work of inspectors general to promote integrity and efficiency. In my testimony, I plan to share my perspective as both the Inspector General for the Peace Corps and the Chair of the Legislation Committee of the Council of the Inspectors General on Integrity and Efficiency (CIGIE). I want to express our appreciation for the years of bipartisan effort this Committee put toward passing the Inspector General Empowerment Act,[1] and for your continued support of our efforts to eliminate fraud, waste, abuse, and mismanagement in Federal government operations.

We are nearing the 40th anniversary of the Inspector General Act of 1978. For almost four decades inspectors general (IGs) have worked towards a better, more efficient government. We detect and prevent waste, fraud, and abuse in the agencies we oversee, and promote integrity and efficiency in government programs and operations. We hold Federal agencies accountable, protect whistleblowers, expose corruption and mismanagement, and help Congress make informed decisions about the agencies within their purview. In fiscal year 2016 alone, the IG community's recommendations to agencies identified over $25.2 billion in potential savings and our investigative work resulted in $19.9 billion in investigative receivables and recoveries.

As the Chair of the CIGIE Legislation Committee, I am honored to work with 25 other IGs to communicate on legislative issues and matters of common interest between Congress and CIGIE. We share helpful, timely information about congressional initiatives to the IG community, communicate the views of the community, and provide technical assistance to Congress. We also present CIGIE's views to Congress, the Government Accountability Office, and the Office of Management and Budget (OMB) on legislative issues that affect IGs.

We have enjoyed many years of bipartisan support from Congress for our collective effort to improve the Federal government operations that we oversee. The Inspector General Empowerment Act (IG Empowerment Act) originated with this Committee and is an extraordinary example of that support and collaboration. I will briefly describe the effects of that Act, and our efforts to use the authorities it provided to further our oversight work. I will also describe other legislative initiatives that, if pursued by Congress, would enhance our oversight over Federal programs and operations.

Inspector General Empowerment Act of 2016

The IG Empowerment Act restored our right of unfettered access by reaffirming a fundamental authority provided under the Inspector General Act of 1978 (IG Act): that IGs may access all materials and documents necessary to our oversight work. In addition, the IG Empowerment Act provided several additional authorities that the IG community identified as important for enhancing our ability to detect and prevent fraud, waste, abuse, and mismanagement in the Federal programs and operations that we oversee.

Access to Information

In February, I appeared before this committee to discuss the immediate results of the passage of the IG Empowerment Act. I highlighted the positive effect the IG Empowerment Act had on my dispute with the

[1] Inspector General Empowerment Act of 2016, Pub. L. No. 114-317 (Dec. 16, 2016).

Peace Corps over my office's access to all agency records. The positive changes that my office has seen with respect to our access to agency information reaffirm the importance of the IG Empowerment Act.

A bedrock principle of the IG Act is that an Inspector General must have access to all agency records and information relating to the programs and operations of the agencies we oversee. This language was seen as clear and unqualified. However, beginning in 2010, a number of Federal agencies, including the Department of Justice (DOJ), the Peace Corps, the Department of Commerce, the Chemical Safety and Hazard Investigation Board, and the Department of the Treasury challenged their respective IGs' right to access all such agency information.

In the past, I appeared before this Committee and others to discuss the struggles my office faced in obtaining the information we needed to do our job. The former General Counsel of the Peace Corps erroneously interpreted a law in a manner that effectively kept OIG, Congress, and the American public in the dark about the program to address sexual assault in the Peace Corps. My office was not alone; other IGs were receiving similar resistance from their agencies.

The July 2015 opinion by the Department of Justice Office of Legal Counsel (OLC) threatened the independence of all Inspectors General and challenged our collective ability to have timely and independent access. It became clear to the IG community that only an act of Congress could restore the Inspector General's broad right of access, and the Inspector General Empowerment Act did just that. The Act further strengthened the access provision and reiterated Congress's intent for IGs: that our access to all agency records really means "all." Further, the IG Empowerment Act made clear that such access must be provided in a timely fashion.

In the Peace Corps, the IG Empowerment Act had an immediate impact. We quickly worked with the agency to fully restore our access to the agency's sexual assault risk reduction and response program. Together with the then-Director of the Peace Corps, we sent joint, global communications to all staff and Volunteers informing them of our authority to access all agency records and information, as well as reiterating our commitment to victims of sexual assault. In August, after receiving full, unencumbered access to records, we were able to address a data limitation on a statutorily required review of sexual assault cases issued in 2016. Prior to the passage of the IG Empowerment Act, redacted records limited our ability to determine that the documentation we received for each case of sexual assault was documentation of the agency's response to that case, rather than documentation from a different case. After the IG Empowerment Act restored our access, my office and the agency worked constructively to review a targeted sample of cases where the data had previously been denied, to ensure the accuracy of the redacted documentation the Peace Corps had provided.

In my previous testimony, I also expressed a hope that the IG Empowerment Act would further a culture of openness and transparency between agency staff and my office. As I had mentioned, our access issue had eroded the trust and relationship between my office and the agency. While there is still some work to be done, I am pleased to report that the IG Empowerment Act has produced an appreciable, positive change both in increased access and ongoing progress towards a culture of openness and cooperation. This not only benefits staff, Volunteers, and others who care about or rely on the Peace Corps, but also supports whistleblowers, promotes an open and transparent Peace Corps for the American taxpayer, and ensures that Congress is fully informed of the programs and operations of the Peace Corps.

Beyond the Peace Corps, we know that the IG Empowerment Act provided a robust tool to address access disputes between agencies and their IGs. However, some individual access issues remain and affected IG's will be reporting instances when their agency resisted oversight or delayed access in their upcoming Semiannual Reports to Congress. Continued congressional interest in such incidents helps all IGs ward

off erroneous interpretations of the Inspector General Act and improves our ability to obtain the timely access that we need.

Computer Matching Act

The Inspector General Empowerment Act also exempted IGs and agencies working in a matching program with IGs from the requirements of the Computer Matching and Privacy Protection Act of 1998 (CMPPA). Computerized matching of data from two or more information systems is a proven method of data analysis that can detect and prevent fraud, waste, and abuse in government programs. Such work is commonly used to identify improper payments and potential fraud, especially in Federal benefit programs and activities.

CMPPA required IGs to obtain the approval of the agency's data integrity board to implement a computer matching agreement, potentially undermining IG independence. Though IGs are represented on the board, agency officials on the board could decide whether to prevent the match or to impose undue restrictions on the match. The board approval process also risked exposing sensitive, ongoing IG work. Further, the CMPPA required IGs to undergo a protracted review process that could have precluded IGs from carrying out a match in a timely fashion. By exempting IGs from the CMPPA, Congress ensured that our computer matching activities will be performed more efficiently, independent from potential undue burdens or restrictions by agencies.

Since the passage of the IG Empowerment Act, our community has focused on implementing this new authority responsibly and thoughtfully, as well as building IG capacity to properly utilize the new authority. In June 2017, CIGIE issued guidance to its members, providing an overview of the CMPPA exemption, presenting various matters for IGs to consider when engaging in matching programs, and helping individual IGs perform matches. Additionally, IG community experts have held briefings and presentations to increase the capacity of IG staff interested in matching programs, and an informal working group is exploring developing potential matching programs. Finally, the CIGIE Data Analytics working group is expanding its efforts to catalogue agency data sets to assist IGs in identifying types of data sets maintained at other agencies.

We are encouraged by the steady progress of the IG community towards responsibly using this new authority. For example, the Inspectors General of the Departments of Labor and Veterans Affairs have initiated a data matching project to detect fraud by identify individuals receiving benefits from the Department of Labor Federal Employee Compensation program and disability benefits from the Department of Veterans Affairs. While the project is in its early stages, any future success of this project could be replicated by other agencies for matching their data with the Department of Labor Federal Employee Compensation program.

Paperwork Reduction Act

The Inspector General Empowerment Act similarly exempted the IG community from the Paperwork Reduction Act (PRA), a reform which the IG community had recommended for over a decade. The IG community expressed concern that the PRA required that information collections, such as IG surveys, be subject to approval from a "senior official" of the agency and then from OMB. This conflicted with our statutory mission to be independent. The PRA requires a lengthy and burdensome approval process for Federal agencies to collect information. The protracted approval process affected our ability to carry out congressional requests or congressionally mandated work in a timely and effective manner. There were instances where by the time the survey was approved the character of the issue under review had changed. In some cases, IGs discontinued using surveys and gathering information that would enhance the effectiveness and quality of a review. This exemption ensures that IGs will be able to conduct surveys and

other information collection with the requisite independence, and to do so without unnecessary delay or burdens.

As with the CMPPA exemption, the IG community is focused on implementing this new authority responsibly and thoughtfully. Shortly after the Act was passed, CIGIE convened a PRA working group to assist OIGs with implementing the exemption. As a result of their work, in August 2017 CIGIE issued guidance to help members conducting surveys as part of their work. The guidance will assist OIGs with conducting high quality surveys that will yield useable results with minimal participant burden.

Legislative Priorities

The IG community looks forward to working with Congress to further improve our ability to perform the oversight mission that Congress and taxpayers expect from us. We have enjoyed productive conversations about matters of joint interest to Congress and the IG community. One matter of great interest to both CIGIE and Congress is strengthening whistleblower rights and protections. CIGIE supports repealing the sunset provision for the Establishment IG Whistleblower Ombudsman function enacted through the Whistleblower Protection Enhancement Act. We have appreciated the opportunity to work with this Committee and your Senate counterparts as Congress looks to repeal that sunset provision and further enhance the role of Offices of Inspector General (OIGs) in educating and protecting whistleblowers. In addition, CIGIE will continue to encourage appropriately prioritizing risk-based oversight that meets the oversight needs of Congress while being mindful of the finite resources of OIGs.

Each new Congress, the CIGIE Legislation Committee publishes the legislative priorities for the IG Community. While not an exhaustive list, the IG community has identified the following five issues as priority areas:

- Protecting cybersecurity vulnerability information from public disclosure
- Granting Testimonial Subpoena Authority for IGs who do not already possess it
- Amending the Program Fraud Civil Remedies Act (PFCRA)
- Establishing a congressional notification requirement for the use of paid or unpaid, non-duty status in cases involving an IG
- Amending the Privacy Act to facilitate oversight

Protecting Cybersecurity Vulnerability Information from Disclosure

The IG community recognizes the need to keep the public and Congress informed about the programs and operations we oversee. However, since 2011, we have raised serious concerns that information related to our agencies' IT security may be unprotected from disclosure under the Freedom of Information Act. Without adequate protection, such information can be a roadmap for someone attempting to exploit agency cybersecurity vulnerabilities. Although classified information and documents compiled for law enforcement purposes can be protected from public disclosure, no single exemption specifically addresses protection of detailed information on the cyber security vulnerabilities of Federal agencies. As cybersecurity threats become ever more present, the need to protect information that can be used to exploit identified weaknesses is greater than ever.

CIGIE hopes to continue to engage with your staff on finding a narrowly tailored solution that keeps the public and Congress informed about the cybersecurity deficiencies at agencies while protecting information that would give malicious individuals or entities a roadmap to agency cybersecurity vulnerabilities.

Testimonial Subpoena Authority

The resignation of Federal employees has substantially hampered audits, investigations, or other reviews into matters within the scope of that individual's responsibilities. However, IGs can also have trouble accessing key information during the course of an inquiry into other individuals or entities with whom the Federal government does business. Examples include where subcontractors or subgrantees have no direct contractual relationship with the Federal government but are suspected of defrauding a Federally funded program, when employees of contractors who refuse to provide information to the IG, or interviewees who have destroyed important documents but have knowledge of the matter they are covering up.

CIGIE believes that providing all IGs with the authority to subpoena the attendance and testimony by certain witnesses, including any former Federal employee, would support our oversight activities. The new authority would be most effective if it mirrored the existing documentary subpoena authority set forth in the IG Act. The predecessor version of the Inspector General Empowerment Act[2] passed unanimously by the House of Representatives included this authority; however, it did not appear in the final version of the Inspector General Empowerment Act. We are encouraged by this Committee's consideration and bipartisan support of the benefits to IG oversight that this authority would bring.

Program Fraud Civil Remedies Act Amendments

For years, a key administrative tool for recovering damages in smaller dollar fraud cases has been underutilized. The PFCRA,[3] or the 'mini False Claims Act,' provides administrative civil remedies for false claims of $150,000 or less and for false statements in cases DOJ does not accept for prosecution. PFCRA cases are adjudicated before Administrative Law Judges. The PFCRA permits a $5,000 recovery for each false claim, allows for double-damages, and authorizes civil money penalties for false statements even if there has been no claim for payment of money. PFCRA reform promises to make this a significant tool to recover fraudulent expenditures for the benefit of taxpayers.

PFCRA is a potentially faster and lower-cost alternative to recovering damages in smaller dollar fraud cases. However, the statute remains a relatively underutilized tool, as noted in a 2012 report from the Government Accountability Office (GAO).[4] According to the report, many agencies were not using the PFCRA for reasons including: a lack of familiarity with the statute; insufficient resources; cumbersome and time-consuming procedures; availability of alternate remedies; and the absence of Administrative Law Judges in certain agencies that could hear PFCRA cases. A subsequent CIGIE-conducted survey of the IG community revealed that a number of the GAO concerns remain, thus underscoring the continuing challenges that inhibit widespread use of the PFCRA to combat fraud.

Since then, CIGIE has proposed several statutory changes developed in consultation with key stakeholders such as the Armed Services Board of Contract Appeals and Boards of Contract Appeals. We look forward to pursuing how this authority can be reformed to provide the IG community a more effective tool in combatting fraud, waste, and abuse.

Appropriate Use of Paid or Unpaid, Non-duty Status in Cases Involving an IG

Sections 3(b) and 8G(e) of the IG Act provides specific processes for removing or transferring an IG, and requires congressional notification not later than 30 days before any such removal. These standards provide a critical safeguard to protect the independence of IGs to carry out our oversight work. However,

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[3] 31 U.S.C. Chapter 38.

[4] *Program Fraud Civil Remedies Act: Observations on Implementation," GAO-12-275R (January 27, 2012).*

this safeguard does not apply when an IG is placed in a paid or unpaid, non-duty status (such as "administrative leave" or "suspended without pay").

The IG community supports an amendment to the IG Act to establish a congressional notification requirement for use of either paid or unpaid, non-duty personnel actions involving an IG.

Amendment to the Privacy Act to facilitate oversight

One new addition to the CIGIE Legislative Priorities is our proposal to amend the Privacy Act of 1974 (Privacy Act) to clarify that the prevention of fraud in Federal benefits programs is an inherent purpose in administering and collecting information for the benefits program. Currently, when an investigation produces evidence that fraud was committed in a Federal benefits program, an IG may submit the investigative reports to their parent agency to take administrative action. That investigative report may include records controlled by another agency's Privacy Act system of records. If an agency prohibits the use of records covered by the Privacy Act for administrative purposes because fraud prevention is "not compatible with the purpose for which the information was collected," such outcome could frustrate the capacity of an agency to take administrative action against an employee for defrauding the program. This results in overall reduced accountability and integrity of Federal programs.

This problem is not theoretical. For example, the Department of Labor has claimed that the Privacy Act may prohibit a Federal agency from using records related to the Federal Employee Compensation Act (FECA) for disciplinary purposes because fraud prevention is "not compatible with the purpose for which the information was collected." Subsequently, the OLC opined that the Department of Labor has the exclusive authority to control and limit the disclosure of FECA records held by another agency.[5] Such determinations can result in a chilling effect on both oversight efforts and the ability for agencies to hold individuals accountable for defrauding Government programs. The proposed amendment would solve the problem with a straightforward solution: expanding on the current definition of "routine use" in the Privacy Act to clarify that program records collected by Federal agencies can be used to take administrative action against those who allegedly defrauded a Federal benefits program.

Conclusion

The Inspector General community is grateful for the steadfast, bipartisan support we have received from Congress. Personally, our collaboration with this Committee and its tremendous staff, both for the Inspector General Empowerment Act and other legislative initiatives, has been incredibly constructive. From our training initiative "Meet the Inspector General," to the regular technical assistance that our Committee provides on your legislation or oversight work, our proactive discussions and mutual efforts to keep each other informed have resulted in our productive collaboration. We look forward to continuing to be an important resource to this Committee and other Congressional stakeholders as you pursue your oversight and legislative work.

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[5] See Memorandum for the Solicitor, "Whether the United States Department of Labor Has the Authority to Control the Disclosure of Federal Employee Compensation Act Records Held by the United States Postal Service," November 16, 2012.

Chairman GOWDY. Thank you, IG Buller.
IG Roth.

STATEMENT OF HON. JOHN ROTH

Mr. ROTH. Chairman Gowdy, Ranking Member Cummings, and Members of the Committee, thank you for inviting me here today to testify.

I believe I speak for the entire OIG community in expressing my gratitude to the committee for its leadership and championing the IG Empowerment Act and the cause of vigorous and independent oversight.

OIG's reporting relationship to Congress is a key feature of the Inspector General Act. Inspectors general can only recommend to our agency, but we cannot direct our agency. Therefore, congressional oversight plays a critical role in ensuring department operations. That which gets paid attention to, simply put, gets fixed.

Probing fact-based oversight, whether done internally by an inspector general, or externally by a congressional committee, can help bring about positive change. The critical and skeptical review of programs and operations, conducted in full view of the public, acts as the disinfectant of sunlight to insure improved transparency, accountability and efficiency in government.

We appreciate that Congress, and this committee in particular, recognizes the value of inspectors general, and willingly steps up for OIGs by passing legislation that empowers us. Simply put, without the support of Congress and the significant independence and access provisions contained within the IG Act, we would be unable to our job.

Let me give you an example: After conducting our most recent test, covert tests at airport security checkpoints, we identified vulnerabilities with the TSA screener performance, screener equipment, and associated procedures. Ultimately, we made eight recommendations in our classified report that, when implemented, should improve TSA's performance in this area.

Within weeks of our report being issued, this committee had already followed up with the Department, reaching out to the Acting Secretary, to determine what actions TSA is currently taking to address issues we raised in our report.

This committee has held numerous hearings on other aspects of TSA's programs and operations and have assisted in bringing senior level focus to some of those challenges. Additionally, this committee is well aware of the work we've previously done regarding Secret Service workforce issues and the oversight of this committee was integral in getting the Department to focus on those issues and change the culture there.

Without such vigorous oversight and congressional interest in evaluating programs, there's less motivation to enact difficult institutional change. Unfortunately, many OIGs, including my office, faced cuts in the President's fiscal 2018 budget request. Some of these cuts are incremental, but some offices are cut quite drastically. These budget cuts can present an ongoing challenge for many in the inspector general community. The vast majority of our expenses are used to pay our auditors, inspectors or investigators.

So budget cuts have a dramatic impact on operations, particularly with the small IG offices. Without the resources to do the job, no matter how strong the provisions in the IG Act with regard to independence and access to information, and no matter how strong the support from this committee and others, money can always be used as a weapon to diminish our ability to conduct the active and independent oversight that Congress and the public deserve.

These proposed cuts make little sense, given the contributions inspectors general make. The Brookings Institute recently issued a report which analyzed the financial impact on government when OIGs budgets are cut, and found that cuts to OIG budgets actually costs the government money, and contributes to the Federal deficit. In fact, Brookings concluded, and I quote, that "OIGs often function as revenue positive institution, entities that bring in more revenue than they cost."

And as Mr. Horowitz noted in his testimony, he said his own data showed a 17-to-1 ratio of money spent by OIGs to money saved by our recommendations. So cutting the inspectors general doesn't make any sense economically.

And that 17-to-1 figure actually understates our performance, because it does not measure improvements that result in increased national security and public safety. Much of our best work, audit inspections report that shed light on dangerous or ineffective programs, for example, don't carry with it a cost savings, but the value of the American taxpayers is incalculable.

Finally, let me permit me to publicly acknowledge the auditors, inspectors and investigative agents that worked not only for me at DHS IG, but throughout the IG community. They come to work every day with a mission to make our government work better, to be more effective and efficient, and to ensure integrity. Being an independent entity within the organization whose job it is to ask the hard questions is a tough job, but without the dedication of the men and women who do the work, we would not be able to point to the successes that we have talked about this morning.

Mr. Chairman, that concludes my testimony. I'm happy to answer any questions you or members of the committee may have.

[Prepared statement of Mr. Roth follows:]

OFFICE OF INSPECTOR GENERAL

Testimony of Inspector General John Roth

Before the Committee on Oversight and Government Reform U.S. House of Representatives

"Recommendations and Reforms from the Inspectors General"

November 15, 2017
10:00 AM

Homeland Security

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Chairman Gowdy, Ranking Member Cummings, and Members of the Committee, thank you for inviting me here today to discuss the implementation of the *Inspector General Empowerment Act of 2016* (IGEA), its impact on the Inspector General community, and areas of ongoing challenges.

Investing in the Inspectors General

We appreciate that Congress – and this Committee in particular – recognizes the value of federal offices of Inspector General (OIGs) and willingly steps up for OIGs by passing legislation that empowers OIGs. Simply put, without the support of Congress, and the significant independence and access provisions contained within the *Inspector General Act*, we would be unable to do our job.

Unfortunately, many OIGs face cuts in the President's fiscal year 2018 budget request (President's Budget), some quite drastically. Budget cuts can present an ongoing challenge for not just my office, but many in the Inspector General community. Without the resources to do the job, no matter how strong the provisions in the *Inspector General Act* with regard to independence and access to information, and no matter how strong the support from this committee and others, money can always be used as a weapon to diminish our ability to conduct the active and independent oversight that Congress and the public deserve.

For my own office, the President's Budget decreased our budget by 10 percent under fiscal year (FY) 2017 enacted levels. The impact of such a decrease would be significant, would result in a potential reduction in our work force, and an inability for us to meet FY 2018 mission requirements. At the same time, the President's Budget cuts the OIG budget, it included significant increases in traditionally high-risk areas at the Department of Homeland Security (DHS) such as U.S. Customs and Border Protection (CBP) (15.1 percent increase) and U.S. Immigration and Customs Enforcement (ICE) (16.9 percent increase).

Component	FY 2017 Enacted	FY 2018 President's Budget	FY 2018 +/- FY 2017 %
Office of the Inspector General	175,000	158,000	-10%
U.S. Customs and Border Protection	14,241,721	16,387,729	15.10%
U.S. Immigration and Customs Enforcement	6,796,240	7,942,072	16.90%

- **Increased risk compounded by decrease in oversight**
- **-10% underestimates overall reduction in resources; does not account for non-discretionary FY 2016 and FY 2017 increases (*e.g.*, wages, rent, etc.)**

Growth in high-risk areas results in increased risk, and in this situation, the increased risk is compounded by the decrease in oversight. Consider the growth at CBP and ICE while both agencies work to hire 15,000 border patrol agents and immigration officers as directed by two Executive Orders signed in January 2017. Historically, DHS OIG has seen large increases in the number of allegations of misconduct against DHS personnel after rapid hiring surges. We proactively issued a Special Report[1] on the challenges DHS faces in its attempt to hire 15,000 border patrol agents and immigration officers. While we made no recommendations, we determined that proper workforce planning is needed to ensure correct staffing levels, ratios, placements, and to guide targeted recruitment campaigns. Conversely, inadequate workforce planning will likely undermine the ability of CBP and ICE to achieve hiring mandates and perform mission essential duties and functions. A decrease in DHS OIG resources at this critical time would impede our ability to effectively monitor the Department as it embarks on this large scale hiring effort.

These proposed cuts in OIG budgets are all the more puzzling given the commitments the Administration made to Congress. At his confirmation hearing testimony, Office of Management and Budget (OMB) Director Mulvaney – a former member of this Committee -- acknowledged the importance of OIGs, stating:

> We are underutilizing a tool [the Inspectors General] ... most of the data, a lot of times, that we have at the Oversight and Government Reform [Committee] hearings are driven by the IG. Congress needs to have those inspectors general doing their job and helping us collect information so we can make good decisions about how to fix and reform various institutions. I do look forward to making that a priority at OMB.[2]

These proposed cuts would make little sense given the contributions Inspectors General make. The Brookings Institute's Center for Effective Public Management, an independent research organization, has analyzed the financial impact on government when OIGs' budgets are cut and found that cuts to OIG budgets actually *cost* the government money and contribute to the federal deficit. In fact, OIGs "often function as revenue-positive institutions – entities that bring in more revenue than they cost."[3] This is supported by the Council of the Inspectors General on Integrity and Efficiency (CIGIE) – an organization

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[1] Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers, OIG-17-98-SR (July 2017).
[2] Senate Budget Committee, Hearing to Consider Nomination of Rep. Mick Mulvaney to lead OMB (January 24, 2017).
[3] John Hudak and Grace Wallack, Sometimes cutting budgets raise deficits: The curious case of inspectors' general return on investment, Center for Effective Public Management at BROOKINGS (April 2015).

that includes 73 OIGs. According to data from CIGIE, in FY 2017, work by OIGs resulted in a total of $26.3 billion in potential savings from audits and thus far in FY 2018, the work of OIGs has resulted in $223.53 million of potential savings.[4]

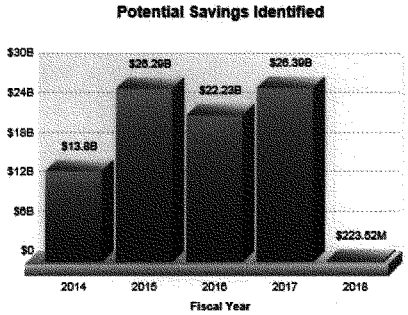

Figure 1: Potential Savings Identified by OIGs[5]

As compared to the budget for the DHS, the budget for DHS OIG is relatively tiny — we represent just 0.32 percent of the DHS budget, yet we have an outsize impact on the operation of the Department. On average, over the past three FYs, for every dollar invested in the DHS OIG, we returned $10.80 in savings, as reflected by the statutory performance measures set forth in the *Inspector General Act.* This dollar figure vastly understates our performance, because we put a priority on Homeland Security and public safety. Much of our best work — audit and inspections reports that shed light on dangerous or ineffective programs, for example — doesn't carry with it a cost savings, but the value to the American taxpayer is incalculable.

In addition to addressing new high-risk areas, we are performing work pursuant to 44 congressional mandates, including 23 DHS OIG mandates enacted in FYs 2016 and 2017. We fully expect these mandate requirements to grow, as Congress has introduced 22 bills imposing a new congressional mandate on DHS OIG in the 115th Congress alone. Without the appropriate funding, we would do fewer audits, inspections, and investigations. As the number of mandates grows, the number of discretionary jobs we are able to do shrinks. We often refer to our discretionary audits and inspections as the "sweet spot" of oversight because they allow us to identify high-risk areas and opportunities for correction before a crisis occurs. In addition to the Special

[4] *See* Oversight.gov All Federal Inspector General Reports in One Place.
[5] *See* Oversight.gov All Federal Inspector General Reports in One Place.

Report I mentioned before, other examples of discretionary reports issued this year include:

- DHS Tracking of Visa Overstays is Hindered by Insufficient Technology
- Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California
- DHS Lacks Oversight of Component Use of Force

The proposed budget cuts would have also threatened our work in important areas such as cybersecurity, acquisition fraud, and whistleblower retaliation. This undermines the very goals of the IGEA, which was designed empower OIGs to conduct the kind of rigorous, independent, and thorough oversight that taxpayers expect and deserve.

For DHS OIG, we are grateful to this chamber for passing an appropriations bill which funds us at our requested levels so we can fully execute our mission.[6] We hope the Senate will follow the House's lead in this matter. However, other OIGs may not have been as fortunate as us, and are facing budget cuts that will compromise their missions.

The Value of Independent Oversight in Improving Government Operations

I believe I speak for the entire OIG community in expressing my gratitude to this Committee for its leadership in championing the IGEA and the cause of vigorous and independent oversight. The OIGs' reporting relationship to Congress is a key feature of the *Inspector General Act.* Inspectors General recommend, but do not direct. Therefore, congressional oversight plays a critical role in ensuring effective Departmental operations: that which gets paid attention to gets fixed. Probing, fact-based oversight, whether done internally by an inspector general or externally by a congressional committee, can help bring about change.

For example, after conducting our covert tests at airport security checkpoints we identified vulnerabilities with the Transportation Security Administration's (TSA) screener performance, screening equipment, and associated procedures. Ultimately, we made eight recommendations in our classified report that when

[6] Representative Fitzpatrick, a member of the House Committee on Homeland Security, introduced an amendment during the House's consideration of the FY 2018 omnibus appropriations bill. Representative Fitzpatrick, joined by Representatives Higgins, Donovan, and Estes, spoke in support of funding our office which he described as not only "vital to our national security...but also a place where dollars spent turn into dollars saved." Representative Brian Fitzpatrick (PA). "Amendment 70." Congressional Record 163: 143 (September 6, 2017) p.H7076.

implemented should improve TSA's screening checkpoint operational effectiveness. Within weeks of our report being issued, this Committee has already followed up with the Department, reaching out to the Acting Secretary of DHS to determine what actions TSA is currently taking to address the issues we raised in our report.[7] Without such vigorous oversight and congressional interest in evaluating programs, there is less motivation to enact difficult institutional change.

Oversight fosters positive change and makes government better. The critical and skeptical review of programs and operations, both by the Inspectors General and by congressional oversight committees, conducted in full view of the public, acts as the "disinfectant of sunlight" to ensure improved transparency, accountability, and efficiency in government. It also facilitates the efforts of Inspectors General to keep Congress fully and currently informed about problems and deficiencies within government programs and operations, in compliance with their obligations under the *Inspector General Act.*

Disaster Assistance Working Group

The IGEA has improved and streamlined the way we do business, particularly in analytics. For example, it exempts us from some of the requirements when matching data from two or more data systems within the federal government. Matching two disparate databases can yield valuable insights. The new authorities in the IGEA allow us to be able to complete some audits far more quickly than we would otherwise be able. Previously, the *Computer Matching Act* interposed significant barriers to us matching DHS data against data contained in other government databases.

We expect that our new computer matching exemptions will be especially useful to the members of CIGIE's Disaster Assistance Working Group (DAWG) as we provide independent oversight of the federal response to the recent devastating hurricanes in Texas, Florida, Puerto Rico, and the U.S. Virgin Islands.

Disasters, both natural and man-made, provide unique opportunities for fraud, abuse, and mismanagement that would deprive affected individuals the full benefit and use of federal funds designated for relief and recovery. Congress and the public rely on the OIGs and the Government Accountability Office (GAO) to be the principal federal line of defense against such incidents. Congress, OIGs, and GAO also recognize that CIGIE plays a critical role in

[7] Letter from The Honorable Trey Gowdy and The Honorable Elijah Cummings, Chairman and Ranking Member of the U.S. House of Representatives Committee on Oversight and Government Reform, to The Honorable Elaine C. Duke, Acting Secretary of the Department of Homeland Security (Nov. 1, 2017).

helping to coordinate the OIG's efforts to oversee the resources appropriated by Congress for disaster recovery programs. This is especially true when the OIGs' work is to be performed in a short timeframe under the complex and extreme conditions typically created by a disaster.

OIGs have a long history of facilitating impactful and coordinated oversight of federal agencies' disaster relief operations and activities. In response to Hurricanes Katrina, Rita and Wilma in 2005, the OIGs established the DAWG. Through the DAWG the OIGs provided coordinated oversight of more than $68 billion in resources made available by Congress to aid in 2005 Gulf Coast Hurricane recovery efforts. In response to Superstorm Sandy in 2012, CIGIE reactivated the DAWG so that the OIGs could again provide coordinated oversight for the roughly $50 billion that Congress appropriated in the *Sandy Recovery Improvement Act.*

In response to the damage caused by Hurricanes Harvey, Irma, and Maria, Congress has to date appropriated an additional $26.07 billion to the Disaster Relief Fund, $450 million for the Small Business Administration (SBA) Disaster Loans Program, $7.4 billion in Department of Housing and Urban Development (HUD) Community Development Block Grants, $576.5 million for wildfire response, canceled $16 billion in National Flood Insurance Program debt, and provided $1.270 billion in disaster nutrition assistance to Puerto Rico. CIGIE has therefore reactivated its DAWG to coordinate the OIGs' oversight efforts of these and any other disaster-related funds. I chair the DAWG, and we have created several subgroups to address particular areas of oversight. HUD OIG currently chairs the Audits and Investigations Subgroups of the DAWG, and DHS OIG currently chairs the Data Analytics Subgroup.

Damages from Hurricane Harvey alone are estimated to exceed $100 billion. As part of our oversight efforts, we are utilizing our data analytic tools to root out hurricane disaster related fraud, which has included vetting Federal Emergency Management Agency (FEMA) contractors and monitoring social media. We have also identified several areas where we will utilize computer matching to conduct joint audits. For example, DHS OIG has partnered with the HUD Office of Inspector General and we plan to conduct a joint audit concerning duplicate housing assistance provided by HUD and FEMA. Duplicate housing assistance was an issue we identified after Hurricane Sandy, when we identified 29,763 records where FEMA paid approximately $250 million in homeowners' assistance to applicants whom the private insurance database identified as having made private homeowners' or automobile claims. DHS OIG also plans to work with the SBA Office of Inspector General to conduct a joint audit concerning the need for many disaster assistance victims receiving FEMA Individuals and Households Program assistance to first apply for a low interest SBA loan. Finally, DHS OIG will work with Treasury Inspector

General for Tax Administration (TIGTA) to verify the accuracy of income representations made by individuals applying for FEMA Individuals and Households Program assistance.

We are confident that these partnerships will result in more effective oversight and stewardship of the significant amount of federal funds dedicated to the post hurricane recovery efforts. We are committed to providing oversight as described above; however, without supplemental funds directed to Inspectors General, our oversight will be performed within the limitations of existing resource levels. Given the size, magnitude, and financial impact of Hurricanes Harvey, Irma, and Maria, CIGIE requested Congress consider including resources for the Inspectors General of relevant agencies like the supplemental funding provided OIGs in the *American Recovery and Reinvestment Act of 2009.*[8] We are pleased that the recently passed *Additional Supplemental Appropriations for Disaster Relief Requirements Act* included $10 million for the DHS OIG. We have submitted a request to DHS and OMB for an additional $25 million for oversight and investigations, which we believe will enable robust oversight of recovery efforts while continuing our mission critical audit, inspection, and investigative work.

Mr. Chairman, this concludes my testimony. I am happy to answer any questions you or other members of the committee may have.

[8] Letter from The Honorable Michael E. Horowitz and The Honorable John Roth, CIGIE Chair and Disaster Assistance Working Group Chair, to The Honorable Thad Cochran, The Honorable Patrick J. Leahy, The Honorable Rodney P. Frelinghuysen and The Honorable Nita M. Lowey, Chairman and Vice Chairman of U.S. Senate Committee on Appropriations and Chairman and Ranking Member of U.S. House of Representatives Committee on Appropriations (Sept. 14, 2017).

Chairman GOWDY. Thank you, IG Roth.

Pursuant to committee rules, all witnesses will be sworn before they actually begin to testify, so I would ask you to please rise and raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give should be the truth, the whole truth and nothing but the truth, so help you God?

Let the record reflect all witnesses answered in the affirmative. You may be seated.

The gentleman from North Carolina, Mr. Meadows, is recognized.

Mr. MEADOWS. Thank you, Mr. Chairman. And thank you for your leadership on this particular issue. Obviously, as we look at making sure that accountability and oversight is conducted. There is no group of individuals that are truly more welcome than our inspectors general. I can say that having worked with all three of you, this is not your first rodeo, we welcome you back.

But Mr. Roth, as you were just mentioning, it is the men and women who serve within your particular agencies that deserve a round of applause from the American people, and quite frankly, from Members of Congress. What I have come to understand far too often is that Members of Congress normally only show up when there is a problem, not when things are going well. So you have my commitment to all three of you as you invite me and other members of this committee to come in to do what I would say is a thank you tour, thank you for a job well done.

So Mr. Horowitz, let me come to you, because obviously with all the attention that has been directed at the Department of Justice and ongoing investigations, are you finding, because of the IG Empowerment Act, your job is a bit easier to do with regards to cooperation within DOJ?

Mr. HOROWITZ. I have heard from my entire staff, auditors, investigators, review teams, that their job has been made much easier by that. We are no longer getting the legal impediments, roadblocks thrown in our way. We occasionally have timeliness issues that come up that require elevating and they get fixed. But it's night and day from what you and other members of this committee heard repeatedly over the past 5 years about our ability to get our jobs done. That has improved markedly.

Mr. MEADOWS. And, so, do I have all three of your commitment that if you start to see those impediments, even under a new administration, that you will report back to this committee expeditiously to let us know, so that we can hopefully alleviate any of those hurdles?

Mr. HOROWITZ. Absolutely.

Mr. MEADOWS. Mr. Chairman, if you could acknowledge that all the witnesses answered in the affirmative on that particular issue.

Mr. Horowitz, let me come back to you, because obviously, there are some ongoing investigations as they relate to some of the issues at DOJ. In the past, we have run into not with DOJ, but we have run into other issues where the inspector general has said, Well, they didn't want Congress doing oversight and investigations simultaneously. Based on some of the ongoing investigations that you are involved with, do you see if Congress embarks on a stren-

uous oversight investigation, would that hamper your ability to do your job?

Mr. HOROWITZ. No, we—I believe, we believe, and we've talked about this, that we would be able to move forward with our review, particularly, for example, our election—ongoing election review, that where looking forward to completing, in the not-too-distant future, and it would not impact us. And I would just point to this—our experience with the Fast and Furious review that we did. When I became IG in 2012, this committee had an ongoing and quite active review, and both moved forward in parallel fashions, and it did not impede us in any way.

Mr. MEADOWS. So any requests for documents that this committee or members of the Judiciary Committee, since they have primary jurisdiction over DOJ, any requests for documents that they would make, either here in the House or in the Senate, would not be seen as being an impediment to your ongoing investigation at this particular point?

Mr. HOROWITZ. That's right. Any documents that the Department has created itself, obviously we would want to have discussions before any records we had produced created in the course of this would be produced, but any preexisting and other records in the Department's custody we would have no objection to the Department providing response to congressional requests.

Mr. MEADOWS. Well As you're aware, there had been some requests for documents that have actually been conveyed. So outside of private grand jury information that you've received, can you see any reason why any of the other documents that have been shared with you would not be shared with either the House or the Senate?

Mr. HOROWITZ. I'm not aware of any such issues. Grand jury would be the obvious one.

Mr. MEADOWS. Sure.

Mr. Roth, let me come to you in my final 16 seconds. You have been hard-hitting on some of your analyses in a number of ways, and I've enjoyed reading your reports, and have read them many times over and over again. Do you believe, at this particular point, that you have the tools necessary to make sure that from a DHS standpoint, that we can get to the bottom of so many things that have plagued the agency? And do you have the necessary tools to be able to do that?

Mr. ROTH. We do. I was in a somewhat different position than Mr. Horowitz that the culture at DHS was to provide documents. We've never had access issues. We have some timeliness issues, but that is a matter of ensuring that those issues get escalated to the right level and then they get solved. But given the IG Act and the IG Empowerment Act, we are in a pretty good place.

Mr. MEADOWS. I thank you, Mr. Chairman.

I yield back.

Chairman GOWDY. The gentleman from Maryland is recognized. The gentleman from North Carolina yields back.

Mr. CUMMINGS. Thank you very much.

Very quickly, I want to clarify a comment I made earlier, Mr. Chairman. The subpoena that I requested earlier relates to three TSA officials who were either allegedly involved in retaliation, or involved in the decision to withhold documents regarding retalia-

tion. I didn't want to paint a broad picture, but at least two of them were involved in retaliation. I just wanted to clear that up.

Chairman GOWDY. Yes, sir. We're in one accord.

Mr. CUMMINGS. Thank you very much.

Mr. Horowitz, in your testimony, you stated that there are currently 14 vacant IG positions, and that 12 of those are presidentially appointed, Senate-confirmed positions. The President has not nominated a candidate for five of these positions, including the Departments of the Interior, Energy, Defense, Housing and Urban development and the Federal Election Commission. Is that right?

Mr. HOROWITZ. That's correct. Although the FEC position is an agency appointment, so that wouldn't be a Presidential one.

Mr. CUMMINGS. The Department of the Interior has been without a permanent IG for over 3,000 days. Mr. Horowitz, in your testimony, you stated and I quote, "A sustainable absence of permanent leadership is not healthy for any office, particularly one entrusted with the important and challenging mission of the IG." Do you believe extended vacancies could affect the ability of the IG offices to make long-term commitments to projects?

Mr. HOROWITZ. Absolutely. And, you know, acting IGs do great work. My position was vacant for about 15 months, but the IGs—acting IGs understand that they have got to be careful on any long-term issues while there's a vacancy. And not surprisingly, the access issues I faced, as you know, occurred during that period where there was no confirmed IG.

Mr. CUMMINGS. Are there any constraints on acting IGs being able to make decisions in the same way that a permanent IG would do?

Mr. HOROWITZ. There aren't. And we at CIGIE strongly supported acting IGs to make sure they know we've got their back, if that comes up. But it's—it means—there's a significant difference between having been confirmed for a position and going through and knowing your staying versus filling a seat with the unknown of how long is that going to be and who's going to come next.

Mr. CUMMINGS. On April 12th, 2017, then-Oversight Committee chairman Jason Chaffetz and the ranking member, myself, wrote to President Trump asking him to nominate qualified, independent, individuals to fill these open spots. You said in your testimony that CIGIE works with the White House to recommend candidates with exemplary qualifications. Are you satisfied that the White House is considering the recommendations from CIGIE?

Mr. HOROWITZ. We've had a very good working relationship with them. In reviewing candidates, they've made sure we reviewed and interviewed and passed along our views of every candidate. So far, all seven candidates that have been nominated have come through. Our office obviously can't speak to how the other vacancies will play out, but so far, it has been an open and productive dialogue.

Mr. CUMMINGS. On my way over here this morning to the committee, a reporter asked me a very interesting question, he asked, what do I worry about, or am I concerned about the folks being appointed to the IG positions. And I told him, No, I'm not worried at all, because the people that I—every IG that I've ever met have been very honorable people, and they are going to do what is right

no matter what, and uphold the Constitution. And so, I don't have any—any concerns about that.

Some vacancies, of course, are pending before the Senate. Robert Storch, who worked for you, Mr. Horowitz, was nominated almost 5 months ago, but his nomination still has not been approved by the Senate. Is that right?

Mr. HOROWITZ. Yeah. And I'll make a pitch for Rob. He is still my deputy, National Security Agency nominee and my whistleblower ombudsman. So to your point earlier, this is someone who would bring to the intelligence community real experience in whistleblowing issues, which, as we know, is critically important there. He's gone through three committees, three committees have approved that nomination because of the position, and he is awaiting confirmation on the floor.

Mr. CUMMINGS. Last question, tell us how significant the whistleblower ombudsman is, and what—and exactly what do they do?

Mr. HOROWITZ. I share your passion, Congressman, about whistleblowers and the importance of supporting them. We've dealt with them, and if anybody has any question about how important whistleblowers are, go to oversight.gov, type in whistleblowers in the search term, you'll get all the reports that reference whistleblowers that have resulted in important reports that we've issued. There are hundreds of them. And that's because they know the key information that we need. And having whistleblower ombudsmen is a way to further encourage people to come forward, have a comfort level that they are going to talk with somebody who understands, and cares about, and knows about the challenges they are going to face, and can give them information about the process, so it's not mysterious, it's not an unknown.

And all of us in the IG community take seriously any retaliation against whistleblowers. So our ombudsman are involved in training within the community. We've created in CIGIE our first-ever ombudsman group that's helping agencies with training, my own agency, DOJ; we have worked with the Department as well. So this is a very important issue for us. And we support, by the way, legislation that this committee has put forward, and you have been so instrumental on, it would make those positions permanent.

Mr. CUMMINGS. Thank you very much.

Chairman GOWDY. The gentleman from Maryland yields back. The gentleman from North Carolina is recognized.

Mr. WALKER. Thank you, Mr. Chairman. Thank you all on the panel for being here today as always.

Mr. Horowitz, according to your website, your office is conducting an ongoing review of the Drug Enforcement Administration's effort to prevent opioids from being distributed to unauthorized users. Can you give me an update of the status of the review and when will that review be complete?

Mr. HOROWITZ. Well, we initiated that just a couple of months ago, and, so, we're in the frankly relatively early stages; we're in the middle of getting documents, reviewing documents and conducting interviews. I can probably give you a better idea early in the year on what our timeline looks like, but our reviews roughly take about year or so.

Mr. WALKER. Okay. Any initial or early delays that you are concerned about at this point?

Mr. HOROWITZ. No. The relationship with DEA has changed dramatically from what it was, and this committee understands, perhaps, better than anybody.

Mr. WALKER. We are thrilled to continue hear about, to continue to expound on that even more in the days ahead.

Mr. Roth, or General Roth, the DHS OIG released a management alert for FEMA on September 29, 2017, relating to the housing programs FEMA is implementing in Texas following Hurricane Harvey. The OIG made a point to release this management alert quickly so FEMA would still have time to heed the OIG's recommendation. Is that correct?

Mr. ROTH. That's correct.

Mr. WALKER. Has FEMA responded to that management alert or provided feedback in any way?

Mr. ROTH. They have responded, and we are working with them. What we want to try to do is have a relationship where we can give—bring attention to these issues and work with them to try to get a solution.

What we were worried about particularly in that situation was the fact that they contracted with a local State entity to provide housing assistance, but the contract that they used didn't have the kind of measures that a typical Federal contract would have, you know, what is the responsibility of FEMA? What is the responsibility to the State? How do you measure performance? What happens if performance isn't conducted, those kinds of things. So we were working with them to try to convince them, or to have them understand why it is that these things are important.

Mr. WALKER. You are familiar with the step pilot program that FEMA first used after Hurricane Sandy, I would imagine. FEMA continues to use variations of this pilot program. They used it again after the flooding in Baton Rouge last year, now they are using it again after the hurricanes this year, but the problem, I guess, is they still haven't implemented your recommendations. Can you speculate, or tell me why it is important? First of all, speculating why they have it, and tell me why it is important that FEMA does include those recommendations?

Mr. ROTH. Yeah. This is one of the constant criticisms that we've had over time with FEMA, is the fact that every disaster seems to bring challenges that they had faced before, and yet had not put in procedures in place. FEMA is a very highly decentralized organization that's really developed around the regional structure. So the procedure that was used, for example, in Miami would be different than the procedure that was used in Houston, as opposed to having sort of standardized national criteria and policies and procedures. And the step program really is the poster child for that.

We first notified them that this was a high-risk pilot program back in 2012. They didn't do anything. We did another audit report in early 2017. Again, there were issues. And then, finally, we have this management alert that says, you need to develop policies and procedures so you're not making this up every single time.

Mr. WALKER. So we're now, I guess, past 5 years from your initial recommendations to FEMA. Is that correct?

Mr. ROTH. That's correct.

Mr. WALKER. Thank you.

With that, I yield back to our chairman.

Chairman GOWDY. The gentleman from North Carolina yields back. The gentlelady from New York is recognized.

Mrs. MALONEY. Excuse me, I will be right back.

Chairman GOWDY. Yes, Ma'am. The gentlelady from the District of Columbia.

Ms. NORTON. Thank you, Mr. Chairman, and I appreciate not only this hearing, Mr. Chairman, but all of our witnesses.

Mr. Roth, I have questions for you because of my concern about Puerto Rico and the Virgin Islands. On a scale of 1 to 10, let us look at Puerto Rico first, because the distress continues there. What would you give the response to the hurricane in Puerto Rico on a scale of 1 to 10?

Mr. ROTH. We are looking at that very issue, as is the GAO, to try to assess exactly how the situation has been. We haven't come to any conclusions that I'm prepared to talk about at this point. But we have people right now on the ground asking that very question.

Ms. NORTON. Well, because of my confidence in inspectors general, I am sure you were unaffected by the fact that the President has already given the Federal response a grade of 10 out of 10, very concerned for the future of responses, not only in places like Puerto Rico surrounded by water, but throughout the United States, that there could be a $300 million contract given to a company that had two employees.

Mr. Roth, I have to ask you, is there anything that could flag that instantly so that we don't have what we have now? What we have now is a contract that's finally been withdrawn. It wasn't withdrawn because of any action of this committee or the Congress of the United States, it was a public outcry to what continues in Puerto Rico. So it was—it was, indeed, withdrawn.

Is there—I mean, once—once somebody gets a contract, I won't even—because I think, in a real sense, I'd like to put aside the possible—or the conjecture about political contracts and the rest of it. Isn't there anything in the government or your office to flag somebody getting a contract who has two employees, or do we have to wait until the public demands that that contract be withdrawn?

Mr. ROTH. Certainly when FEMA is involved, we can tell you what the process is. Now my understanding with the Puerto Rico——

Ms. NORTON. Well, sure, FEMA was involved.

Mr. ROTH. Well, that's still unclear. In fact, we're looking at that specific issue, the circumstances surrounding the letting of that contract, and whether the Federal Government was involved in that. But I will tell you what we are doing in all three disaster areas. We are part of the joint field office. So we have auditors and criminal investigators who are part of the team there. And one of things that they do——

Ms. NORTON. Are they doing that—are the auditors there now?

Mr. ROTH. Yes.

Ms. NORTON. Because I note that I have a New York Times article here that Governor Rossello has asked for a Federal investiga-

tion of the contract—I'm now quoting from The New York Times—and for the power authority—the power and authority to appoint a trustee to review contract bidding. Is that the direction in which we're going now with respect to Puerto Rico?

Mr. ROTH. So what we're doing in Puerto Rico is, again, we have an audit staff that's down there. In fact, my deputy is down there as we speak.

Ms. NORTON. Well, that's very reassuring. I have one more question that I must ask you before my time runs out. There was an 8-day delay in appointing a three-star general to go down there. I don't know when there's been a disaster as bad as Puerto Rico. Now, we understand that that Attorney General—that general lieutenant, General Jeffrey Buchanan, is leaving Puerto Rico, along with all of his military equipment. And they don't have power in Puerto Rico yet. How is that justified, Mr. Roth, to be pulling the military who was necessary to get anything going in the first place? And are you looking into the withdrawal of the military after the delay in getting military there and the continuing crisis in Puerto Rico with no electricity, and people still screaming and yelling that they are not being treated fairly?

Mr. ROTH. We are looking at FEMA's response and DHS' response——

Ms. NORTON. Are you looking at the withdrawal of the military?

Mr. ROTH. To the extent that DHS was involved in that decision, we will—we will certainly consider it as part of our overall review. I would also note that GAO has announced that they are doing a fairly fulsome review of those very same issues.

Ms. NORTON. Thank you.

Mr. Chairman, I just want to say that I believe there ought to be a subpoena because the White House is withholding information relating to the administration's response to hurricanes in Puerto Rico and Virgin Islands where, there is still immense distress. If we can't get it any other way, I hope we will consider a subpoena.

Chairman GOWDY. The gentlelady from the District of Columbia yields back. The gentleman from Alabama is recognized.

Mr. PALMER. Thank you, Mr. Chairman.

Mr. Roth, we sent a letter—we requested—to your office requesting that you produce complete case files for your office report, FEMA's initial response to the 2016 catastrophic flooding in Louisiana. And we ask that you provide those materials no later than 5:00 p.m. On July 31. Those materials were not produced. We extended that, yet I gave you a little bit longer. And you still—your office still hasn't provided those. Can you tell me why you haven't provided those documents?

Mr. ROTH. Sure. The reason we haven't provided them is that the audit is not complete. We issued a report with regard to the flooding in northern Louisiana. And it was pointed out that there was some factual discrepancies within that report. We took those very seriously. We took down that report because we had concerns about the accuracy of it.

I instituted an entirely new audit team that was completely separate, had a different chain of command from the audit team that had done the original report. They are still working through those

issues right now, so the audit is not complete. And as a result, we're not able to produce those documents.

Mr. PALMER. When do you anticipate completing the audit and producing the documents? Can——

Mr. ROTH. I will have to give you an update on that. I don't have that information in front of me. It should be a matter of months, because we want to do this thoroughly. We understand the concerns that were raised with regard to that report.

Mr. PALMER. How much material are you having to go through? I mean——

Mr. ROTH. I'm sorry?

Mr. PALMER. You're talking about a matter of months, I mean, are we taking 10,000 pages, a million—why can't we be a little bit more timely with it, a little bit more specific about how long it will take to produce those documents?

Mr. ROTH. As I said, we're just going to have to take a look. I mean, it's simply I have to take a look and see where we are with regard to the process. We take it very seriously when people raise issues with regard to the accuracy of our reports, that's our bread and butter. We want to make sure it is completely accurate before we release a report, or decline to release a report if we can't salvage it.

Mr. PALMER. I'm not satisfied with a matter of months. I want to know why you can't produce an audit. Do you not have enough people doing the audit? What's the hold-up? I mean——

Mr. ROTH. As I said——

Mr. PALMER. You've had more than 4 months, so we would—I don't think it's acceptable to say that, you know, it's open-ended response that it will be a matter of months. When can we expect to get a report?

Mr. ROTH. Well, I can't give you a definitive answer here. I'll go back to my folks and see if we can accelerate the time schedule.

Mr. PALMER. Okay. How long with it take for a definitive answer?

Mr. ROTH. As to a timetable? I imagine we can do that by next week.

Mr. PALMER. Okay. Can we get that answer by Friday of next week—well, no a minute, that's Thanksgiving.

Mr. Chairman, what would be acceptable time? The Monday after Thanksgiving?

Chairman GOWDY. If that is within the realm of possible for the IG, and acceptable to my friend from Alabama, we will say the Monday after Thanksgiving.

Mr. PALMER. Is that good?

Mr. ROTH. We'll report back then.

Mr. PALMER. Thank you, sir. Mr. Horowitz, the Council of the Inspectors General on Integrity and Efficiency has plans for the expansion of the oversight government.gov—oversight of oversight.gov and other related efforts. How have the IGs and agencies responded to that initial effort?

Mr. HOROWITZ. Well, certainly, the IG community has been very supportive and we've gotten that up and running. And oversight.gov was put forward and put together with no additional funding. We would like to and have talked with Members of Con-

gress and OMB about creating an open recommendations website. I think that is something members across the board have asked us about, OMB's interested in, they would be very valuable. Many of those open recommendations carry billions of dollars in cost savings. We'd like to get a whistleblower-friendly reporting web page up. Some of that would require some additional funding. We've estimated in the $1 million to $2 million range to develop the pages and staff them, and we are looking forward to talk to Members of Congress and OMB about that.

Mr. PALMER. Well, quickly have you looked at creating a recommendations database similar to what the GAO uses?

Mr. HOROWITZ. Right.

Mr. PALMER. I worked on a number of issues where the GAO and General Dodaro, and it's been extremely helpful. Are you guys doing the same thing?

Mr. HOROWITZ. Absolutely. In fact, that is the impetus for a lot of this. In fact, that was the first impetus for oversight.gov was looking at GAO's web page, because you can to GAO's web page and you can go to oversight.gov and see all of their work across the entire Federal Government. You couldn't do that until October 1 with the IGs.

So the first step was oversight.gov; we talked with Mr. Dodaro and others at GAO about how we can do that. And I don't know if this is possible, because I'm not the right tech person to figure this out, but the ideal scenario would be, we can develop an open recommendations page that talks with their open recommendations page so that Members of Congress, OMB, the public, can see across both of our organizations, the open recommendations and how long they've been open.

Mr. PALMER. Excellent.

Thank you, Mr. Chairman. I yield back.

Chairman GOWDY. The gentleman from Alabama yields back. The gentlelady from New York is recognized.

Mrs. MALONEY. Thank you, Mr. Chairman and Mr. Ranking Member and all the panelists.

I'd like to ask Mr. Roth, your office recently issued a classified report on the Federal Air Marshals Service, or FAMS. The unclassified summary of your classified report includes the title of the report which is, and I quote, "FAMS, contribution to aviation transportation security is questionable." Now, I recognize that you can't speak about classified material. But to the extent that you can talk about the unclassified part of this report, can you explain why the contribution of the Federal Air Marshal Service to aviation transportation is, in your opinion, questionable?

Mr. ROTH. I can't obviously talk about the specifics of the report.

Mrs. MALONEY. Yeah.

Mr. ROTH. But what I can talk about is TSA's attitude assessing risk, in that they will assess risk in certain areas of transportation, whether it is ground transportation, or air transportation, or specific aspects within the transportation.

The difficulty is they don't budget the same way that they assess risk. So things that are low risk, for example, still notwithstanding the change in, for example, the risk environment, or the intelligence that they receive with regard to terrorist activity, their

budget does not change in accordance with that, so money gets wasted basically fighting the last war.

Mrs. MALONEY. Well, building on what you said, the CRS reported that we spent over $800 million on the Federal Air Marshal Services in years 2015, 2016, and 2017. And that's an incredible amount of money to be spending on a service that is, quote, "questionable."

And the Government Accountability Office stated to the unclassified version of a report, and I quote, "For FAMS, TSA officials explain that it's very difficult to measure the effectiveness of Federal air marshals and the program, and that there's absolutely no way to collect data," end quote.

Do you agree with that? How in the world can you not measure when you're spending $800 million on it, is the result?

Mr. ROTH. I don't agree with that, and TSA will tell you they have specific classified documents that talk about the risk of specific events occurring. So they measure it, and can measure it. Our difficulty is that their management of the risk doesn't match their spending.

Mrs. MALONEY. So what do we do about it?

Mr. ROTH. Well, I'm a big fan of congressional oversight. One of the things that we're doing is that report is now classified at the secret level. We are going to redact the secret portions to make it a little more accessible. It will be at the SSI level, so more Members of Congress, for example, can see it and see whether or not this is an issue that is useful for oversight.

Mrs. MALONEY. Well, since you can't discuss it because it's classified, could you meet with the members in a bipartisan way that are interested, and discuss the classified sections with us?

Mr. ROTH. Absolutely. We welcome the opportunity.

Mrs. MALONEY. Okay. Maybe we can do that.

I'd also like to follow up on one of the posts from TSA. Their website said they had 20 layers of U.S. aviation security. But, again, you have reported that the checkpoint screening layer is deficient. Can you, to the extent that you can discuss the unclassified areas, could you share information on the screening deficiencies?

Mr. ROTH. Well, the only thing I can really say is that, again, we do these tests about every 2 years. The last time we did these tests was in 2015. I characterized those tests back then as disappointing and disturbing. I would characterize the results this time the similar way.

We found deficiencies in the equipment, we found deficiencies in the personnel, and we found deficiencies in the process by which they interacted with the equipment.

Mrs. MALONEY. Well, I can say for a system that is critical to protecting American lives, this is unacceptable, and we need to be briefed on the classified section of it.

And the warnings that are being raised about the extent of the problem, I find absolutely alarming, quite frankly, and we should begin by enforcing the existing subpoena that the TSA has ignored, completely ignored. And we should require depositions with TSA employees that have refused, absolutely refused to answer questions voluntarily that this committee has put forward.

So I personally look forward to your briefing, and thank you very much.

Mr. ROTH. Yes.

Mr. GOWDY. The gentlelady from New York yields back.

The gentleman from Kentucky is recognized.

Mr. COMER. Thank you, Mr. Chairman.

Mr. Roth, I have a few questions relating to the ongoing disaster-related investigations. First of all, this committee staff recently met with your staff in Texas regarding the response and recovery to Hurricane Harvey. In Texas, the Office of Inspector General has been investigating disaster-related fraud claims.

The impersonation of FEMA officials, bribery, extortion, and even human smuggling, are these typical crimes you see following a natural disaster?

Mr. ROTH. Yes, we do. One of the things that we try to do in the very early stages of a natural disaster, is that these folks have been victimized once by the natural disaster; we want to make sure that we try to prevent a second victimization by sort of the criminal elements who would come in, either with various sort of scams or identity theft, those kinds of things.

So we do see a lot of that typically in every natural disaster, So that's why we want to jump on it as early as we can.

Mr. COMER. What kinds of crimes and misconduct are you investigating in Puerto Rico and the Virgin Islands? Are there any particular trends you have assessed at this point?

Mr. ROTH. It's going to be roughly the same kind of things that your staff saw in Houston. So, again, impersonation of FEMA officials, for example, identity theft, various kinds of scams. Charity scams, for example, are always a big one that we always have to take a hard look at. So it's really the panoply of criminal conduct that we almost see every—every disaster.

Mr. COMER. How are you allocating the OIG resources to ensure that disaster relief funds are not misdirected to bad actors who try to take advantage of Federal programs to assist disaster survivors?

Mr. ROTH. Yeah. We have a full court press on this. I mean, typically, we spend roughly between $25- and $30 million a year on disaster relief. That's going to go up, obviously, as a result of these disasters.

We're doing a full court press, particularly early on in the disaster, to make sure that we have a public presence, that people know we're there. We're doing really on-the-spot auditing work to sort of take a look at some of the contracts that have been let to do sort of the basic name checks and criminal checks of the individuals who are getting contracts, to make sure that these aren't folks that are, for example, prohibited from Federal work or, you know, related in some way to a public official.

You know, those are the kinds of things that we do early on. And then, obviously, once the public assistance money comes in, we'll be doing early warning audits to take a look at whether or not the entity that's involved has the capacity to use this money in an effective way.

So we have a whole series of things that we'll do over the course of time. I mean, we're still finishing up Sandy work, for example. So it will take some time.

Mr. COMER. Right. I understand the complexities and the difficulty that an agency like FEMA would have coming into a situation where you've had a natural disaster, but in the past, FEMA has had a lot of bad press, and a lot of bad stories. Congress has continued to question FEMA, and hopefully trying to determine if FEMA has learned from past mistakes.

Do you feel like FEMA is on the right track as far as being efficient and trying to be responsive to the people in need, or what's your assessment right now of the direction we're headed with FEMA?

Mr. ROTH. Yeah. When you look at all of our audits reports, and there are hundreds of them, the picture that gets painted is that this is still not a mature agency. They don't have the kinds of internal controls that sort of a mature sort of organization should have in the spending of money.

Their culture is one of disaster relief. They're very victim centric, and I applaud the fact that they want to go in and they want to do whatever it takes. But what I worry about is that they don't have processes in place that will help during stressful times, like a natural disaster.

Mr. COMER. And that's what makes it difficult for members like myself who are concerned about the debt. I believe in a limited government. It's government's responsibility to help people that can't help themselves like in a disaster situation.

But my—speaking for myself—confidence level in FEMA isn't where it needs to be, and that's unfortunate, because I know we have a lot of people in need, and I believe that this agency can and should be the point of contact between the government and the people.

But I'm hopeful that FEMA will try to improve and restore confidence in at least members like myself that have read some of these audits and have serious concerns about the direction that agency is headed with it.

Thank you, Mr. Chairman. I yield back.

Mr. GOWDY. The gentleman from Kentucky yields back.

The gentleman from Massachusetts is recognized.

Mr. LYNCH. Thank you, Mr. Chairman, and the ranking member.

I want to thank our witnesses. Thank you for the job that you do every day. Not only is it very important work, but it is becoming rarer as, at least on this committee, we have, I think, abdicated our responsibility to conduct meaningful oversight. So your work becomes even more important.

Mr. Roth, it would be great to hear, maybe offline, your most recent review of TSA and what's going on. They've done incredible work.

Ms. Buller, I had a chance to visit with the Peace Corps volunteers in Tanzania. We've got some young, young American kids over there that are out there hundreds of miles from any major town, and basically trying to instruct the folks there, the tribal members on avoiding HIV infection, things like that.

But, you know, I know we instantly recognized the heroism and the courage of our military personnel, but I don't think we give enough respect and acknowledgment to some of these kids in the Peace Corps. Carrie Radelet, who is running the program over

there, at least was recently, and they're doing incredible work over there, really deserve a lot of support. So I really appreciate the work you're doing.

Mr. Horowitz, I want to talk to you about—you did a wonderful, in-depth, thorough investigation of the use of confidential informants by the ATF, the FBI, and DEA. And we found—you found—that there was almost no oversight being done in terms of how we select confidential informants.

In my district, we had a couple of instances where confidential informants were actually committing murders while they were on the payroll of the FBI. And we've got a lot of evidence out there that bad things are happening.

So ATF has about 1,800 active informants. DEA has about 1,800 informants. There's a—I think there's a blind spot here. The DEA has paid approximately $237 million out of—out to about 9,000 of their informants. They paid $25 million to eight people over the last 5 years.

There is very little evidence that we can see about how these people were chosen, where the tax money is going to pay these informants, what value they are to law enforcement efforts. It's a black hole.

So, you know, you've done some great reports. I know there's an addendum here, this year addendum to last year's review. Has anything improved here in terms of their accountability, in terms of who they choose as an informant, whether they report the crimes?

So there's a lot of crimes being committed by confidential informants with the protection of government under the pay—on the payroll of the government, and we don't get any reports at all. Congress gets nothing. We don't want to know anything. That's just out there. They do their thing. It's unconscionable, but that's the situation that exists.

Has anything gotten better?

Mr. HOROWITZ. First of all, I agree with you on your assessment. And as you know, and we've talked about, our office worked on the Bulger matter that you referred to, which was the FBI informant, both on his prosecution and the agent's prosecution.

Mr. LYNCH. Right.

Mr. HOROWITZ. These are very serious issues. These are people who are usually involved in illegal activity before they become informants—not always, but often—who are then being authorized to conduct additional illegal actions with the stamp of approval of the Federal Government, and the Justice Department in this instance.

We found widespread problems, as you noted. Part of the report, the addendum is the classified piece of it, so I can't go into some of those details but——

Mr. LYNCH. Let me just stop you right there. We have to do this. We have to do our work. You know, Mr. Horowitz, all three of you, I would recommend we do a separate hearing with each one of you, public hearing, about what we can talk about, and then we do three confidential—you know, three basically restricted forums, where it's in camera, and that we get the rest of the information for you, because this is just unconscionable that this would be allowed to continue. It's putting the national security and the privacy protections of the general public at great risk.

Mr. HOROWITZ. I agree, and I'd be more than happy to come and speak with you and other members about the nonpublic information but also, obviously, keep you and the committee informed about what we're seeing as we do follow-up work.

Obviously, we will continue to watch how this is going, because we agree, these are very significant issues that we've identified.

Mr. LYNCH. All right. Thank you, Mr. Chairman. I yield back.

Mr. GOWDY. The gentleman from Massachusetts yields back.

The gentleman from Georgia is recognized.

Mr. BLUM. Thank you, Mr. Chairman.

Mr. Horowitz, I want to come to you. I would like to change gears a little bit, go back to the Puerto Rico discussion. Last month, the DOJ recommended that the oversight board that Congress established for Puerto Rico, that it take steps to ensure that the Federal disaster relief funds are protected from creditors.

Has—has your office, have you all reviewed those recommendations?

Mr. HOROWITZ. We have not yet, and I'd be happy to follow up and check into that and get back to you.

Mr. BLUM. Is there any reason that you haven't?

Mr. HOROWITZ. Frankly, with the variety of work and—on our plate, we are, you know, obviously interested in looking at it and talking with you further about it.

Mr. BLUM. Please do, and I would like your input on that. Yesterday we had, in Natural Resources, a hearing that involved the government of Puerto Rico, and I was able to question. I have some very serious concerns with this whole thing.

October 23, he established, by executive order, the CRRO, the Central Recovery and Reconstruction Office for Puerto Rico. And according to that executive order and his own testimony, the purpose of the CRRO would be as a central collector of all the various streams of financial support that the island is receiving.

All right. That sounds pretty good, but when you start coming down to the enormous amounts of money that are coming in—I mean, just yesterday, he requested between $90- and $100 billion yet to come. And so my question is, if we here in Congress have authorized the oversight board to oversee the economic recovery of Puerto Rico, where does this leave the CRRO and what kind of conflict is involved in it?

Mr. HOROWITZ. Yeah. And I'm certainly happy to look into that. We did an audit report last year on the Department's money going into Puerto Rico and found a wide variety of concerns and problems about that, so this is a very important issue. There's a lot of Federal Government money going, not just with the disaster relief efforts, but day in and day out.

Mr. BLUM. Right, day in and day out.

And let me ask a couple more questions with this. And, Mr. Roth, I'm going to come to you on this too, because I want to get my head wrapped around as much of this as I can.

Do you know whether or not the CRRO will be accountable to the oversight board?

Mr. HOROWITZ. I don't know the answer to that as I sit here, but I'm certainly happy to look into it.

Mr. ROTH. Yeah. I don't know either. I'm sorry.

Mr. BLUM. How can we be looking at all this money flowing in there with a new, established office, the CRRO, and we don't have any idea where all this—I mean, streams of—gobs of money going in this. And there seems to me that there's no accountability in this, and they're asking for more and more all along.

Will the Office of the Inspector General be investigating the CRRO?

Mr. HOROWITZ. Well, I'm going to follow up and look at the issues. I will just say, in terms of the disaster recovery moneys, I just want to mention that CIGIE, the Council of IG, has a disaster assistance working group to make sure we're all coordinated as IGs.

Actually, IG Roth leads that effort. We—he's had meetings already about it. We've coordinated and we're talking to GAO. They have participated in these discussions. We want to have a comprehensive review on the disaster recovery effort.

And I'll just add, you're going to see in the next several weeks, on Oversight.Gov, a new link and a web page so the public can watch where that money has been going in our oversight efforts on the disaster recovery efforts.

Mr. BLUM. That would be very helpful. We're just talking tens and tens of billions of dollars involved, and more probably on the way. And there appears to me to be absolutely no accountability. I'd like to know if there's going to be any auditing. I want to know if the oversight board is going to have any real oversight or involvement in this. They may be a conduit for the money to go into and be disbursed, but who's overseeing that——

Mr. HOROWITZ. Well, and that's the issue that I think we have to follow up and see where the money is coming from and where it's going to so that we understand who's conducting oversight.

Just to be clear, with all of the oversight work we all do, the first line of defense has got to be the agency and the entity. We have limited staff. I have 450 people—470 people now in my OIG to oversee 110,000 people.

I have $100 million budget, $95 million budget to oversee a $28 billion budget. So—and John's numbers, actually, IG Roth's numbers are probably even more skewed the other way. So, you know, we've got limited resources. We've got to make sure our agencies are doing the work they need to do as well.

Mr. BLUM. We do. And we've got to make sure there's oversight of all of this. I was stunned with his request of 90- to $100 billion. And I did a little research. That's more than what NASA is requesting for the Mars One project that goes from the 2011 to the mid-2030s, where we're actually going to be putting a permanent human colony on Mars, for crying out loud.

And Puerto Rico is wanting more money. It's like, this is an unbelievable amount of money, and we have got to make sure that the accountability is there. And I thank you for your assistance in that.

I yield back.

Chairman GOWDY. The gentleman from Georgia yields back.

The gentlelady from Illinois is recognized.

Ms. KELLY. Thank you, Mr. Chair.

I wanted to talk a little bit about the hiring freeze. On January 23, 2017, President Trump imposed a government-wide hiring freeze for civilian employees. In April, the Office of Management and Budget replaced the President's hiring freeze with a directive to all Federal agencies, quote: "Begin taking immediate actions to achieve near-term workforce reductions and cost savings."

The Democratic committee staff surveyed inspectors general at two dozen Federal agencies to determine the potential effect of these actions on their ability to conduct oversight of Federal programs and operations.

Mr. Horowitz, the response we received from your office in March stated, and I quote, "As we continue to assess the impact of the hiring freeze and prospect of a reduced budget, DOJ, OIG is concerned about the potential impact that a period of sharply limited resources could have on our ability to continue to perform the kind and range of audits, evaluations, and investigations that are expected of us."

I understand that your office was able to hire some staff this year. How could a hiring freeze impact an IG office in its ability to conduct oversight?

Mr. HOROWITZ. Obviously, a hiring freeze would have an impact, or could have an impact on IGs because of the limitations on adding staff. We are—as IG Roth mentioned earlier, all of our work is driven by our staff and our ability to do their work.

I'll just add this caveat: We were largely exempted from the hiring freeze as IGs because of our law enforcement and other important responsibilities. What does worry myself and other IGs is flat budgets for us is, in effect, a hiring cut, because costs increase, rent increases, healthcare increases, other benefits increase, meaning we have to reduce staff if we're held flat.

And that does have an impact on us. We're not like the FBI, DEA, other parts of the Justice Department that can look to nonpersonnel costs to save money. We're all about two things as a general matter: People and rent. And we're not going to close our buildings because we still have people working in them. So it's all going to have to come out of personnel.

Ms. KELLY. So freezes and flat budgets both impact the mission of your organizations?

Mr. HOROWITZ. Right. So I would just—that is actually far more important to me in my office than perhaps the hiring freeze was because of the exemption we were given.

Ms. KELLY. Okay. Mr. Roth, the survey response that our staff received from your office stated, and I quote, "That said, to adhere to the intent of the hiring freeze, there is still many support positions that are on hold during the freeze that we believe, based on past experience, will over time reduce the Department's overall capacity and capability. However, the long-term impact remains to be determined."

Has your office taken any actions to implement the OMB directive?

Mr. ROTH. Yes. So what we have done—and, again, the freeze was lifted in April, as you note, and, you know, since then we are hiring up to our budget levels. So there was a pause while we tried to understand what it was that was going on, but we have now

been able to continue to hire basically to our full-time equivalent level.

Again, to reiterate what I said in my testimony as well as what Mr. Horowitz testified to, what we worry about is future budgets. The President's budget for me for fiscal 2018 has a 10 percent cut in our budget, and that would be 10 percent below this year's level at the same time that the rest of DHS is increasing. So as their risks increase, our opportunity to take a look at those risks and try to mitigate those risks decline. So that's what we worry about more than a freeze.

Ms. KELLY. Okay. Many IG offices responded to our survey noting serious concern about the impact of the administration's hiring freeze and proposed staffing reductions. The Department of State IG reported that it faces, and I quote, "staffing challenges in our oversight of operation, inherent resolve in Operation Freedom Centennial, the U.S. efforts to defeat the Islamic state of Iraq and the Levant and the Taliban respectively."

The EPA IG warned that staffing reductions could, and I quote, "hinder significantly our ability to exchange protective intelligence information with the FBI, Secret Service, and Marshal Service, which would delay the apprehension of criminals."

Given how impactful IG offices can be in preventing waste, fraud, and abuse, it makes very little sense to impose a freeze, staffing reductions, or budget cuts on IGs. The Government Accountability Office found that a previous hiring freeze, and I quote, "caused decreased oversight of Federal programs by making it more difficult for the inspector general offices to do their jobs, something we want you to have the capability to do.

And I yield back.

Chairman GOWDY. The gentlelady from Illinois yields back.

The gentleman from Oklahoma is recognized.

Mr. RUSSELL. Thank you, Mr. Chairman.

And thanks to all three of you for the work that you do. Our government would be far less efficient without the fantastic work that you do.

Ms. Buller, I would like to start with you, but actually ask all three of you, because you had expressed concern, along with Mr. Horowitz, about desire for an independent testimonial subpoena authority. And I think this is important that—you know, that we explore that a little more.

Would you speak to that, and actually all three of you, of why this subpoena authority you feel is necessary?

Ms. BULLER. Often during the time that we're conducting an audit or an investigation, people who have knowledge of events that happened during the course of the event—of the activities that resulted in the auditor investigation leave for whatever reason, either they retire conveniently, sometimes, or they just leave.

And we cannot, once they leave the government, make them talk to us. When they're employees of the government, we do have the ability to access them. Once they're gone, we don't.

And in the Peace Corps, it's exacerbated because we have a 5-year term limit. So there is people coming and going all the time, and most of the time, they don't even stay for the 5 years. So once they're gone, and we're in the middle of an audit, we can't talk to

them about it or—if they don't want to talk to us. That's the importance of a testimonial subpoena.

Mr. RUSSELL. And I appreciate the insight on the 5-year term limit, which makes it even more difficult.

Mr. Horowitz, and then Mr. Roth.

Mr. HOROWITZ. I'll speak to whistleblower matters. Congress, for good reason, gave IGs authority to look at whistleblower retaliation at contractors and grant recipients when management there tried to shut down employees from reporting waste, fraud, and abuse to us.

Well, the challenge is, unlike employees in the Federal Government, which when they're employed, they have to speak to us, the same isn't true for current or former employees of contractors or grant recipients.

And so, we have that authority now to investigate, but I've had cases where the people who were the alleged retaliators, either left their jobs, in which case they clearly were unreachable to us because they weren't going to voluntarily speak to us, or even if they were still at the job, it would require management of that organization to tell the employee to speak to us because there's no other way to do that.

And so, it's very important the whistleblower space, as well as frankly the misconduct space. We see, not infrequently, Department employees conveniently retiring on the eve of being questioned about the misconduct we're——

Mr. RUSSELL. That seems to be a bad habit.

Mr. Roth.

Mr. ROTH. Yeah. And I would add, for example, in the FEMA context, you know, most of the money goes to States as grantees and then the State and locals as municipalities and then to private contractors. So just to trace the money and do a basic fraud investigation, never mind the whistleblower retaliation, requires the cooperation of all those folks.

Now, the grants give us access to documents, but they don't give us access to people. So being able to go in and interview folks and get people on the record in those kinds of fraud contexts is enormously important.

Mr. RUSSELL. Well, that's great insight. And so we've had some authority kind of like this in the past. It's now disappeared. What's the fix? It's obviously going to require legislative, but what are your ideas on this?

Mr. HOROWITZ. Well, it would require a legislative fix. And to be clear, the Defense Department IG has this authority——

Mr. RUSSELL. Right.

Mr. HOROWITZ. —and has used it very judiciously and appropriately. And as they've noted, just having the authority causes people to want to speak voluntarily, frankly, probably much like this committee——

Mr. RUSSELL. Right.

Mr. HOROWITZ. —right. You don't probably have to issue many subpoenas to get people to come in and speak with you, but it helps to know that that subpoena power is there.

We would need legislation. We worked very closely with the supporters of this in this committee and on the Senate side to put in

place controls around it because it was reasonable—there were reasonable concerns to make sure that we would use it in connection with people who actually benefited from government programs.

We weren't running around trying to subpoena people who I'm not sure I would have the time to do that, but we wouldn't use it for that purpose. So we're prepared to sit down and address any concerns about the use of it, make sure there's effective oversight. We had talked about a three-IG panel to make sure that existed, and that was what was originally in the draft legislation we worked with the committee on. We're prepared to work and make sure this is used reasonably and appropriately. Frankly, just having the authority, I think, will cause us to not need to use it.

Mr. RUSSELL. Well, and your point on Department of Defense is spot on. Them having the authority really precludes a lot of subpoenas.

And, Mr. Chairman, I think this is something that we ought to explore, that we ought to try to do, because without teeth behind the bark it's not really going to matter much. And for the record, I would like to assist this committee in that effort. I think that it is something worth doing.

And I've run out of time, and I yield back.

Chairman GOWDY. We'll do one better. We'll let you take the lead. Why don't you be our lead on finding a way to——

Mr. RUSSELL. Well, I'm happy and honored to work with the IGs on this issue. I do think it is—we see it in other aspects of government where it's very effective, it's not abused. And I think for our IGs to do even more incredible work, we need to give them the proper tools. Thank you.

Chairman GOWDY. I thank the gentleman from Oklahoma.

I'll now recognize myself. I'll start by thanking all three witnesses.

IG Horowitz, I'm going to probably direct my questions to you, in part because of what you do now, and, in part, because of what you used to do in a very distinguished career as an assistant United States attorney.

Give us the other side over the argument on compulsory process, because when something—it sounds like a great idea, and this does, the ability to compel evidence really. The fact that we don't have it leads me to believe that there is at least some argument on the other side. What would it be?

Mr. HOROWITZ. So the Justice Department itself has opposed giving IGs——

Chairman GOWDY. That would be an argument.

Mr. HOROWITZ. And their concern is, then, that if we subpoena somebody and compel them to speak to us, that could negatively impact their ability to pursue criminal cases in matters they may have ongoing that we don't know about. We put in place a procedure in the Act to address that. The Department would get notice before we gave any—issued any subpoenas.

Much like is currently in existence, as you know, from being an AUSA yourself, that before anybody gives immunity to anybody in the Justice Department, there's a central process for doing that to make sure an AUSA in New York doesn't harm a case going on by an AUSA in South Carolina, for example.

That's what we've proposed here. And, frankly, I, as a former prosecutor, don't understand that argument. If I was if AUSA handling that case that was criminal, and they didn't know about our work, I'd want to know about our work, because that could give them additional leverage in their criminal case.

So as a former prosecutor, frankly, I don't understand the argument once you've put in place the protections. And Mr. Roth also is a former prosecutor, and we very much respect the concern, and we'll work with them to put that in place. But there's a way to address that, I think.

Chairman GOWDY. Well, I hope so. I think there has to be. The ability to simply leave your place of employment and avoid scrutiny or having to provide information makes it really tough to conduct fulsome investigations.

Keep that same old hat on for a second.

Mr. HOROWITZ. Okay.

Chairman GOWDY. There's an issue with respect to OPR.

Mr. HOROWITZ. Uh-huh.

Chairman GOWDY. Explain for those who may not have worked for the Department of Justice, don't explain—don't understand what OPR is, what is the issue there and what are both sides of the argument?

Mr. HOROWITZ. Okay. So the office—OPR, the Office of Professional Responsibility at the Justice Department, was created long before the IG Act was passed to look at misconduct by prosecutors. The head of that Office is appointed by the Department's leadership, the Deputy AG and the Attorney General, and they handle all allegations, prosecutorial misconduct against prosecutors for conduct in connection with their jobs as lawyers. So, for example, in the courtroom and those kinds of issues.

That's a carve-out that exists now in the IG Act, so that when my office was created back in 1988, it was carved out of our jurisdiction. We're the only IG with this carve-out. And it means that while we look at misconduct by FBI agents, DEA agents, ATF agents, other personnel, non-lawyers in the Department, as well as lawyers when they engage in misconduct outside of work, we can't look at prosecutorial—allegations of prosecutorial misconduct.

We don't see a principled reason why we should be able to look at FBI agents' misconduct, but not misconduct by Federal prosecutors. If there's—if it's important enough to have independent oversight by a statutorily independent IG over FBI agents, surely it's the same for prosecutors who wield at least as much power as FBI agents by their ability to act improperly in a courtroom.

The flip of that has been, the Department's argument has been—and again, they've always opposed giving that authority to us—is that the Office of Professional Responsibility has managed that function effectively since its creation, they know how to do those cases, and there's no reason to change the process.

It's my view that for purposes of independent oversight and transparency, there have been many issues coming forward in the last many years about questions of oversight of prosecutors. Several judges have raised concerns. And I think it is—people would be hard-pressed to explain to an FBI agent why they need independent oversight by an inspector general. But the prosecutors

they're working with day in and day out, they go in another—through another door.

Chairman GOWDY. Particularly, in many instances, the Bureau agent, herself or himself, may also be an attorney. So their agent conduct is scrutinized or investigated one way.

And if I heard you correctly, Representative Hice, Cedric Richmond from Louisiana, have worked with you on proposing a legislative remedy in this area as well as the one Stevie made reference to?

Mr. HOROWITZ. That's correct.

Chairman GOWDY. All right.

Mr. HOROWITZ. And we have—we've worked, as well, with bipartisan members on the Senate side to do the same.

Chairman GOWDY. Last issue, because I'm out of time. I don't like to do it. But quickly, I'm not asking you about the merits of it, you couldn't talk about it, don't—I wouldn't ask you about it. But your reputation for integrity is well-deserved, and has been around for a long time.

You are looking into certain matters and decisions made by the Department of Justice in the 2016 election cycle, calendar year.

Mr. HOROWITZ. Right.

Chairman GOWDY. Do you have an update from a time standpoint? And, secondarily, are you able to access all the witnesses and documents that you think are necessary for you to conduct a fulsome investigation?

Mr. HOROWITZ. And I can certainly talk to the process questions and the timing questions, and I appreciate your respecting the ability to complete that in an independent way.

In terms of process, we have gotten all the records we've asked for. We've gotten them, as a general matter, in a timely fashion. We've interviewed dozens of people. We're not at the hundred level yet, but we're in the dozens range.

We've reviewed about 1.2 million records in the course of the investigation, so a pretty substantial effort by the team, which has done great work. We are aiming to release the report in late winter, early spring, so hopefully in that March, April time period.

Obviously, I can't commit to that because, as we've seen, events can arise, issues can arise that require us to do additional interviews or get additional records. And given there's a classified piece to this, as you know, it requires a significant process to make sure that individuals who are no longer at the Department or are lawyers for individuals who are no longer at the Department can actually be a part of those interviews by getting renewed clearances.

So that's impacted somewhat the timeframe, but we're moving along quite expeditiously, and that's my hope.

Chairman GOWDY. Thank you.

I thought I was last, but the gentleman from Wisconsin has joined us and—I apologize. The gentlelady from Michigan. I didn't see you. I'm old and I can't see that far.

Mrs. LAWRENCE. No, you have a lot of years left, sir.

Thank you so much, Mr. Chair.

Mr. Roth, 2 years ago, you testified before this committee after your team completed testing at TSA checkpoints that your team had run tests using different concealment methods at eight dif-

ferent airports. The report—you reported, and I quote, "The test results were disappointing and troubling." Is that right?

Mr. ROTH. That's correct.

Mrs. LAWRENCE. Okay. With that being said, 2 years ago, you testified that, quote, "The Department's response to our most recent findings have been swift." You said that then-Secretary of DHS directed that an immediate plan of action be created to correct deficiencies uncovered during that testing.

Was that plan implemented? And if not, why not?

Mr. ROTH. It was implemented. The difficulty, of course, is that it's a massive problem in three areas: One, training personnel. They have over 40,000 transportation security officers that would need to get trained; they have technology issues that are going to require a long-term fix of research and development and deployment; and then they had process issues as far as their standard operating procedures missed certain methods of concealment that needed to get tightened up.

They started a training program, a fairly rigorous training program, particularly for new employees. They are on their way to try to fix the technology. And then, lastly, they have, I think, done a pretty good job of tightening up their procedures with regard to that. The difficulty is the training and the technology piece are long-term fixes.

Mrs. LAWRENCE. So with that being said, as we know that it's troubling to you, is absolutely troubling for the American citizens who are subjected to this obvious inefficiency. So we talked about long term. What is long term, and what is the expectation? I say to you that we can expect this removal of troubling findings that we are aware of.

Mr. ROTH. We made eight recommendations in this last audit report. The Department agreed with each of those eight recommendations. This is an enormously difficult problem, but it's one that's—it's going to require constant attention to get right.

One of the things that we found, for example, when we did our covert testing this time is that we asked whether or not the TSOs, who we discovered deficiencies with, had gone through the training. And, you know, frankly, notwithstanding the fact that they have been training people at a record pace as a percentage of the workforce, only a small percentage of that workforce has been trained.

You know, we found other issues that we hadn't discovered in our last——

Mrs. LAWRENCE. What's the timeline? What is——

Mr. ROTH. I don't have the timeline. The process that we use is that we make our recommendations. The Department takes it, and in 90 days, they give us a plan. So we have not received that plan yet. So I can't——

Mrs. LAWRENCE. I would like for this committee to be updated because the American people need to know what the expectation is, that we are in compliance.

Mr. ROTH. Yes.

Mrs. LAWRENCE. I have a very important issue. As you know, I represent Michigan, Detroit. At the end of September, ICE arrested nearly 500 people in 10 different cities and regions across country.

It's evident that many of these immigrants may not be dangerous. In fact, sometimes their only supposed crime is crossing the border before they work and pay taxes.

Do you know currently what is ICE criteria for deciding which communities to target and deport? How does ICE ensure it's not wasting taxpayers' dollars in time by targeting non-dangerous immigrants? And did you examine whether ICE is using resources in efficiency, and this new criteria of it appears to be rounding people up? I really need an answer for that, Mr. Roth.

Mr. ROTH. We have not done any specific audit work with regard to ICE priorities. What we have done is spend a considerable amount of resources on misconduct cases where we'll get reports of misconduct.

For example, we're doing a series of investigations at the southwest border regarding individuals who have credible fear claims who are being turned away without having those credible fear claims adjudicated.

Those are the kinds of things that we're looking at, but we haven't looked at and commented on specifically ICE's priorities or the Secretary's priorities and how it is that they are using those resources.

Mrs. LAWRENCE. Well, it needs to be looked at. And I can tell you in a community that's not on the southwest border that we have major issues in large immigrant communities of disparate treatment that when we question, and I as a Member of Congress, there seems to be no following of an agenda or priority set by anyone.

So are we just—renegade across the country. We should all know what the criteria and why we are operating the way we are. And this is something that is extremely important for our communities, for people who are living in our cities.

I yield back my time.

Chairman GOWDY. The gentlelady from Michigan yields back.

The gentleman from Wisconsin is recognized.

Mr. GROTHMAN. Sure. I'll give a couple questions.

The Inspector General Empowerment Act provided an exemption to inspectors general from the Computer Matching Act. Has this improved your oversight?

Ms. BULLER. It has the potential to greatly improve our oversight. It will allow IGs to use computer matching more efficiently. One of the problems we had with the Computer Matching Act to begin with was that our agencies had—were involved in the approval process of us being able to match.

Since we don't have to do that anymore, it will allow IGs to more effectively take information from one agency and one IG to another IG and match it, and ferret out more improper payments and fraud.

Mr. GROTHMAN. Good. Could you give me some specific examples?

Mr. ROTH. I can tell you about what happened when we didn't have it before and the delays that were incurred. We took a look at the individuals who have what's called a SIDA badge, which is a secure identification access card to parts of the airport where airplanes are. Obviously, you're supposed to have a specific security clearance for that or certain background check for it.

So we took a list of those folks, which is 900,000 people, and we bounced it against the list that the intelligence community has, what they call their TIDE database, which is the Terrorist Identities Datamart Environment, basically it's their list of all known or suspected terrorists.

Hopefully, those two subsets of information, there would be no individuals who were in both subsets. What we found, in fact, were that the 73 individuals who were on this terror list also had access to secure parts of the airport, obviously of considerable concern to TSA and aviation security.

It took us 18 months just to get the approval for the computer matching. So that is the kind of delay that is now gone as a result of the Computer Matching Act. And I know, from our point of view, we're going to be using it on these hurricane relief efforts significantly.

If I can take the list of people who are FEMA recipients for housing and bounce that against the HUD database of people who are receiving those very same benefits, see who falls out, and then we know that people are getting duplicate payments.

Mr. GROTHMAN. Thank you.

Mr. HOROWITZ. And let me just add, one of the things that myself and Vice Chair Allison Lerner have done in meeting with OMB is encourage them to consider a pilot program with several cabinet-level agencies to look at whether there's improper benefits going to employees of those agencies, or other recipients of those agencies that are duplicative of benefits, whether it's disability or Section 8 housing or food stamps or any of the other large Federal programs out there, to try and use our authority in a way that would find these duplicative payments.

GAO has reported that number is well in excess of $100 billion a year. So it's an important tool that you've given us, and we're using it in several instances.

Mr. GROTHMAN. Thanks. Hopefully all the agencies will take advantage of your findings. We'll see.

I'll give you one more question, Mr. Roth, since you brought it up. When you talk about people coming into this country because they're fearful, which countries are people coming here from that they're fearful?

Mr. ROTH. I don't have data anecdotally. The agents tell me on the southwest border that it's largely Central American countries, but I don't have the specifics or numbers. I'm sure that you can get that from USCIS, for example.

Mr. GROTHMAN. Okay. They're not adjacent to the country. Are we supposed to take in somebody here—or how would they be getting in here from a South/Central American country?

Mr. ROTH. I mean, typically the immigration patterns are through Mexico.

Mr. GROTHMAN. Are they endangered in Mexico or just endangered in——

Mr. ROTH. Again, we don't look at those. All we look at is whether or not the Department is following the policy that has already in place rather than the wisdom of the policy itself.

Mr. GROTHMAN. Okay. Thanks much, and I'll yield the remainder of my time.

Chairman GOWDY. The gentleman from Wisconsin yields back.

The gentleman from Maryland, Professor Raskin is recognized.

Mr. RASKIN. Mr. Chairman, thank you very much. And I'm delighted to be with you guys. Forgive me, I had another hearing, so I had to step out.

But I'm excited to ask a few questions to Mr. Horowitz. And I want to ask you about a June 29 letter that the Democrats on this Committee in Judiciary sent to you raising concerns that Attorney General Sessions may have departed from his decision to recuse himself when he participated personally and directly in President Trump's decision to dismiss FBI Director Comey.

You received that letter, right?

Mr. HOROWITZ. Yes.

Mr. RASKIN. The reason we wrote you is because the Attorney General said he was recusing from all matters relating to the 2016 campaign, both the Trump campaign and the Clinton campaign, but then worked directly with President Trump and the Deputy Attorney General to fire Mr. Comey, the FBI Director.

And it was said they were firing Comey because of the way he handled the Clinton investigation. In reality, of course, the President admitted both to a group of visiting Russians in his office and on national TV that he fired Director Comey because of his distaste for the Russian investigation, and that Comey was becoming a problem for him.

My question is whether your office is investigating the issues we raised in our letter, whether the Attorney General violated his decision to recuse when he undertook these actions?

Mr. HOROWITZ. So we did receive the letter. And one of the things that, whenever we get a request like that, in any space is, is there an ongoing department investigation? And as you know, there was a special counsel appointed. The request from—the letter request relates to matters that could touch on that investigation.

And one of the things that we try and do as IGs is, obviously, defer, continue to consider and assess the—a request like that when there's an ongoing Department investigation. So we have not made a final decision on that.

Mr. RASKIN. Gotcha. Did you say, I'm sorry, you have not made a——

Mr. HOROWITZ. We have not made a decision on that.

Mr. RASKIN. I gotcha. Okay. Because I understand that as a general policy, but if the subject is—if the subject of the investigation is the recusal of the Attorney General or another high official, him or herself, one would think that the IG policy would have to adjust for that, right?

Mr. HOROWITZ. And obviously every situation, it depends on the specific facts. I think one of the things we generally try and do is hold in abeyance any activity while there is an ongoing FBI or special counsel—in this case, special counsel investigation——

Mr. RASKIN. Gotcha.

Mr. HOROWITZ. —under the FBI. That's what we're doing here. And——

Mr. RASKIN. But it's still—the ball is still in spin, it sounds like?

Mr. HOROWITZ. The ball is still in my court.

Mr. RASKIN. It's in your court, okay.

Monday, DOJ sent a letter to the Judiciary Committee saying that the Attorney General had been directly involved in decisions regarding the appointment of a special counsel to investigate, and I quote, "the sale of Uranium One alleged unlawful dealings related to the Clinton Foundation and other matters."

The letter says the AG directed senior Federal prosecutors to evaluate whether a special counsel should be appointed, and told them to report their findings directly to the Attorney General and Deputy Attorney General.

So this letter indicates that the AG is not recusing himself from these matters and is still directly involved, and seems to contradict what he claimed he had been doing before, which was to recuse himself from them.

Now, I know—I understand your position, that your—as long as it appears like something is going on, you're not going to get involved. But I just want to know whether you agree with me to the importance of this matter.

At the Attorney General's confirmation hearing on January 10, he testified, and I quote, "I believe the proper thing for me to do would be to recuse myself from any questions involving those kinds of investigations that involve Secretary Clinton and that were raised during the campaign or be otherwise connected to it."

Remember, one of the pervasive chants of the campaign and was, "Lock her up," and they were raising all these questions about the Clinton Foundation.

Senator Grassley asked him a follow-up question, and I quote, he said, "To be very clear, you intend to recuse yourself from both the Clinton email investigation and any matters involving the Clinton Foundation, if there are any?"

And the Attorney General responded, and I quote, "Yes."

So he testified under oath, he would have nothing to do with any investigations that involved Secretary Clinton that were raised as a political football during the campaign or that were otherwise connected to it, and he explicitly referred to the Clinton Foundation. But the letter that we saw on Monday from DOJ suggests the opposite, that he's working directly on these matters when he shouldn't be.

And I understand it's complicated because you're dealing with investigations that might relate to people within the Department of Justice. But will you please agree to look into this and report back to us as soon as you have an update and a resolution as to what you think the proper role of the IG is?

Mr. HOROWITZ. Yeah. As I said, I will certainly be in that position with the prior letter and be happy to receive any additional information about Monday's letter or—Monday's letter to the Congress, or any other matter. We, I'll just say as a general matter, take conflict-of-interest matters and recusal matters. Those are important.

Obviously, much of it turns on the conflict-of-interest laws and the regulations, which, as you know, are somewhat arcane and complex. But we're certainly happy to take under advisement any matter that a Member of Congress or the committee wishes us to take—to consider and assess.

Mr. RASKIN. Thank you.

And I yield back to you, Mr. Chairman.

Chairman GOWDY. The gentleman from Maryland yields back.

I want to thank our witnesses. On behalf of Mr. Cummings and all the other members and myself, thank all of you for appearing before us today.

The hearing record will remain open for 2 weeks for any member to submit a written opening statement or questions for the record.

There is no further business. Without objection, the committee stands adjourned.

[Whereupon, at 12:09 p.m., the committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Response to Questions from Representative Gerald E. Connolly

1. **How does the Council of the Inspectors General on Integrity and Efficiency (CIGIE) investigate allegations of misconduct by an Inspector General? Are there any limits on the types of allegations that CIGIE will investigate?**

Response: Investigations into allegations of misconduct by Inspectors General are the responsibility of CIGIE's statutorily established Integrity Committee (IC), as reflected in section 11(d) of the *Inspector General Act of 1978*, as amended, 5 USC app. (IG Act). Specifically, the IG Act states that the IC "shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and [certain specified] staff members of the various Offices of Inspector General." Sec. 11(d)(1). The IC is made up of four Inspectors General appointed by the CIGIE Chairperson, an official from the Federal Bureau of Investigation (FBI) designated by the FBI Director to serve as a CIGIE member, and the Director of the Office of Government Ethics (OGE) or a designee of the OGE Director.

The passage of the *Inspector General Empowerment Act* (IGEA) in December 2016 made structural changes to the IC and its procedures for reviewing allegations. As a result of the statutory changes in the IGEA, the IC revised and recently adopted new policies and procedures for reviewing and investigating allegations against Inspectors General and certain staff members. The revised Integrity Committee Policies and Procedures (ICP&P) are attached and can also be found on CIGIE's website here: https://www.ignet.gov/sites/default/files/files/Integrity_Committee_Policies_and_Procedures_Revised_Jan-2018_Final.pdf. The ICP&P describes the process that the IC, and therefore CIGIE, receives, reviews, and investigates allegations of misconduct by an Inspector General.

With respect to limits on the types of allegations that the IC will investigate, allegations that meet the threshold standard are referred to the Chairperson of the IC for investigation, unless the matter is resolved based on the documents submitted during the pre-investigative inquiry (e.g., allegations taken on their face do not meet the IC's threshold standard) or referred to another agency or authority with jurisdiction. The threshold standard is described in the attached ICP&P.

2. **Please describe CIGIE's process for handling allegations of misconduct by an Inspector General including any timelines.**

Response: Please refer to the response to question 1 regarding the process for handling allegations of misconduct made against an Inspector General.

With regard to timelines, both the IG Act and the ICP&P include timing provisions, and there are four primary deadlines that the IC strives to meet: (1) within seven business days of receipt of an allegation, the IC's Allegation Review Group determines whether the allegation will be referred for review to the IC, the Office of Special Counsel (OSC), or the Justice Department's Public Integrity Section (PIN); (2) within 30 days of a referral from the Allegation Review Group to the IC, the IC is to conduct its initial review and determine whether the matter should be referred to the IC Chairperson for investigation; (3) within 150 days of a matter having been referred to the IC Chairperson for investigation, the IC Chairperson is to complete the investigation; and (4) within 30 days after completion of an investigation, the IC is to forward the report of investigation and its findings, conclusions, and recommendations as set forth in the

ICP&P. The ICP&P includes provisions regarding Congressional notifications that must be made if certain of these timing provisions cannot be met.

3. Under current practices and rules, does CIGIE investigate allegations of whistleblower reprisal by an Inspector General? How is that handled?

Response: Under current law, allegations of whistleblower reprisal involving an Inspector General can be investigated by OSC and/or the IC. As described in our response to question 2 above, when allegations are received by the IC, including whistleblower allegations against an Inspector General, the Allegation Review Group considers whether to refer the matter to PIN, OSC, or the IC. If the Allegation Review Group refers the matter to OSC, the IC is made of aware of such referral, and retains the discretion to concurrently consider and investigate related allegations in consultation and coordination with OSC. In addition to the possibility of concurrent consideration, if the Allegation Review Group refers a whistleblower reprisal allegation to the IC, or if OSC declines to investigate a whistleblower reprisal allegation after referral, the IC has the ability to conduct an investigation into the matter under its own authorities. In any of these scenarios, if an IC investigation is undertaken, the matter would be handled pursuant to the process described in the ICP&P.

4. What is the standard of evidence that CIGIE uses to substantiate allegations of misconduct by an Inspector General?

Response: After the IC receives a report of investigation, the IC determines whether: (1) the facts within the report of investigation are proven by a preponderance of the evidence; and (2) those facts provide a reasonable basis to conclude that the subject Inspector General engaged in particular wrongdoing.

5. What disciplinary measures can CIGIE take when it has substantiated an allegation of misconduct by an Inspector General? Please describe the process used by CIGIE to reprimand or otherwise discipline an Inspector General.

Response: CIGIE makes recommendations of disciplinary action through the IC process as described in the ICP&P, but it does not have the authority to take disciplinary action against Inspectors General or anyone else subject to investigation by the IC. Such authority resides with the President or head of the agency, as appropriate. After the IC makes its recommendations, section 11(d)(8)(B) of the IG Act requires that the disposition of the matter be reported back to the IC, including what action was taken by the President or agency head, but the IC does not direct or control such disposition.

6. What is the criteria used by CIGIE to recommend that an Inspector General be removed from office? Does CIGIE have the authority to remove an Inspector General from office if allegations of misconduct are substantiated?

Response: CIGIE makes recommendations of disciplinary action through the IC process as described in the ICP&P, which may include a recommendation of removal from office. Any disciplinary recommendation, including a recommendation of removal, is at the discretion of the IC and is rendered on a case-by-case basis. Numerous factors may be considered in the deliberative process undertaken by the IC members in reaching the agreed upon recommendation, including but not limited to the degree and scope of misconduct, the

culpability and cooperation of the subject Inspector General, and any aggravating or mitigating factors.

As stated in the response to question 5, CIGIE does not have the authority to take disciplinary action against an Inspector General. Therefore, CIGIE does not have the authority to remove an Inspector General from office. Such authority resides with the President or head of the agency, as appropriate.

Integrity Committee
Policies and Procedures
2018

January 2018

Policies and Procedures of the Integrity Committee of the Council of the Inspectors General on Integrity and Efficiency

Table of Contents

1. Statement of Purpose 1
2. Persons within the IC's Authority 1
3. IC Governance 2
   - A. Membership 2
   - B. IC Chairperson. 2
   - C. IC Vice Chairperson 2
   - D. Legal Advisor 2
   - E. Designees 2
   - F. Allegation Review Group 2
   - G. Working Group 2
   - H. Meetings. 2
   - I. Quorum 3
   - J. Voting 3
   - K. Recusal of IC members and others. 3
   - L. Mandatory disclosure of investigations 4
4. Designation of Staff Members by an Inspector General 4
5. Referral of Allegations of Wrongdoing to the IC 4
   - A. Reporting by an IG 4
   - B. Allegations received from other sources 4
6. Receipt, Initial Review, and Referral of Allegations for Consideration at IC Meeting 4
   - A. Receipt of Allegations 4
   - B. Review and Referral by the Allegation Review Group. 4
   - C. Coordination with PIN and OSC on concurrent matters 5
   - D. Action by PIN on referred allegations 5
   - E. Action by OSC on referred allegations 5
   - F. Placement on the IC agenda 6
7. IC Review Process and Actions 6
   - A. Threshold standard 6

B. IC review of referred allegations. 6
C. IC Actions 7
D. Extension and Congressional notification 7
8. IC Investigations 8
A. Timing of investigation by the IC 8
B. Engaging an Assisting IG to conduct an investigation 8
C. Investigation conducted by CIGIE Investigator 9
9. Conducting Investigations 9
A. Notice to Respondent and opportunity to speak with the investigators during the investigation 9
B. Standards for investigations 10
C. Reviewing the status of an investigation 10
D. Notice of interference with investigation 10
E. Conclusion of the investigation 10
10. Post-Investigation Review of Reports of Investigation by the Respondent and the IC 10
A. Review and comment by the Respondent 10
B. Review by the IC 11
C. IC determination 11
11. Communication of IC Findings, Conclusions, and Recommendations 11
12. Notice of Closure 12
A. Closure 12
B. Notification of closure 12
13. IC Records 12
A. Maintenance and Disposal of IC Records 12
B. Disclosure of IC Records 13
C. Other external inquiries relating to the Integrity Committee 15
14. Confidentiality 15
15. Amendments to the IC Policies and Procedures 15
16. No Right or Benefit 15
Appendix A: Definitions 16
Appendix B: Section 11(d) of the Inspector General Act, as amended 17

January 2018

POLICIES AND PROCEDURES OF THE INTEGRITY COMMITTEE OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

1. Statement of Purpose

Members of the Inspector General community are charged with protecting the integrity, efficiency, and economy of the Federal government and its programs, activities, and operations. To maintain public trust, all Inspector General community members must adhere to high standards of official conduct and are accountable in the event that they fall short of those standards. The statutory mandate of the Integrity Committee ("IC") of the Council of the Inspectors General on Integrity and Efficiency ("CIGIE") is to receive, review, and refer for investigation allegations of wrongdoing made against Inspectors General or Acting Inspectors General who are members of CIGIE ("IGs"), designated members of the senior staffs of those IGs, and the Special Counsel and Deputy Special Counsel of the Office of Special Counsel ("OSC"), and to ensure the fair, consistent, timely, and impartial disposition of allegations that fall within the IC's statutory mandate.

These policies and procedures ("Policies"), required by section 11(d)(7)(B) of the Inspector General Act of 1978, as amended, 5 U.S.C. app ("IG Act"), were adopted by the IC in conjunction with the CIGIE Chairperson, and in consultation with the Public Integrity Section ("PIN") of the Department of Justice ("DOJ") and the OSC.

2. Persons within the IC's Authority

The IC considers allegations of wrongdoing against any of the following individuals (Covered Persons):

A. An IG;

B. A staff member of an Office of Inspector General (OIG) whose position is designated under section 4 of these Policies ("Designated Staff Member");

C. The Special Counsel and the Deputy Special Counsel of OSC, but not their staff members. For purposes of these Policies, requirements pertaining to an IG also apply to the Special Counsel and Deputy Special Counsel, except that the Special Counsel is not required to designate staff members under section 4 of these Policies; and

D. Anyone serving in an Acting or Interim capacity in a position set forth in A through C of this subsection.

At its discretion and consistent with the public interest (including the availability of an effective remedy), the IC may consider wrongdoing alleged to have occurred while an individual served as

a Covered Person, even if that individual is no longer a Covered Person or in government service when the IC receives the allegation.

3. IC Governance

A. Membership. By statute, the IC consists of the following six members: the official of the Federal Bureau of Investigation ("FBI") serving on CIGIE; the Director of the Office of Government Ethics ("OGE") or the Director's designee; and four IGs appointed by the CIGIE Chairperson to serve terms of 4 years each.

B. IC Chairperson. The IC shall elect one of the four IG members as IC Chairperson, who will serve a 2-year term of office.

C. IC Vice Chairperson. Upon election, the IC Chairperson will appoint one of the IG members to serve as IC Vice Chairperson to act in the absence of the IC Chairperson and to perform such other duties as may be assigned by the IC or the IC Chairperson. The term of office of the IC Vice Chairperson shall expire at the end of the term of office of the appointing IC Chairperson.

D. Legal Advisor. The Chief of PIN or the Chief's designee will serve as a Legal Advisor to the IC.

E. Designees. The Director of OGE and the Chief of PIN may designate members of their respective staffs to substitute for them on the IC, either long-term or episodically.

F. Allegation Review Group. Designees of the Attorney General, the Special Counsel, and the IC Chairperson ("Allegation Review Group") will review incoming allegations and promptly refer to PIN, OSC, or the IC any allegations within their respective purviews, pursuant to section 6(B) of these Policies.

G. Working Group. An IC Working Group ("Working Group") will assist the IC in the execution of its responsibilities. Its members shall include the IC Program Managing Director (responsible for administering the day-to-day operations of the IC) and may include a legal advisor and other staff from CIGIE, staff from the offices of IC members, staff from other OIGs, or contractors.

H. Meetings. The IC will convene regularly and no less than monthly (including in person, as necessary) to conduct business, unless pending business is insufficient to warrant a meeting or quorum is lacking. A written agenda and materials relating to any matter before the IC for determination will be made available to IC members for independent review in advance. The IC will maintain minutes of determinations made regarding each agenda item. The minutes shall be made, kept, and distributed as necessary to maintain the confidentiality and integrity of criminal or OSC investigations referenced in section 6 of these Policies and to effect recusals under section 3(K) of these Policies.

I. Quorum. A quorum is required for the IC to deliberate on an allegation or take any action concerning an allegation. A quorum consists of four members of the IC. The IC Chairperson will immediately notify the CIGIE Chairperson if (1) the IC Chairperson determines that consideration of a pending matter is urgent, cannot reasonably be delayed, and a quorum cannot be established within 5 business days or (2) more than two of the IG members are recused from a matter. Upon notification, the CIGIE Chairperson will appoint as temporary members of the IC the number of IGs necessary to establish a quorum.

J. Voting. Determinations by the IC require the vote of a majority of participating members. At the discretion of the IC Chairperson, matters may be decided on ballot in a form determined by the IC Chairperson rather than at a meeting.

K. Recusal of IC members and others. A recused IC member will not vote or otherwise participate in the consideration of a matter from which the member is recused. All recusals will be noted in the minutes of the meeting at which the recusal is determined.

A member of the IC, the Allegation Review Group, or the Working Group is recused from participation in:

i. Matters in which that member or another person in that member's office or agency has personally and substantially participated. For purposes of this provision, the FBI is deemed to be in the same office or agency as DOJ OIG;

ii. Matters as to which the member believes that his or her impartiality would be questioned by a reasonable person with knowledge of the relevant facts. Members who have determined that their own recusal is not necessary under this subparagraph may nevertheless disclose a potential basis for recusal for final determination by the IC;

iii. Any matter as to which participation would violate or create a conflict of interest under a law, regulation, or mandatory standard applicable to all Federal employees or officials in the Executive Branch of the United States;

iv. All matters before the IC while the member knows that he or she is under criminal investigation or IC investigation;

v. Any matter as to which the IC determines that the circumstances present would lead a reasonable person with knowledge of the relevant facts to question the member's impartiality in the matter. An IC member whose recusal is at issue will not vote on such determination; and

vi. Any matter that requires a security clearance, if the member does not hold the requisite clearance.

L. Mandatory disclosure of investigations. An IC member, Allegation Review Group member, or Working Group member who knows that he or she is the subject of a criminal or Federal government investigation shall promptly disclose that information to the IC.

4. Designation of Staff Members by an Inspector General

Annually by May 15, each IG must submit to CIGIE's Executive Director and to the IC Chairperson a designation of the positions that report directly to the IG. In addition, each IG must designate any positions with significant responsibilities such that, in the judgment of the IG and depending on the size and organization of the particular OIG, there is a heightened risk that an internal investigation of them would lack objectivity in fact or appearance.

5. Referral of Allegations of Wrongdoing to the IC

A. Reporting by an IG.

i. Allegation concerning the IG. An IG will promptly refer to the IC in writing any allegation of wrongdoing concerning that IG.

ii. Allegations concerning Designated Staff Members. An IG will promptly refer to the IC in writing any allegation of wrongdoing concerning a Designated Staff Member if–

a. Review of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and
b. The IG determines that an internal investigation of the matter might not be objective in fact or appearance.

B. Allegations received from other sources. If the IC receives an allegation from a source other than the affected IG that a Covered Person has engaged in wrongdoing, the IC will exercise its authority over review of such allegation to the same extent as if it had been referred to the IC by the affected IG. In its sole discretion, the IC may refer allegations related to a Designated Staff Member to the affected IG for a determination by the IG pursuant to section 5(A)(ii) of these Policies.

6. Receipt, Initial Review, and Referral of Allegations for Consideration at IC Meeting

A. Receipt of Allegations. The IC will track each incoming communication that makes or relates to allegations of wrongdoing concerning any Covered Person, official, or staff member of an OIG and immediately provide that communication to the Allegation Review Group.

B. Review and Referral by the Allegation Review Group. Within 7 business days after the IC's receipt of a communication as specified in section 6(A) of these Policies, the members of the Allegation Review Group will determine whether the allegation will be referred to PIN, OSC, or the IC. The Attorney General's designee will identify any

allegations of a criminal offense for referral to PIN, and the Special Counsel's designee will identify any remaining allegations within OSC's jurisdiction for referral to OSC. Any matter referred to PIN or OSC is closed by the IC, subject to reopening if referred back to the IC or if otherwise deemed appropriate by the IC. Any matter not referred to PIN or OSC within 7 business days after the IC's receipt of a communication will be referred to the IC with a statement as to whether the allegations concern a Covered Person.

C. Coordination with PIN and OSC on concurrent matters. For matters referred to PIN or OSC, the IC may concurrently consider and investigate related allegations and will consult and coordinate with PIN or OSC, as the case may be, in doing so.

D. Action by PIN on referred allegations. As to any matter referred to PIN,

i. PIN will notify the IC, for appropriate action under these Policies or otherwise,

a. If PIN concludes that the allegation warrants criminal investigation; or

b. If PIN or another prosecutive authority (1) declines or defers further action; (2) brings an unsealed criminal charge; or (3) concludes a criminal investigation without charges being filed.

ii. PIN will submit to the IC a summary report of the results of any investigation that relates to a matter within the authority of the IC, consistent with other law (including Federal Rule of Criminal Procedure 6(e)). The content of such a report will be at the discretion of PIN and no particular information must be provided by PIN on behalf of DOJ or other prosecutive authority.

iii. If at any time during the course of the IC's review of a matter (including during an IC investigation) substantial information is uncovered that indicates a criminal offense (i.e., information that the FBI or an IG would ordinarily refer to a prosecuting authority), the IC will promptly consult with PIN and, if requested by PIN, follow the procedures outlined in this section. If the IC Chairperson determines that such consultation is urgent, the IC Chairperson may personally conduct that consultation.

E. Action by OSC on referred allegations. As to any matter referred to OSC,

i. OSC will notify the IC

a. If OSC concludes that the allegation warrants investigation by OSC; or

b. If OSC declines or defers further action or concludes an investigation without initiating further action, OSC will refer to the IC any allegations of wrongdoing against a Covered Person.

ii. OSC will submit to the IC a summary report of the results of any investigation that relates to a matter within the authority of the IC, consistent with other law. The content of such a report will be at the discretion of OSC and no particular information must be provided.

F. Placement on the IC agenda. Matters referred to the IC by the Allegation Review Group will appear on the agenda for consideration at the next IC meeting. Along with the agenda, the IC will distribute to the members (i) unclassified materials received by the IC supporting the allegations; (ii) allegations referred to PIN or OSC, together with a copy of the associated materials received by the IC; (iii) recommendations provided by the Allegation Review Group addressing whether allegations referred to the IC relate to a Covered Person; and (iv) notifications and summary reports received from any allegations referred back to the IC by PIN and OSC pursuant to paragraphs (D) and (E) of this section.

7. IC Review Process and Actions

A. Threshold standard. The IC takes action on allegations of wrongdoing against a Covered Person that involve 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 a Covered Person.

B. IC review of referred allegations. Upon referral to the IC from the Allegation Review Group, a referral back to the IC from PIN or OSC, or a matter having otherwise been reopened, the IC shall take one of the following actions:

i. Request further information. The IC may determine that the allegations and associated materials provide insufficient information or lack sufficient supporting documentation to permit the necessary determinations and, without initiating a preliminary investigation, direct that additional information be sought. This may include requesting additional information from the complainant or referral source, reviewing open source information, or other limited inquiry. Time expended in obtaining this additional information shall be excluded from the time provided for review by the IC.

ii. Request response. The IC may request in writing that the Covered Person who is the subject of the matter (the "Respondent") submit a written response to some or all of the allegations within 20 days (the Response Period). In accordance with section 14 of these Policies, due care will be taken to protect the identity of a complainant or informant, if a written response is requested. Upon request by Respondent, the IC Chairperson may grant an extension of the Response Period for up to 20 days, subject to paragraph (D) of this section. Absent extraordinary circumstances, no further extensions will be granted.

Where a written response has been sought, the IC will consider the allegations and any associated materials received by the IC, together with any written response, at the meeting that follows expiration of the Response Period and determine whether to refer the matter for investigation.

iii. Take action in accordance with paragraph (C) of this section.

C. IC Actions. Within 30 days of a referral to the IC from the Allegation Review Group, a referral back to the IC from PIN or OSC, or a matter having otherwise been reopened, subject to extension as specified in paragraph (D) of this section, the IC will take one of the following actions:

i. Determine threshold standards not met. Determine that the allegations do not meet the threshold standard, and close the matter;

ii. Determine allegations refuted. Determine that the written response sufficiently answers or refutes the allegation(s) and that further inquiry or investigation is not warranted, and close the matter;

iii. Make findings on the existing record. Determine that the record is sufficient and make findings, conclusions, or recommendations as to some or all of the allegations without investigation;

iv. Refer for investigation. Refer to the IC Chairperson for investigation allegations that meet the threshold standard (Note: the IC may refer a matter for investigation without requesting a response from the subject if the allegations clearly warrant an investigation and a response would not serve a useful purpose or would result in unnecessary delay);

v. Refer to another agency. At any time, refer all or part of allegations (including allegations outside the IC's authority) to an affected IG, an agency within the Executive Branch with jurisdiction, or another appropriate authority, and close the matter. The IC may notify the complainant or referring source that it has referred the allegation(s), and will take due care to protect the integrity of investigations by other agencies and to protect the identity of a complainant or informant pursuant to section 14 of these Policies. The IC may elect to exercise authority over certain allegations, even if it has referred other allegations in the same matter to another agency. With respect to matters referred to PIN or OSC, the IC will consult with PIN or OSC prior to exercising its jurisdiction; or

vi. Refer to the CIGIE Chairperson. Refer allegations that do not meet the threshold standard to the CIGIE Chairperson for any appropriate action.

D. Extension and Congressional notification. The IC may extend the initial 30-day period for its review and determination of allegations by another 30 days (e.g., due to an extension granted to the Respondent for a response) and must provide written notice to

the Congressional committees designated in section 11(d)(8)(A)(iii) of the IG Act (the Congressional committees of jurisdiction) of the case-specific reason(s) that additional time is needed. The notice must provide sufficient facts to explain why the IC requires additional time for its review and determination but must not reveal the substance of the underlying allegations.

8. IC Investigations

A. Timing of investigation by the IC: The IC Chairperson shall complete an investigation within 150 days after receiving a referral for investigation by the IC. If the investigation cannot be completed within the 150-day period, the IC Chairperson will promptly notify the Congressional committees of jurisdiction regarding the general reasons for the delay. The notification shall be updated every 30 days until the investigation is complete.

B. Engaging an Assisting IG to conduct an investigation.

i. CIGIE will maintain a list of OIGs capable of undertaking investigations for the IC, and these responsibilities will be rotated and allocated among CIGIE members so as not to create an undue burden on any particular OIG. To the extent possible, investigations will be conducted by an OIG of a similar size, except that this shall not apply to OIGs with fewer than 50 employees.

ii. When so authorized by the IC Chairperson, CIGIE will engage an OIG from the list maintained by CIGIE to investigate the allegations referred by the IC ("Assisting IG"). The IC will provide to the Assisting IG a written description of the allegations to be investigated. The IC and the Assisting IG will agree in writing on the scope of the investigation ("Scope Letter"), a copy of which will be retained by the IC.

iii. With the assistance of the IC, CIGIE and the Assisting IG shall enter into a memorandum of understanding ("MOU") regarding the provisions of the investigative services. The MOU shall incorporate by reference the Scope Letter; however, the Scope Letter will be retained with the IC recordkeeping copy of the MOU pursuant to section 13 of these Policies and will not be retained with other CIGIE records, such as with finance records or other administrative copies of the MOU.

iv. The MOU will include provisions specifying:

a. that conduct of the investigation is subject to the control and direction of the IC Chairperson;

b. that the investigation is to be completed within 150 days of the date on which the IC referred the matter for investigation;

c. that the Assisting IG will provide to the IC periodic status reports concerning the progress of the investigation;

d. the requirements for retention and dissemination of working papers and similar records compiled or prepared in the conduct of the investigation ("IC Investigative Working Papers");

e. procedures for responding to requests for disclosure of IC Investigative Working Papers;

f. that the Assisting IG must immediately notify the IC if the investigation discovers evidence of a crime and that further action will be coordinated with PIN;

g. the terms on which CIGIE will reimburse costs incurred by the Assisting IG in connection with the investigation;

h. that the Assisting IG will notify the IC Chairperson promptly upon determining that a Respondent has interfered with or otherwise prejudiced the investigation; and

i. if the IC's investigation relates to a matter under investigation by PIN or OSC, that the Assisting IG will coordinate and deconflict with PIN or OSC.

C. Investigation conducted by CIGIE Investigator.

i. In lieu of engaging an Assisting IG to conduct an investigation, the IC Chairperson may elect to conduct the investigation using CIGIE staff, personnel detailed to CIGIE by an OIG, or contractors engaged by CIGIE (collectively a "CIGIE Investigator"), subject to the control and direction of the IC Chairperson.

ii. In that event, the IC will prepare a Scope Letter and, to the extent other than CIGIE staff are used, CIGIE will enter into an agreement with terms substantially equivalent to an MOU with an Assisting IG.

iii. A CIGIE Investigator has substantially the same duties and responsibilities as an Assisting IG for purposes of sections 8 and 9 of these Policies.

9. Conducting Investigations

A. Notice to Respondent and opportunity to speak with the investigators during the investigation. The IC Chairperson will coordinate with the Assisting IG when to provide written notification to the Respondent of the following:

i. The allegations to be investigated;

ii. That additional allegations may be investigated as they become known; and

iii. That the Respondent will be given the opportunity to speak with investigators and provide materials prior to the conclusion of the investigation and to submit a written response to the IC concerning the report of investigation.

B. Standards for investigations. The investigation will be conducted in accordance with the most current *Quality Standards for Investigations* issued by CIGIE and utilize the investigative procedures of the Assisting IG unless otherwise directed by the IC Chairperson.

C. Reviewing the status of an investigation. The IC will monitor the progress of all pending investigations. If additional allegations are received in a matter or if additional allegations surface during the course of the investigation, the IC Chairperson, in consultation with the IC, may direct the Assisting IG to expand the scope of the investigation to include such new matters, as appropriate.

D. Notice of interference with investigation. If the IC determines that a Respondent has interfered with or otherwise prejudiced an investigation, the IC may notify the Respondent's appointing authority, the CIGIE Executive Chairperson, and the CIGIE Chairperson and may offer recommendations for corrective and disciplinary action.

E. Conclusion of the investigation. At the conclusion of the investigation, the Assisting IG will provide to the IC Chairperson a written investigative report (including any exhibits) setting forth the relevant facts and conclusions regarding the allegations. Subject to the directions of the IC Chairperson, the format of the report will be determined by the Assisting IG. Unless otherwise determined by the IC, once the Assisting IG submits its report of investigation, the investigation is considered complete.

10. Post-Investigation Review of Reports of Investigation by the Respondent and the IC

A. Review and comment by the Respondent.

i. Materials for the Respondent's review. A copy of the report of investigation (including any exhibits), or portions of it pertaining to a particular Respondent, will be made available to that Respondent for review. Respondent will also be able to review a transcript of any recorded interview of that Respondent and/or a summary memorandum of any unrecorded interview of that Respondent. The IC Chairperson, after consultation with the Assisting IG as appropriate, may make appropriate redactions pursuant to applicable law or regulation (e.g., the Privacy Act) and in accordance with section 13(B) of these Policies or to protect the identity of a complainant, referring source, or witness in accordance with section 14 of these Policies.

ii. Submission of comments by the Respondent. The Respondent will have 10 business days, beginning when the report of investigation was provided or made available for review, to submit a response to the IC. The IC may grant additional time to submit a response or to submit a more complete response. Absent extraordinary circumstances, no further extensions will be granted.

B. Review by the IC. The IC will review and assess the report of investigation, along with any exhibits and any response thereto, and discuss the proposed findings and conclusions. The Assisting IG may be asked to present the report at a meeting of the IC and answer questions about the investigation and the report.

C. IC determination.

i. Ultimate issues for the IC. The IC will determine whether (1) facts within the report of investigation are proven by a preponderance of the evidence and (2) those facts provide a reasonable basis to conclude that the Respondent engaged in particular wrongdoing. The IC may request the Assisting IG to perform additional investigative work and supplement the report of investigation if necessary to make its determination.

ii. Recommendations generally. The IC may make recommendations, including recommendations for disciplinary action.

iii. Recommendations involving an Acting IG. Whenever the IC makes findings of wrongdoing on the part of an Acting Inspector General, the IC's conclusions and recommendations may include a recommendation that the CIGIE Chairperson work with the appointing authority to ensure that the affected OIG has interim leadership legally empowered to act on the conclusions and recommendations, including, if necessary, designation of an interim IG.

iv. Determination memorialized. The IC's findings, conclusions, and recommendations will be set forth in writing. Dissenting findings, conclusions, and recommendations may be filed by any IC member.

11. Communication of IC Findings, Conclusions, and Recommendations

Within 30 days after completion of the investigation (to the maximum extent practicable), the IC will forward the report of investigation (and any exhibits) and the ICs findings, conclusions, and recommendations, as specified in section 10(C) of these Policies (collectively IC Report), in the following manner:

A. To the CIGIE Executive Chairperson, the CIGIE Chairperson, and the appointing authority (the President [for an IG or Designated Staff Member within an establishment] or the head of the designated federal entity [for an IG or Designated Staff Member within

a designated federal entity] for appropriate action). The Executive Chairperson of CIGIE will inform the IC of the final disposition of the matter, including any action taken by the appointing authority.

B. To the Respondent, with a copy to the affected IG if the Respondent is a Designated Staff Member.

C. To the Congressional committees of jurisdiction.

D. The IC, after consultation with the Assisting IG as appropriate, may make appropriate redactions pursuant to applicable law or regulation (e.g., the Privacy Act) and in accordance with section 13(B) of these Policies or to protect the identity of a complainant, referring source, or witness requesting confidentiality in accordance with section 14 of these Policies.

12. Notice of Closure

A. Closure. An IC matter not otherwise closed pursuant to these Policies is deemed closed upon the forwarding of the IC Report as specified in section 11 of these Policies. The IC, however, will be notified upon receipt of final disposition of the matter from the Executive Chairperson of CIGIE.

B. Notification of closure. Unless the matter was communicated anonymously, the IC Chairperson will notify the complainant when a matter is closed. The IC Chairperson will also notify any Respondent from whom the IC had requested a response or whose conduct was the subject of an investigation. All such notices will be subject to applicable laws and regulations regarding disclosure.

13. IC Records

A. Maintenance and Disposal of IC Records

i. Content of Records. All documents received or transmitted by the IC in fulfilling its responsibilities under the IG Act (including, but not limited to, written allegations against Covered Persons; IC correspondence; IC Investigation Working Papers; reports of investigation; reports of final actions taken with regard to proven allegations; and memoranda providing the final dispositions of allegations determined to be frivolous or outside the authority of the IC, or otherwise closed without further investigation) will be maintained as IC records and will be kept separately from other CIGIE records. The CIGIE Chairperson is the statutory custodian of all IC records pursuant to section 11(d)(13) of the IG Act.

ii. Criminal Investigative Files Not Included as IC Records. The IC records will not include any criminal investigative files or work product except for (1) the receipt of allegations of criminal conduct; (2) referral of a matter to the IC arising from a

criminal investigation; (3) referral of a matter back to the IC following consideration by PIN or another prosecutive authority; or (4) a summary report provided by PIN pursuant to section 6(C) of these Policies.

iii. Maintenance of records. The IC will maintain its records as required by law with appropriate security and access restrictions.

iv. Disposal of records. IC records will be disposed of in accordance with applicable record disposition programs.

B. Disclosure of IC Records

i. Privacy Act protection and restrictions on disclosure. IC records will be maintained in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a (Privacy Act). The records may be disclosed only in response to the written request of, or with the prior consent of, the individual to whom the record pertains under the conditions specifically set forth in the Privacy Act at 5 U.S.C. § 552a(b), applicable regulations, or as otherwise permitted or required by law.

ii. Access by individuals to their own records. An individual may request access to records pertaining to himself or herself by means of the procedures prescribed by the Privacy Act and its implementing regulations.

iii. Congressional disclosures and reports.

a. The IC Chairperson will provide IC Reports to Congressional committees of jurisdiction as specified in section 11(C) of these Policies.

b. Once an IC Report has been submitted to the Congressional committees of jurisdiction, subject to any other provision of law that would otherwise prohibit disclosure of such information, the IC Chairperson:

1. shall provide the IC Report to any Member of Congress upon request;

2. shall provide more detailed information about specific allegations included in an IC Report at the request of any Member of Congress;

3. may provide the IC Report to any Member of Congress in the absence of a request.

c. The IC shall prepare an annual report regarding the IC's activities for transmission to the Congress by the CIGIE Chairperson by December 31 of each year. The annual report shall include the information specified in section 11(d)(9) of the IG Act. Upon the request of any Member of Congress, subject to any other provision of law that would otherwise prohibit disclosure, the IC Chairperson

shall provide more detailed information about specific allegations referenced in the annual report.

d. CIGIE will refer to the IC Chairperson any Congressional requests for information pursuant to sections 11(d)(8), (9) or (10) of the IG Act or otherwise relating to the activities of the IC.

e. The IC Chairperson will promptly notify the IC members and the CIGIE Chairperson of any Congressional requests for information and will prepare a response, with copies to the IC members and the CIGIE Chairperson.

f. All Congressional requests for information submitted to the IC falling within the scope of and/or pursuant to section 552a(b)(9) of the Privacy Act will be referred to the IC Chairperson, with notice to the IC members and the CIGIE Chairperson. The IC Chairperson will be responsible for responding to such requests. The IC Chairperson will provide a copy of such response to the IC members. The IC Chairperson will also provide a copy of such response to the CIGIE Chairperson if the CIGIE Chairperson has need for the response in the performance of his or her CIGIE duties.

g. Congressional requests that do not fall within the provisions of the IG Act or the scope of section 552a(b)(9) of the Privacy Act will be handled in accordance with section 13(B)(iv).

h. The IC will not provide information while an allegation or investigation is pending, except as required by sections 11(d)(8), (9), and (10) of the IG Act or otherwise required by law.

iv. Disclosures pursuant to the Freedom of Information Act, 5 U.S.C. § 552.

a. The following requests for IC records will be handled pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), and applicable regulations implementing FOIA:

(1) requests for access by individuals to their own records (in addition to the procedures described at section 13(B)(ii));
(2) Congressional requests that do not fall within the provisions of the IG Act or the scope of section 552a(b)(9) of the Privacy Act, as described in section 13(B)(iii);
(3) media requests for records; and
(4) other third party requests for records.

b. When CIGIE receives a request for IC records that falls within the four categories listed above, the Working Group will collect all responsive IC records, wherever they may be found. The Working Group will coordinate the response to any such

request with CIGIE's General Counsel or his or her designee prior to the finalization of the response.

C. Other external inquiries relating to the Integrity Committee. Upon receipt of any other external inquiries relating to the IC, all IC members will be notified, and the response to the request will be coordinated by the IC Chairperson.

14. Confidentiality

The IC attempts to protect the confidentiality of a person who makes an allegation of or provides information regarding wrongdoing concerning a Covered Person. The IC will not disclose the identity of such a person without his or her consent, unless the IC Chairperson determines such disclosure is impractical during the course of the IC processes or is required by law.

15. Amendments to the IC Policies and Procedures

The CIGIE Chairperson, the CIGIE Vice Chairperson, and any IC member may propose revisions or amendments to these Policies. The IC will consider the proposed revision or amendment following consultation with the CIGIE Chairperson. A majority of the IC members must approve any revision or amendment. Thereafter, the revision or amendment will be submitted to the CIGIE Chairperson who will provide a copy to the Congressional committees of jurisdiction.

16. No Right or Benefit

These Policies are not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.

January 2018

Appendix A: Definitions

"Abuse of authority" means arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to her/him or to preferred other persons. There is no de minimis standard for abuse of authority.

"Days" means calendar days, unless otherwise stated.

"Gross mismanagement" means action or inaction that creates a substantial risk of significant adverse impact on the OIG's ability to accomplish its mission. It does not include discretionary management decisions, or action or inaction that constitutes simple negligence or wrongdoing. There must be an element of willful misconduct or gross and wanton negligence.

"Gross waste of funds" means an expenditure that is significantly out of proportion to the benefit reasonably expected to accrue to the government; it is more than a debatable expenditure.

January 2018

Appendix B: Section 11(d) of the Inspector General Act, as amended

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF OFFICE OF CHIEF INSPECTOR

Pub. L. 105–206, title I, §1103(c)(2), July 22, 1998, 112 Stat. 708, provided that: "Effective upon the transfer of functions under the amendment made by paragraph (1) [amending this section], the Office of Chief Inspector of the Internal Revenue Service is terminated."

RETENTION OF CERTAIN INTERNAL AUDIT PERSONNEL

Pub. L. 105–206, title I, §1103(c)(3), July 22, 1998, 112 Stat. 708, provided that: "In making the transfer under the amendment made by paragraph (1) [amending this section], the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service."

ADDITIONAL PERSONNEL TRANSFERS

Pub. L. 105–206, title I, §1103(c)(4), July 22, 1998, 112 Stat. 708, provided that: "Effective 180 days after the date of the enactment of this Act [July 22, 1998], the Secretary of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration."

CONTINUATION OF SERVICE OF CERTAIN INSPECTORS GENERAL

Pub. L. 100–504, title I, §102(e)(4), Oct. 18, 1988, 102 Stat. 2517, provided that: "Any individual who, on the date of enactment of this Act [Oct. 18, 1988], is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978 [section 3(b) of Pub. L. 95–452, set out in this Appendix]."

TRANSFER OF AUDIT PERSONNEL TO INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Pub. L. 97–252, title XI, §1117(e), Sept. 8, 1982, 96 Stat. 753, provided that: "In addition to the positions transferred to the Office of the Inspector General of the Department of Defense, pursuant to the amendments made by subsection (a) of this section [amending sections 2(1), 9(a)(1), and 11(1) of this Act], the Secretary of Defense shall transfer to the Office of Inspector General of the Department of Defense not less than one hundred additional audit positions. The Inspector General of the Department of Defense shall fill such positions with persons trained to perform contract audits."

§10. Omitted

CODIFICATION

Section, Pub. L. 95–452, §10, Oct. 12, 1978, 92 Stat. 1108, amended sections 5315 and 5316 of Title 5, Government Organization and Employees, and section 3522 of Title 42, The Public Health and Welfare, which amendments have been executed to text.

§11. Establishment of the Council of the Inspectors General on Integrity and Efficiency

(a) ESTABLISHMENT AND MISSION.—

(1) ESTABLISHMENT.—There is established as an independent entity within the executive branch the Council of the Inspectors General on Integrity and Efficiency (in this section referred to as the "Council").

(2) MISSION.—The mission of the Council shall be to—

(A) address integrity, economy, and effectiveness issues that transcend individual Government agencies; and

(B) increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the offices of the Inspectors General.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the following members:

(A) All Inspectors General whose offices are established under—

(i) section 2; or

(ii) section 8G.

(B) The Inspectors General of the Intelligence Community and the Central Intelligence Agency.

(C) The Controller of the Office of Federal Financial Management.

(D) A senior level official of the Federal Bureau of Investigation designated by the Director of the Federal Bureau of Investigation.

(E) The Director of the Office of Government Ethics.

(F) The Special Counsel of the Office of Special Counsel.

(G) The Deputy Director of the Office of Personnel Management.

(H) The Deputy Director for Management of the Office of Management and Budget.

(I) The Inspectors General of the Library of Congress, Capitol Police, Government Publishing Office, Government Accountability Office, and the Architect of the Capitol.

(2) CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

(A) EXECUTIVE CHAIRPERSON.—The Deputy Director for Management of the Office of Management and Budget shall be the Executive Chairperson of the Council.

(B) CHAIRPERSON.—The Council shall elect 1 of the Inspectors General referred to in paragraph (1)(A) or (B) to act as Chairperson of the Council. The term of office of the Chairperson shall be 2 years.

(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

(A) EXECUTIVE CHAIRPERSON.—The Executive Chairperson shall—

(i) preside over meetings of the Council;

(ii) provide to the heads of agencies and entities represented on the Council summary reports of the activities of the Council; and

(iii) provide to the Council such information relating to the agencies and entities represented on the Council as assists the Council in performing its functions.

(B) CHAIRPERSON.—The Chairperson shall—

(i) convene meetings of the Council—

(I) at least 6 times each year;

(II) monthly to the extent possible; and

(III) more frequently at the discretion of the Chairperson;

(ii) carry out the functions and duties of the Council under subsection (c);

(iii) appoint a Vice Chairperson to assist in carrying out the functions of the Council and act in the absence of the Chairperson, from a category of Inspectors General described in subparagraph (A)(i), (A)(ii), or (B) of paragraph (1), other than the category from which the Chairperson was elected;

(iv) make such payments from funds otherwise available to the Council as may be necessary to carry out the functions of the Council;

(v) select, appoint, and employ personnel as needed to carry out the functions of the Council subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates;

(vi) to the extent and in such amounts as may be provided in advance by appropriations Acts, made available from the revolving fund established under subsection (c)(3)(B), or as otherwise provided by law, enter into contracts and other arrangements with public agencies and private persons to carry out the functions and duties of the Council;

(vii) establish, in consultation with the members of the Council, such committees as determined by the Chairperson to be necessary and appropriate for the efficient conduct of Council functions; and

(viii) prepare and transmit an annual report on behalf of the Council on the activities of the Council to—

(I) the President;

(II) the appropriate committees of jurisdiction of the Senate and the House of Representatives;

(III) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(IV) the Committee on Oversight and Government Reform of the House of Representatives.

(c) FUNCTIONS AND DUTIES OF COUNCIL.—

(1) IN GENERAL.—The Council shall—

(A) continually identify, review, and discuss areas of weakness and vulnerability in Federal programs and operations with respect to fraud, waste, and abuse;

(B) develop plans for coordinated, Governmentwide activities that address these problems and promote economy and efficiency in Federal programs and operations, including interagency and interentity audit, investigation, inspection, and evaluation programs and projects to deal efficiently and effectively with those problems concerning fraud and waste that exceed the capability or jurisdiction of an individual agency or entity;

(C) develop policies that will aid in the maintenance of a corps of well-trained and highly skilled Office of Inspector General personnel;

(D) maintain an Internet website and other electronic systems for the benefit of all Inspectors General, as the Council determines are necessary or desirable;

(E) maintain 1 or more academies as the Council considers desirable for the professional training of auditors, investigators, inspectors, evaluators, and other personnel of the various offices of Inspector General;

(F) submit recommendations of individuals to the appropriate appointing authority for any appointment to an office of Inspector General described under subsection (b)(1)(A) or (B);

(G) make such reports to Congress as the Chairperson determines are necessary or appropriate;

(H) except for matters coordinated among Inspectors General under section 3033 of title 50, United States Code,[1] receive, review, and mediate any disputes submitted in writing to the Council by an Office of Inspector General regarding an audit, investigation, inspection, evaluation, or project that involves the jurisdiction of more than one Office of Inspector General; and

(I) perform other duties within the authority and jurisdiction of the Council, as appropriate.

(2) ADHERENCE AND PARTICIPATION BY MEMBERS.—To the extent permitted under law, and to the extent not inconsistent with standards

[1] See References in Text note below.

established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions, each member of the Council, as appropriate, shall—

(A) adhere to professional standards developed by the Council; and

(B) participate in the plans, programs, and projects of the Council, except that in the case of a member described under subsection (b)(1)(I), the member shall participate only to the extent requested by the member and approved by the Executive Chairperson and Chairperson.

(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

(A) INTERAGENCY FUNDING.—Notwithstanding section 1532 of title 31, United States Code, or any other provision of law prohibiting the interagency funding of activities described under subclause (I), (II), or (III) of clause (i), in the performance of the responsibilities, authorities, and duties of the Council—

(i) the Executive Chairperson may authorize the use of interagency funding for—

(I) Governmentwide training of employees of the Offices of the Inspectors General;

(II) the functions of the Integrity Committee of the Council; and

(III) any other authorized purpose determined by the Council; and

(ii) upon the authorization of the Executive Chairperson, any Federal agency or designated Federal entity (as defined in section 8G(a)) which has a member on the Council shall fund or participate in the funding of such activities.

(B) REVOLVING FUND.—

(i) IN GENERAL.—The Council may—

(I) establish in the Treasury of the United States a revolving fund to be called the Inspectors General Council Fund; or

(II) enter into an arrangement with a department or agency to use an existing revolving fund.

(ii) AMOUNTS IN REVOLVING FUND.—

(I) IN GENERAL.—Amounts transferred to the Council under this subsection shall be deposited in the revolving fund described under clause (i)(I) or (II).

(II) TRAINING.—Any remaining unexpended balances appropriated for or otherwise available to the Inspectors General Criminal Investigator Academy and the Inspectors General Auditor Training Institute shall be transferred to the revolving fund described under clause (i)(I) or (II).

(iii) USE OF REVOLVING FUND.—

(I) IN GENERAL.—Except as provided under subclause (II), amounts in the revolving fund described under clause (i)(I) or (II) may be used to carry out the functions and duties of the Council under this subsection.

(II) TRAINING.—Amounts transferred into the revolving fund described under clause (i)(I) or (II) may be used for the purpose of maintaining any training academy as determined by the Council.

(iv) AVAILABILITY OF FUNDS.—Amounts in the revolving fund described under clause (i)(I) or (II) shall remain available to the Council without fiscal year limitation.

(C) SUPERSEDING PROVISIONS.—No provision of law enacted after the date of enactment of this subsection shall be construed to limit or supersede any authority under subparagraph (A) or (B), unless such provision makes specific reference to the authority in that paragraph.[2]

(4) EXISTING AUTHORITIES AND RESPONSIBILITIES.—The establishment and operation of the Council shall not affect—

(A) the role of the Department of Justice in law enforcement and litigation;

(B) the authority or responsibilities of any Government agency or entity; and

(C) the authority or responsibilities of individual members of the Council.

(d) INTEGRITY COMMITTEE.—

(1) ESTABLISHMENT.—The Council shall have an Integrity Committee, which shall receive, review, and refer for investigation allegations of wrongdoing that are made against Inspectors General and staff members of the various Offices of Inspector General described under paragraph (4)(C).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Integrity Committee shall consist of the following members:

(i) The official of the Federal Bureau of Investigation serving on the Council.

(ii) Four Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establishments and designated Federal entities (as that term is defined in section 8G(a)).

(iii) The Director of the Office of Government Ethics or the designee of the Director.

(B) CHAIRPERSON.—

(i) IN GENERAL.—The Integrity Committee shall elect one of the Inspectors General referred to in subparagraph (A)(ii) to act as Chairperson of the Integrity Committee.

(ii) TERM.—The term of office of the Chairperson of the Integrity Committee shall be 2 years.

(3) LEGAL ADVISOR.—The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as a legal advisor to the Integrity Committee.

(4) REFERRAL OF ALLEGATIONS.—

(A) REQUIREMENT.—An Inspector General shall refer to the Integrity Committee any allegation of wrongdoing against a staff member of the office of that Inspector General, if—

[2] So in original. Probably should be "subparagraph."

(i) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and

(ii) the Inspector General determines that—

(I) an objective internal investigation of the allegation is not feasible; or

(II) an internal investigation of the allegation may appear not to be objective.

(B) DEFINITION.—In this paragraph the term "staff member" means any employee of an Office of Inspector General who—

(i) reports directly to an Inspector General; or

(ii) is designated by an Inspector General under subparagraph (C).

(C) DESIGNATION OF STAFF MEMBERS.—Each Inspector General shall annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members for purposes of subparagraph (B).

(5) REVIEW OF ALLEGATIONS.—

(A) IN GENERAL.—Not later than 7 days after the date on which the Integrity Committee receives an allegation of wrongdoing against an Inspector General or against a staff member of an Office of Inspector General described under paragraph (4)(C), the allegation of wrongdoing shall be reviewed and referred to the Department of Justice or the Office of Special Counsel for investigation, or to the Integrity Committee for review, as appropriate, by—

(i) a representative of the Department of Justice, as designated by the Attorney General;

(ii) a representative of the Office of Special Counsel, as designated by the Special Counsel; and

(iii) a representative of the Integrity Committee, as designated by the Chairperson of the Integrity Committee.

(B) REFERRAL TO THE CHAIRPERSON.—

(i) IN GENERAL.—Except as provided in clause (ii), not later than 30 days after the date on which an allegation of wrongdoing is referred to the Integrity Committee under subparagraph (A), the Integrity Committee shall determine whether to refer the allegation of wrongdoing to the Chairperson of the Integrity Committee to initiate an investigation.

(ii) EXTENSION.—The 30-day period described in clause (i) may be extended for an additional period of 30 days if the Integrity Committee provides written notice to the congressional committees described in paragraph (8)(A)(iii) that includes a detailed, case-specific description of why the additional time is needed to evaluate the allegation of wrongdoing.

(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

(A) REQUIREMENT.—The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under paragraph (5)(B) to be conducted in accordance with this paragraph.

(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

(i) shall provide assistance necessary to the Integrity Committee; and

(ii) may detail employees from that agency or entity to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation under this subsection.

(7) PROCEDURES FOR INVESTIGATIONS.—

(A) STANDARDS APPLICABLE.—Investigations initiated under this subsection shall be conducted in accordance with the most current Quality Standards for Investigations issued by the Council or by its predecessors (the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency).

(B) ADDITIONAL POLICIES AND PROCEDURES.—

(i) ESTABLISHMENT.—The Integrity Committee, in conjunction with the Chairperson of the Council, shall establish additional policies and procedures necessary to ensure fairness and consistency in—

(I) determining whether to initiate an investigation;

(II) conducting investigations;

(III) reporting the results of an investigation;

(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report;

(V) except as provided in clause (ii), ensuring, to the extent possible, that investigations are conducted by Offices of Inspector General of similar size;

(VI) creating a process for rotation of Inspectors General assigned to investigate allegations through the Integrity Committee; and

(VII) creating procedures to avoid conflicts of interest for Integrity Committee investigations.

(ii) EXCEPTION.—The requirement under clause (i)(V) shall not apply to any Office of Inspector General with less than 50 employees who are authorized to conduct audits or investigations.

(iii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

(C) COMPLETION OF INVESTIGATION.—If an allegation of wrongdoing is referred to the Chairperson of the Integrity Committee under paragraph (5)(B), the Chairperson of the Integrity Committee—

(i) shall complete the investigation not later than 150 days after the date on which the Integrity Committee made the referral; and

(ii) if the investigation cannot be completed within the 150-day period described in clause (i), shall—

(I) promptly notify the congressional committees described in paragraph (8)(A)(iii); and

(II) brief the congressional committees described in paragraph (8)(A)(iii) every 30 days regarding the status of the investigation and the general reasons for delay until the investigation is complete.

(D) CONCURRENT INVESTIGATION.—If an allegation of wrongdoing against an Inspector General or a staff member of an Office of Inspector General described under paragraph (4)(C) is referred to the Department of Justice or the Office of Special Counsel under paragraph (5)(A), the Chairperson of the Integrity Committee may conduct any related investigation referred to the Chairperson under paragraph (5)(B) concurrently with the Department of Justice or the Office of Special Counsel, as applicable.

(E) REPORTS.—

(i) INTEGRITY COMMITTEE INVESTIGATIONS.—For each investigation of an allegation of wrongdoing referred to the Chairperson of the Integrity Committee under paragraph (5)(B), the Chairperson of the Integrity Committee shall submit to members of the Integrity Committee and to the Chairperson of the Council a report containing the results of the investigation.

(ii) OTHER INVESTIGATIONS.—For each allegation of wrongdoing referred to the Department of Justice or the Office of Special Counsel under paragraph (5)(A), the Attorney General or the Special Counsel, as applicable, shall submit to the Integrity Committee a report containing the results of the investigation.

(iii) AVAILABILITY TO CONGRESS.—

(I) IN GENERAL.—The congressional committees described in paragraph (8)(A)(iii) shall have access to any report authored by the Integrity Committee.

(II) MEMBERS OF CONGRESS.—Subject to any other provision of law that would otherwise prohibit disclosure of such information, the Integrity Committee may provide any report authored by the Integrity Committee to any Member of Congress.

(8) ASSESSMENT AND FINAL DISPOSITION.—

(A) IN GENERAL.—With respect to any report received under paragraph (7)(E), the Integrity Committee shall—

(i) assess the report;

(ii) forward the report, with the recommendations of the Integrity Committee, including those on disciplinary action, within 30 days (to the maximum extent practicable) after the completion of the investigation, to the Executive Chairperson of the Council and to the President (in the case of a report relating to an Inspector General of an establishment or any employee of that Inspector General) or the head of a designated Federal entity (in the case of a report relating to an Inspector General of such an entity or any employee of that Inspector General) for resolution; and[3]

(iii) submit the report, with the recommendations of the Integrity Committee, to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and other congressional committees of jurisdiction; and

(iv) following the submission of the report under clause (iii) and upon request by any Member of Congress, submit the report, with the recommendations of the Integrity Committee, to that Member.

(B) DISPOSITION.—The Executive Chairperson of the Council shall report to the Integrity Committee the final disposition of the matter, including what action was taken by the President or agency head.

(9) ANNUAL REPORT.—The Council shall submit to Congress and the President by December 31 of each year a report on the activities of the Integrity Committee during the preceding fiscal year, which shall include the following:

(A) The number of allegations received.

(B) The number of allegations referred to the Department of Justice or the Office of Special Counsel, including the number of allegations referred for criminal investigation.

(C) The number of allegations referred to the Chairperson of the Integrity Committee for investigation.

(D) The number of allegations closed without referral.

(E) The date each allegation was received and the date each allegation was finally disposed of.

(F) In the case of allegations referred to the Chairperson of the Integrity Committee, a summary of the status of the investigation of the allegations and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigations.

(G) Other matters that the Council considers appropriate.

(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from any Member of Congress.

(11) NO RIGHT OR BENEFIT.—This subsection is not intended to create any right or benefit, substantive or procedural, enforceable at law by a person against the United States, its agencies, its officers, or any person.

(12) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(A) SPECIAL COUNSEL DEFINED.—In this paragraph, the term "Special Counsel" means the Special Counsel appointed under section 1211(b) of title 5, United States Code.

(B) AUTHORITY OF INTEGRITY COMMITTEE.—

(i) IN GENERAL.—An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation to the same extent and in the same manner as in the case of an allegation against an Inspector General or against a staff member of an Office of Inspector General described under paragraph (4)(C), subject to

[3] So in original. The word "and" probably should not appear.

the requirement that the representative designated by the Special Counsel under paragraph (5)(A)(ii) shall recuse himself or herself from the consideration of any allegation brought under this paragraph.

(ii) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This paragraph shall not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this paragraph involves section 2302(b)(8) of such title, a failure to obtain corrective action within 120 days after the date on which the allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of such title.

(C) REGULATIONS.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this paragraph, subject to such consultation or other requirements as may otherwise apply.

(13) COMMITTEE RECORDS.—The Chairperson of the Council shall maintain the records of the Integrity Committee.

(Pub. L. 95–452, §11, as added Pub. L. 110–409, §7(a), Oct. 14, 2008, 122 Stat. 4305; amended Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537; Pub. L. 114–113, div. M, title III, §304, Dec. 18, 2015, 129 Stat. 2913; Pub. L. 114–317, §§3, 7(b)(1)(B), (d)(2)(G), Dec. 16, 2016, 130 Stat. 1596, 1605, 1606.)

REFERENCES IN TEXT

Section 3033 of title 50, United States Code, referred to in subsec. (c)(1)(H), was so in the original but probably should have been a reference to section 103H of the National Security Act of 1947, act July 26, 1947, ch. 343, which is classified to section 3033 of Title 50, War and National Defense.

The date of enactment of this subsection, referred to in subsec. (c)(3)(C), is the date of enactment of Pub. L. 110–409, which was approved Oct. 14, 2008.

PRIOR PROVISIONS

A prior section 11 of the Inspector General Act of 1978 was renumbered section 12.

AMENDMENTS

2016—Subsec. (b)(3)(B)(viii). Pub. L. 114–317, §3(1), amended cl. (viii) generally. Prior to amendment, cl. (viii) read as follows: "prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council."

Subsec. (c)(1)(H), (I). Pub. L. 114–317, §3(2), added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (c)(3)(A)(ii). Pub. L. 114–317, §7(b)(1)(B), substituted "Federal agency or designated Federal entity (as defined in section 8G(a))" for "department, agency, or entity of the executive branch".

Subsec. (d)(2). Pub. L. 114–317, §3(3)(A)(i)–(iii), designated existing provisions as subpar. (A) and inserted heading, redesignated former subpars. (A), (B), and (D) as cls. (i), (ii), and (iii), respectively, of subpar. (A) and realigned margins, and struck out subpar. (C) which read as follows: "The Special Counsel of the Office of Special Counsel."

Subsec. (d)(2)(A)(i). Pub. L. 114–317, §3(3)(A)(iv), struck out ", who shall serve as Chairperson of the Integrity Committee, and maintain the records of the Committee" before period at end.

Subsec. (d)(2)(A)(iii). Pub. L. 114–317, §3(3)(A)(v), inserted "or the designee of the Director" before period at end.

Subsec. (d)(2)(B). Pub. L. 114–317, §3(3)(A)(vi), added subpar. (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Subsec. (d)(5). Pub. L. 114–317, §3(3)(B), amended par. (5) generally. Prior to amendment, text read as follows: "The Integrity Committee shall—

"(A) review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against a staff member of an Office of Inspector General described under paragraph (4)(C);

"(B) refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and

"(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee under subparagraph (A) to be potentially meritorious that cannot be referred to an agency under subparagraph (B)."

Subsec. (d)(6)(A). Pub. L. 114–317, §3(3)(C)(i), substituted "paragraph (5)(B)" for "paragraph (5)(C)".

Subsec. (d)(6)(B)(i). Pub. L. 114–317, §3(3)(C)(ii), substituted "shall provide assistance" for "may provide resources".

Subsec. (d)(7)(B)(i)(V) to (VII). Pub. L. 114–317, §3(3)(D)(i)(I), added subcls. (V) to (VII).

Subsec. (d)(7)(B)(ii), (iii). Pub. L. 114–317, §3(3)(D)(i)(II), (III), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (d)(7)(C) to (E). Pub. L. 114–317, §3(3)(D)(ii), (iii), added subpars. (C) to (E) and struck out former subpar. (C) which related to Integrity Committee and agency reports on investigations of allegations of wrongdoing.

Subsec. (d)(8)(A). Pub. L. 114–317, §7(d)(2)(G), substituted "paragraph (7)(E)" for "paragraph (7)(C)" in introductory provisions.

Subsec. (d)(8)(A)(iii), (iv). Pub. L. 114–317, §3(3)(E), added cls. (iii) and (iv) and struck out former cl. (iii) which read as follows: "submit to the Committee on Government Oversight and Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and other congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after the submission of such report to the Executive Chairperson under clause (ii)."

Subsec. (d)(9)(B). Pub. L. 114–317, §3(3)(F), substituted "the Department of Justice or the Office of Special Counsel" for "other agencies".

Subsec. (d)(10). Pub. L. 114–317, §3(3)(G), substituted "any Member of Congress." for "any of the following:

"(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

"(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

"(C) The chairperson or ranking member of the congressional committees of jurisdiction."

Subsec. (d)(12), (13). Pub. L. 114–317, §3(3)(H), added pars. (12) and (13).

2015—Subsec. (b)(1)(B). Pub. L. 114–113 substituted "the Intelligence Community" for "the Office of the Director of National Intelligence".

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in subsec. (b)(1)(I) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by section 7(b)(1)(B) of Pub. L. 114–317 effective on the date that is 180 days after Dec. 16, 2016, see section 7(b)(2) of Pub. L. 114–317, set out as a note under section 8M of Pub. L. 95–452 in this Appendix.

EFFECTIVE DATE; EXISTING EXECUTIVE ORDERS

Pub. L. 110–409, §7(c), Oct. 14, 2008, 122 Stat. 4313, as amended by Pub. L. 114–317, §7(d)(1), Dec. 16, 2016, 130 Stat. 1606, provided that:

"(1) COUNCIL.—Not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008], the Council of the Inspectors General on Integrity and Efficiency established under this section [enacting this section, renumbering former sections 11 and 12 of Pub. L. 95–452, set out in this Appendix, as 12 and 13, respectively, amending sections 2, 4, and 8G of Pub. L. 95–452, set out in this Appendix, and section 1105 of Title 31, Money and Finance, and enacting provisions set out as a note under section 1211 of Title 5, Government Organization and Employees] shall become effective and operational.

"(2) EXECUTIVE ORDERS.—Executive Order No. 12805, dated May 11, 1992 [formerly set out under section 501 of Title 31], and Executive Order No. 12993 [formerly set out under section 3 of Pub. L. 95–452 in this Appendix], dated March 21, 1996 (as in effect before the date of the enactment of this Act [Oct. 14, 2008]) shall have no force or effect on and after the earlier of—

"(A) the date on which the Council of the Inspectors General on Integrity and Efficiency becomes effective and operational as determined by the Executive Chairperson of the Council; or

"(B) the last day of the 180-day period beginning on the date of enactment of this Act."

ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM

Pub. L. 111-203, title IX, § 989E, July 21, 2010, 124 Stat. 1946, provided that:

"(a) COUNCIL OF INSPECTORS GENERAL ON FINANCIAL OVERSIGHT.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the 'Council of Inspectors General') chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

"(A) The Board of Governors of the Federal Reserve System.

"(B) The Commodity Futures Trading Commission.

"(C) The Department of Housing and Urban Development.

"(D) The Department of the Treasury.

"(E) The Federal Deposit Insurance Corporation.

"(F) The Federal Housing Finance Agency.

"(G) The National Credit Union Administration.

"(H) The Securities and Exchange Commission.

"(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).

"(2) DUTIES.—

"(A) MEETINGS.—The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

"(B) ANNUAL REPORT.—Each year the Council of Inspectors General shall submit to the Council and to Congress a report including—

"(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

"(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

"(3) WORKING GROUPS TO EVALUATE COUNCIL.—

"(A) CONVENING A WORKING GROUP.—The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

"(B) PERSONNEL AND RESOURCES.—The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.

"(C) REPORTS.—A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.

"(b) RESPONSE TO REPORT BY COUNCIL.—The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year."

SPECIAL INSPECTORS GENERAL FOR IRAQ AND AFGHANISTAN RECONSTRUCTION

Pub. L. 111-15, § 7, Apr. 24, 2009, 123 Stat. 1605, provided that: "The Special Inspector General for Iraq Reconstruction and the Special Inspector General for Afghanistan Reconstruction shall be a [sic] members of the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) until the date of termination of the Office of the Special Inspector General for Iraq Reconstruction and the Office of the Special Inspector General for Afghanistan Reconstruction, respectively."

§ 12. Definitions

As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Administrator of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Director of the Federal Housing Finance Agency; the Board of Directors of the Tennessee Valley Authority; the President of the Export-Import Bank; the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; the Director of the National Security Agency; or the Director of the National Reconnaissance Office; as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense,