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Oral Statement of

The Honorable J. Russell George
Legislation Committee Chair
President's Council on Integrity and Efficiency

Before the

Subcommittee on Government Efficiency
and Financial Management
Committee on Government Reform
United States House of Representatives

Regarding

Inspector General Functionality
And Independence

Mr. Chairman and members of the subcommittee, thank you for inviting me here today.

As Mr. Gianni described, I am the Inspector General of the Corporation for National and Community Service and have served in this capacity for nearly two years. Before becoming Inspector General, I had the distinct honor of being staff director for Representative Steve Horn while he was the Chairman of this very subcommittee. I am proud of the results Chairman Horn accomplished through this subcommittee. And I am pleased to see that under your leadership, Mr. Chairman, this subcommittee has continued to make the Federal government more responsible, efficient, and accountable.

Either because of, or in spite of, my prior work in the legislative branch, I was selected as chairman of a committee of IGs that have been considering what changes, if any, are needed to the Inspector General Act. IGs from both the PCIE and ECIE were involved in this process. I am here today to discuss what the majority of IGs believe are positive aspects of Representative Cooper's bill, H.R. 3457. And I am here to discuss possible modifications to Representative Cooper's bill based on the consensus of the

IG community. As Mr. Gianni mentioned, these opinions should not be considered the official positions of the PCIE or ECIE. Rather, these opinions have the support of the majority of IGs that are part of the two Councils.

Removal for Cause and Establishing a Term of Office

Representative Cooper's bill proposes to allow IGs to only be removed for specific reasons. It also creates terms of office for IGs. The IGs support these protections. Currently, most IGs do not have terms of office. The only condition on the removal of an IG appointed by the President is that the President must notify the Congress of the reason for removal. The same holds true for IGs appointed by their respective agency heads; the agency head must notify the Congress of the reason for removal.

The IGs reached a general consensus that adding removal for cause criteria to the IG Act would enhance our independence. Removal protections would shield IGs from reprisal for conducting essential, yet potentially unpopular, investigations and audits.

Many other positions in the Federal government with identical or analogous oversight functions may only be removed for cause, such as the IG of the U.S. Postal Service, the Special Counsel, and the Comptroller General of GAO.

The IGs generally agree that the five grounds for removal listed in H.R. 3457 strike the appropriate balance between allowing substandard IGs to be replaced and protecting IGs from undue repercussion.

Representative Cooper also proposes amending the IG Act to establish a term of office of 7 years for IGs. The majority of IGs support a term of office because, like removal for cause protection, it would enhance our independence. A fixed term would also:

- facilitate long-range planning;
- improve institutional memory;
- increase job security to help recruit and retain well-qualified IGs; and
- provide more continuity during changes of administration.

A number of positions with analogous functions in the Executive branch have fixed terms of office. We compared these positions to the role of IGs, and determined that a 9-year term would be most consistent with other terms of office across the government.

Codification of the PCIE and ECIE into a Single IG Council

As I mentioned, there are currently two councils of IGs: the President's Council on Integrity and Efficiency, or PCIE, and the Executive Council on Integrity and Efficiency, or ECIE. Each council is established by executive order. The basic mission, responsibilities, and authorities of the two councils are essentially the same. These councils provide a forum for IGs, OMB, and other Federal officials to work together to address oversight issues that transcend individual government agencies.

Representative Cooper's H.R. 3457 would create a single, unified council of IGs. This council would include the current membership of the PCIE and ECIE. The proposed council would receive an annual appropriation to carry out its administrative functions. The IGs embrace this idea. An IG council that is codified and funded by an annual appropriation would:

- enhance communications among IGs and their staffs;
- improve the efficiency and effectiveness of joint activities between IG offices;
- increase the consistency of training for IG staffs;
- centralize initiatives that benefit the entire IG community; and
- strengthen our relationship with Congress by providing an official forum for contact for the entire IG community.

In addition to Representative Cooper and the IGs, Comptroller General David Walker also supports the codification of the councils, as he testified before this Subcommittee last year.

While the IG community strongly supports codifying the councils, we recommend several refinements to H.R. 3457:

First, H.R. 3457 replaces the Deputy Director for Management of OMB as the chairperson the proposed council. The IGs believe that the Deputy Director should remain in a leadership role on the proposed council to preserve the existing link between the IGs and the administration.

Second, we suggest that the proposed IG council be given the responsibility to maintain training academies for IG staff. Representative Cooper's bill does not include this responsibility as a council duty. The training academies provide a vital function for the IG community and should be maintained by the proposed council.

We also recommend a third refinement to H.R. 3457. The majority of IGs agree that the Integrity Committee, which is currently a committee of the PCIE, should be codified as part of the proposed IG council. The Integrity Committee serves as an independent body that investigates allegations against IGs and senior staff members. Establishing the Integrity Committee by statute would better formalize its functions to ensure that allegations against IGs and senior staff are handled appropriately.

Finally, H.R. 3457 does not include the Offices of Inspector General for the Central Intelligence Agency, which is part of the PCIE, and the Government Printing Office, which is part of the ECIE. These two offices have long participated in IG community activities, and would like to be included in the proposed council.

With these refinements to Representative Cooper's bill, the IGs strongly support a codified IG council.

Personnel Flexibilities for IGs

Representative Cooper's bill also addresses the issue of personnel flexibilities for IGs. Like many other agencies, the IGs are keenly interested in more flexible personnel management authorities. As our role has expanded in both mission and complexity, it has become clear that additional personnel authority is needed.

Representative Cooper's bill would create a personnel management system under title 5 for all OIGs under the IG Act. While the IG community supports personnel flexibilities, we disagree with this approach. Many of the OIGs are not covered by title 5 and already possess certain personnel authorities that would be relinquished under the current language of H.R. 3457.

As an alternative, the majority of IGs support a proposal that authorizes individual OIGs *to apply* to OPM for certain personnel flexibilities. Such flexibilities include:

- Pay authorities such as pay-banding, merit-based pay, and market-based pay;
- Allowing IGs to more highly compensate individuals for a limited number of critical positions;
- Providing IGs more flexibility in hiring and performance management by expanding the use of recruitment and retention bonuses; and
- Permitting IGs to extend probationary periods beyond one year.

These flexibilities would allow IGs to recruit and retain an even more highly skilled and effective workforce.

Other Personnel Issues

In addition to these personnel flexibilities, several other personnel issues exist that should be mentioned. Representative Cooper identified one of these issues in his bill. His bill permits IGs to deal directly with OPM on the allocation of Senior Executive Service positions. We support this proposal.

Along similar lines, we also suggest that the proposed IG council be responsible for recommending senior executives to OPM for the Presidential Rank Award.

In Representative Cooper's bill, he proposes allowing IGs to apply directly to OPM for the authority to enter voluntary separation agreements. The IG community supports this proposal. The community also believes that we would benefit from the authority to enter into voluntary early retirement agreements.

Finally in the area of personnel, we have identified an issue of particular importance to the designated Federal entity, or DFE, IGs. The DFE IGs are part of the ECIE. Currently, the head of a DFE can staff the IG position at a grade inferior to other management officials, causing at least the perception of unequal status. We suggest that Congress consider a provision that would require the IGs of these agencies to be staffed at a grade and level comparable to the most senior staff members of the respective designated Federal entity.

Submission of Budget Requests to Congress

Switching gears from personnel issues, Representative Cooper's bill also includes provisions on the submission of budget requests and the submission of semiannual reports. As for budget requests, H.R. 3457 would permit each IG to transmit an appropriation request directly to OMB and the Congress. The IGs agree that such authority would be beneficial, as long as it remains discretionary.

Submission of Semiannual Report to Congress

On the issue of semiannual reports, as you know, the numerous offices of inspector general submit semiannual reports to the Congress twice each year. These reports provide updates on OIG work during the previous six months. H.R. 3457 would change the submission dates of these semiannual reports from a fiscal-year basis to a calendar-year basis.

The IGs recommend that the submission of semiannual reports remain on a fiscal-year basis. Most of our offices, like the rest of the Federal government, operate using a fiscal year. Requiring OIGs to submit semiannual reports on a calendar-year basis would cause us to have to keep

two sets of records – one based on the fiscal year and one based on the calendar year.

On a separate issue related to the semiannual report, the IGs suggest that the IG Act be amended so that the results of inspections and evaluations are included in the semiannual report. Many OIGs now conduct inspections and evaluations, and we believe that the semiannual report is a useful way to inform Congress of the results of our inspections and evaluations.

Additional Recommendations

In addition to the ideas put forward by Representative Cooper's bill, the IGs have developed a general consensus that two additional legislative changes would strengthen our ability to curb waste, fraud, and abuse. These changes are not included in H.R. 3457, but would be valuable to the community.

First, we recommend an amendment to the Program Fraud Civil Remedies Act. Congress enacted this legislation to enable agencies to recover small dollar losses resulting from false claims and statements that would not otherwise be recovered. Currently, the DFE agencies, which are

typically smaller agencies, cannot use the mechanisms provided in this Act. We recommend allowing the DFE agencies to use the Program Fraud Civil Remedies Act, so that they have an additional tool to recover taxpayer losses resulting from fraud.

Second, the IGs recommend a minor adjustment to the IG Act relating to the scope of our subpoena authority. When Congress passed the IG Act in 1978, the best evidence of fraud, waste, and abuse was found in documentary evidence such as books and paper records. Now, however, evidence critical to IG investigations is no longer limited to documentary form. It can be found on physical evidence such as computer hard drives, computer discs, videotapes, and other recording devices. Under current law, it could be argued that the scope of our subpoena power is limited to documentary evidence. To correct this issue, we recommend that Congress amend the IG Act to clarify that IGs are authorized to subpoena physical evidence in addition to documentary evidence.

In conclusion, these legislative changes will further enable the IGs to be strong, independent voices for integrity, accountability, and transparency in the Federal government.

I now turn to my colleague, Mr. Barry Snyder, who will emphasize some of the issues I mentioned that are of particular importance to the DFE IGs.