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# Aspects Of The IG Act: Independence-- The Bedrock Of Inspectors General

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**Y**ou might have heard the saying “the best thing about something can also be the worst thing!” In my view, that saying is a perfect fit for the independence of an Inspector General (IG) and his or her office. Why is it the best thing? Because we can do our difficult and challenging work with a freedom that has few parallels in Government today. Why is it the worst thing? Because with this freedom comes an awesome responsibility to do right--that is, both to do right things, and to do things right.

Our audit work can be a powerful tool for positive change or it can be negative and even destructive if it’s not done well and leads to faulty conclusions. Our investigative work has the potential to ferret out wrongdoing and bring those responsible to justice. It can also be a tool that helps the innocent clear his or her good name. On the other hand, the simple fact that an investigation is being conducted can cast a shadow of doubt over someone’s reputation. If the investigation was misguided to begin with or conducted in an unprofessional manner, permanent damage can be done without any justification. Sometimes, lives can even be put at risk. So in short, with independence comes a lot of responsibility.

Perhaps our greatest responsibility is the duty to say “no” to the powerful who attempt to get us to follow a course that isn’t right. When the pressure is on, it’s usually easy to say “yes.” We can crank up our audit or investigative machine and leave no stone unturned, but at what risk and with what damage on the way? We must be willing to say “no” or “no more” whenever we recognize that there is no real basis for an allegation but that others are attempting to use our powers for their own ends. Some situations are more difficult to handle than others.

When we conduct criminal investigations we enjoy the benefits of working as a partner with the Department of Justice under discreet conditions that may even include grand jury secrecy requirements. But when we do administrative inquiries, we stand alone in the spotlight, most often as the only investigative unit in a department or agency that

does not have law enforcement as its primary mission. That puts the “heat” squarely on us and makes it even more important that we do high quality, impartial work.

What is the practical meaning of independence and is it complete or absolute? The IG Act of 1978 and its amendments clearly established IG operations as independent entities within their parent organizations. The essence of this independence is captured in Section 3 of our charter, although other provisions which give us operational independence are woven throughout the document. Some of these operational authorities include: a separate appropriation, so that funds cannot be removed from our accounts by our agency; a separate authority to “select, appoint and employ” all of our own personnel; separate legal counsel and separate administrative functions (personnel, finance, etc.) to the extent we desire to utilize them; complete access to all the records of the agency; freedom to issue any reports we believe are necessary and desirable; and subpoena power for books and records. These authorities give us great autonomy and should not be taken for granted.

But, as I said earlier, the heart of our independence is stated in Section 3 of the IG Act which says simply yet powerfully that the IG can’t be prevented “from initiating, carrying out, or completing any audit or investigation ....” The sentence immediately preceding this strong statement of authority does say that the IG “shall report to and be under the general supervision of the head...” of the agency.

Yet, if the IG can’t be prevented from doing his or her work, what do the terms “report to” and “general supervision” really mean? First, it means that the agency head can have a prime role in selecting a new IG when a vacancy occurs. Second, it means that the agency head can evaluate the IG’s performance each year, if the IG is a member of the career service. Third, and most important it means the agency head can directly influence the size of the IG’s operation by making budget decisions each year as the IG’s budget moves through the appropriations process. Each of these situations represents the legitimate exercise of authority by an agency head.

Is this a perfect situation? No. The nature of our work inevitably places us into conflict with key staff in our own agency who can try to influence us by using the agency head’s authority which I just described. The conflict may

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even involve the agency head personally. Yet none of these powers are so strong that they cancel out our own authority to do our job.

And there are safeguards. The Office of Management and Budget (OMB) plays a vital role in helping to ensure that retaliatory actions are neutralized. The various oversight and appropriations Committees of Congress play an important part as well. Are these safeguards perfect? No again. OMB's efforts may be too little or too late. The Committees of Congress may not have the interest or desire to "rescue" an IG's office, particularly if they haven't had a good working relationship with it in the past. But, even with these flaws, there is no question that independence has been firmly established as a prime component of the IG's operation both through law and past practice.

How does independence square with the philosophy of this Administration that we should act in a more cooperative way with agency management to solve problems? I don't see any conflict with our audit work. A cooperative solution to problems has always been the preferable way for us to pursue our work. The course we can follow has two parts. First, we can involve management in the selection of our

audit projects so we're certain that we're pursuing the most valuable and important issues. Second, though, we must actually do our work in an independent and objective manner. The facts are the facts and we should report them as such. How to use those facts and what they mean to crafting a solution to a problem leads us to the cooperative approach that we should all be seeking.

Investigations are a more sensitive matter because their objective is to determine the guilt or innocence of particular people who may have violated a law or administrative regulation. This work is more confrontational by its nature with a very high risk to the subject of the inquiry. Therefore, we must pay particular attention to ensuring that investigations are performed in an impartial manner without influence from those with a stake in their outcome.

I'm one who believes that the IG Act of 1978 was carefully crafted with a great deal of foresight. Of all the parts of this Act that help us do our job, none is more important than independence. It creates the bedrock on which everything else rests. Yet with independence comes responsibility, so we must always be good stewards--much is expected from those to whom much is given. □