

**The Council of the Inspectors General
on Integrity and Efficiency**

**Integrity Committee
Policies and Procedures
2016**

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

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**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 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 (the “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 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 (the “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, required by section 11 (d)(7)(B) of the Inspector General Act of 1978, Pub. L. No. 95-452, 92 Stat. 1101 (codified as amended at 5 U.S.C. app) (“IG Act”), were adopted by the IC in conjunction with the CIGIE Chairperson. The Public Integrity Section (“PIN”) of the Department of Justice (“DOJ”) consented to take the relevant actions listed in these policies and procedure.

2. Matters for Consideration by the IC

- A. Complaints within the IC's authority. The IC considers potentially meritorious allegations (allegations that involve substantial misconduct, such as gross mismanagement, gross waste of funds, abuse of authority in the exercise of official duties or while acting under color of office, substantial violation of law, rule or regulation, or conduct that undermines the independence or integrity reasonably expected of a Covered Person) on the part of an IG or designated official, including:
- i. Complaints alleging wrongdoing on the part of an IG;
 - ii. Complaints that allege wrongdoing on the part of a designated staff member of an IG, when:
 - a. the allegation against that staff member cannot be assigned to an agency of the Executive Branch with appropriate jurisdiction over the matter; and
 - b. an objective internal investigation of the allegation is not feasible or the objectivity of internal investigation may reasonably be questioned.

- iii. Complaints against the Special Counsel and the Deputy Special Counsel (but not their staff). For purposes of these procedures, 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.
 - iv. The IC has authority to consider wrongdoing alleged to have occurred while the IG or designated staff member was employed as such, regardless of whether they are still in a covered position. Whether to exercise authority to consider allegations regarding an individual who has left the IG community is committed to the discretion of the IC, consistent with the public interest.
 - v. An individual against whom allegations of wrongdoing are subject to review by the IC is referred to hereafter as a “Covered Person.”
- B. Complaints not within the IC's authority. The IC will not undertake investigation of any other complaints, including, for example, allegations made against non-designated members of an IG's staff or complaints made against an IG who is not a member of CIGIE, except that it may refer such allegations to another agency or IG with jurisdiction over them.

3. IC Governance

- A. Membership, Chairperson. By statute, the IC is composed of the following seven members: the official of the Federal Bureau of Investigation (“FBI”) serving on the Council, who serves as IC Chairperson; the Special Counsel of the OSC; the Director of the Office of Government Ethics; and four IGs, appointed by the Chairperson of CIGIE to serve terms of four years each.
- B. Vice Chairperson. The CIGIE Chairperson will appoint a Vice Chairperson of the IC from one of the four IGs who are members of the IC. The IC Vice Chairperson’s duties include fulfilling the IC Chairperson’s functions in the IC Chairperson’s absence, and other duties as assigned by the IC or IC Chairperson, and as otherwise outlined in these policies and procedures.
- C. Legal Counsel. The Chief of PIN, or his designee, will serve as a legal advisor to the IC.
- D. Working Group. The IC will establish an IC Working Group (“Working Group”) composed of employees of the FBI, CIGIE, or Offices of Inspectors General (“OIGs”). The Working Group will assist the IC in the execution of the IC’s responsibilities, as determined by the IC.
- E. Meetings. The IC will meet monthly to review the status of all pending complaints, unless pending business is insufficient to warrant a meeting. At least one meeting per calendar quarter will take place in person. More frequent meetings may be called at the discretion of the IC Chairperson or IC Vice Chairperson. Prior to the meetings, each pending complaint will be made available to IC members for independent review. The

Working Group will maintain a written agenda of each meeting, and of action determinations made regarding each agenda item, as a record for the IC.

- F. Quorum. A quorum is required for the IC to consider a complaint or take any action concerning a complaint. A quorum consists of four members of the IC, at least two of whom must be IGs. The IC Chairperson will immediately notify the CIGIE Chairperson if: (1) the IC Chairperson determines that consideration of an urgent pending matter is urgent and cannot reasonably be delayed and a quorum cannot be established within five business days; or (2) more than two of the IG members are recused from a matter. Upon notification, the CIGIE Chairperson will appoint a temporary IC IG member or members, but only as many as are necessary to establish a quorum.
- G. Voting. Matters before the IC will be determined by a majority of the IC members voting.
- H. 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.

An IC member and/or Working Group members will be recused from consideration of any matter when the member determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question the member's impartiality, including, but not limited to, the following:

- i. An IC member will be recused from consideration of matters involving that IC member or another Covered Person in that IC member's office.
- ii. An IC member will be recused from consideration of a matter if the member believes that his or her impartiality would be questioned by a reasonable person with knowledge of the relevant facts, because of a close personal, financial, or business relationship, or for any other reason. IC members who have determined that their own recusal is not necessary under this sub-paragraph may nevertheless disclose a potential basis for recusal for final determination by the IC.
- iii. The IC Chairperson and any Working Group members from the FBI will be recused from matters involving the IG or a staff member of the DOJ OIG.
- iv. An IC member who knows that he or she is under criminal investigation or an IC investigation will be recused from participating in all matters before the IC during the pendency of that investigation.
- v. An IC member will be recused from consideration of a matter if the IC determines, by majority vote, that the circumstances present would lead a reasonable person with knowledge of the relevant facts to question the member's impartiality in the matter. The IC member whose recusal is at issue will not vote on such determination.

- vi. An IC member and any Working Group members will be recused from matters for which their participation is otherwise prohibited by applicable law, including but not limited to the statutory prohibitions against conflicts of interest reflected in 18 U.S.C. § 208.
 - vii. If the IC Vice Chairperson is recused from participation in some or all matters before the IC, the remaining IG members of the IC will designate one of their number to perform the duties of the IC Vice Chairperson.
- I. Matters requiring a security clearance. If a matter before the IC requires a security clearance, any member who does not hold the requisite clearance will be recused.

4. Designation of Staff Members by an Inspector General

Pursuant to section 11(d)(4) of the IG Act, each IG will designate those positions on his/her staff as to which an internal investigation of wrongdoing would lack, or appear to lack, independence or objectivity. Pursuant to the IG Act, IGs are required to designate any IG staff members who report directly to the IG. In addition, IGs should designate any staff members with significant responsibilities who, in the judgment of the IG, depending on the size and organization of the particular OIG, should be included (e.g., Assistant IG for Investigations or Counsel). Positions more than one level removed from direct reporting to the IG should not normally be included (e.g., Deputy Assistant IG for Investigations). Each IG will submit, by May 15 each year, a list of the designated positions to the IC Chairperson and to the CIGIE Executive Director.

5. Referral of Allegations of Wrongdoing

- A. Reporting by an Inspector General.
- i. Allegation concerning the IG: An IG will promptly report to the IC any allegation of wrongdoing concerning that IG.
 - ii. Allegations concerning designated staff: An allegation that a designated staff member engaged in wrongdoing, when referred by an IG, will be made in a referral letter to the IC. The referral letter will include a statement that the IG has determined that the allegation cannot be assigned to an agency of the Executive Branch with appropriate jurisdiction over the matter and an internal investigation that is objective in fact or appearance is not feasible.
- B. Complaints received from other sources. If the IC receives an allegation from a source other than the affected IG that a designated staff member has engaged in wrongdoing, that allegation may be referred to the IG. The IC is not required to make the referral, however, and may proceed to consider the allegation pursuant to these procedures.

6. Receipt and Initial Review of Complaints

- A. Initial review by the Working Group. The Working Group will conduct an initial review of each complaint received by the IC. The Working Group will log each complaint and assign it a control number, and acknowledge receipt of each complaint to the complainant (unless the complaint is made anonymously). The Working Group will complete its initial review within 15 calendar days of receipt of the complaint.

As part of its initial review:

- i. The Working Group will determine whether the complaint alleges wrongdoing on the part of a Covered Person. Resolution of whether a particular complaint is within the IC's authority will be referred to the IC for determination or submitted as specified in section 6(E).
 - ii. The Working Group will process any complaint that alleges a substantial criminal offense according to section 6(B) of these procedures.
 - iii. The Working Group may seek additional information from the complainant if the complaint lacks sufficient detail to make these determinations.
- B. Complaints involving allegations of substantial criminal conduct. Complaints determined by the Working Group to allege a substantial criminal offense as described in paragraph A of this section will be provided to PIN. After an expeditious review, if PIN determines the complaint warrants criminal investigation, the Working Group will notify the IC at the next meeting of PIN's determination and provide a copy of the complaint to the members of the IC. The IC will then formally refer the complaint to PIN.
- i. Following an IC referral to PIN:
 - a. if DOJ or another prosecutive authority declines or defers further action on a matter that was referred, PIN will report that fact to the IC.
 - b. if a prosecutive authority brings an unsealed criminal charge on a matter that was referred, PIN will report that fact to the IC.
 - c. if PIN concludes a criminal investigation without charges being filed, PIN will refer to the IC for its consideration any allegations of wrongdoing against a Covered Person.
 - ii. The IC may request that PIN provide a summary report of the results of the investigation to the IC, to the extent the criminal investigation relates to a matter within the jurisdiction of the IC, and consistent with other law (including Federal Rule of Criminal Procedure 6(e)). Upon such request, PIN will provide a summary report; however the content of such 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. The IC will consult with PIN before taking further action on any allegations that relate to, but are outside the scope of, a matter that has been referred to PIN or is the subject of a pending criminal case.
 - iv. At any time during the course of the IC's review of a complaint (including complaints referred for investigation to an assisting IG, described in section 8), if information is uncovered that may indicate a substantial criminal offense, the IC will promptly discuss the complaint with PIN and, if requested by PIN, follow the procedures outlined in this section.
- C. Complaints outside the IC's authority. Complaints determined by the Working Group to be clearly outside the IC's authority may be submitted by the Working Group to the IC Chairperson or Vice Chairperson for referral to another agency of the Executive Branch or to the affected IG, as appropriate. Also, as appropriate, the IC Chairperson or Vice Chairperson will notify the complainant concerning the referral. Due care will be taken to protect the identity of a complainant who requests confidentiality.
- D. Placement on the IC agenda. The Working Group will place those complaints that may fall within the IC's authority on the agenda for consideration at the next IC meeting, subject to section 6(B) regarding complaints that allege substantial criminal conduct. The Working Group will also provide the IC at its meetings: (i) notification of any complaints determined to warrant criminal investigation by the PIN together with a copy of the associated complaint as required by paragraph (B) of this section; (ii) a summary report of those complaints referred by the IC Chairperson or Vice Chairperson to another agency or to an affected IG that were deemed to be clearly outside the IC's jurisdiction and those complaints that were referred to the PIN pursuant to paragraph (B) of this section for which the PIN has yet to make a determination.

7. IC Closing and Referral of Allegations

The IC may close or refer allegations in the following manner:

- A. Complaints lacking potential merit. Allegations that are frivolous, unsupported, concerning matters within a Covered Person's discretion, or otherwise lacking potential merit, will be closed.
- B. Complaints with insufficient information. Allegations with insufficient information or lacking supporting documentation may be referred back to the Working Group to request additional information from the complainant. This will not constitute a preliminary investigation.
- C. Referral to an Executive Branch agency. Either before or after requiring a response from a Covered Person under section 8(B), of these procedures, the IC may refer some or all of

the allegations in a complaint to another agency within the Executive Branch with jurisdiction over the matter. For example, the IC may refer equal employment opportunity complaints to the Equal Employment Opportunity Office of the affected agency, and refer allegations of illegal political activity, whistleblower retaliation, or prohibited personnel practices to the Office of Special Counsel or other agency as provided by law. The IC will request that the Executive Branch agency report the results of its investigation to the IC, pursuant to sections 11(d)(5)(B) and 11(d)(7)(C)(ii) of the IG Act, and, with the exception of criminal matters, that the Executive Branch agency provide an update every 90 days to the IC on its progress in considering the allegations.

- D. Referral to the relevant IG. Pursuant to paragraph 5(B) of these procedures, the IC may refer to the affected IG a complaint alleging wrongdoing on the part of a designated staff member, received from a source other than the affected IG. The referral letter will include a request that within 10 business days of receipt, the IG determine whether that office can conduct an investigation that is objective in fact and appearance, including the possibility of an investigation by an uninvolved OIG, and inform the IC of that determination. If the IG decides to handle the allegation, the IC will request that the IG do so expeditiously and report to the IC the disposition of the allegation and actions taken by the IG, if any, following the completion of the investigation. The complaint will be held in open status by the IC pending the response, and the IG will provide an update every 60 calendar days to the IC on its progress in handling the matter. Upon receipt of the IG's report, the IC may close the matter.
- E. Partial Referrals. In its discretion, the IC may exercise jurisdiction over some of the allegations in a complaint, even if it has referred other allegations in the same complaint pursuant to sections 7(C) – (D). With respect to matters referred to PIN, the IC will consult with PIN prior to exercising jurisdiction.

8. Initiating IC Investigations

Threshold for investigation by the IC: Potentially meritorious allegations involving substantial misconduct, such as gross mismanagement, gross waste of funds, abuse of authority in the exercise of official duties or while acting under color of office, substantial violation of law, rule or regulation, or conduct that undermines the independence or integrity reasonably expected of a Covered Person. The matter will be reviewed and investigated under the authority of the IC in the following manner:

- A. Request for a response:
- i. The IC will summarize the allegation(s) in a letter to the Covered Person who is the subject of the complaint (the "Respondent") and request a response to the allegation(s) within 20 business days. Due care will be taken to protect the identity of a complainant who requests confidentiality.
 - ii. At the earliest meeting of the IC following expiration of the 20 business day period in section 8(A)(i) of these procedures, the IC will consider the complaint together with

any response from the Respondent. If the Respondent has failed to submit a response, or has submitted an inadequate or incomplete response, the IC may nevertheless initiate an investigation if it determines that the allegations warrant an investigation. If the IC determines in its discretion to grant the Respondent additional time to submit a response, or a more complete response, it will place the matter on the agenda for the next IC meeting and the Chairperson will communicate the IC's decisions to the Respondent. Absent extraordinary circumstances, no further extensions will be granted, and the IC will determine at its next meeting whether to initiate an investigation.

- iii. The IC may dispense with the request for response if the allegations clearly warrant an investigation and the request for response would not serve a useful purpose or unnecessarily delay the initiation of that investigation.

B. Limited review of open source information. The IC may conduct a limited review of open source information or other limited inquiry if the IC determines that doing so will assist the IC in reaching its required determinations.

C. IC determination. Upon consideration of the complaint and any response, the IC may take one of the following actions:

- i. Determine that the response sufficiently answers or refutes the allegation(s) and that further inquiry or an investigation is not warranted. The case will then be closed.
- ii. Determine that the record is sufficient to make findings, conclusions, or recommendations as to some or all of the allegations without further investigation.
- iii. Commence an investigation of some or all of the allegations to be conducted by another IG on behalf of the IC.

D. Engaging an Investigating IG.

- i. CIGIE will maintain a list of IGs capable of undertaking investigations for the IC, and these responsibilities will be allocated among CIGIE members so as not to create an undue burden on any particular OIG.
- ii. When so authorized by the IC, the IC Vice Chairperson will seek assistance from an IG on the list maintained by CIGIE. The IC Vice Chairperson will provide to the assisting IG a written description regarding the nature of the allegations that was agreed to by the IC. Based on direction of the IC, the IC Vice Chairperson and the assisting IG will come to an agreement on the scope of the investigation and an expected timeline for completion, which will be memorialized in writing and provided to the IC. The IC will have an overall goal of completing investigations within six months, recognizing that more complicated investigations may take longer than six months. The assisting IG will provide the IC with an update on the status of the investigation every 60 calendar days.

- iii. The written agreement between CIGIE and the assisting IG shall include, in part, the following or substantially identical language regarding the retention and dissemination of any and all working papers and similar documents prepared in the conduct of the investigation (“IC Investigation Working Papers”): “It is understood and agreed that any and all working papers or similar documents prepared by the [assisting IG] in the conduct of the investigation (IC Investigation Working Papers) may become the subject of document requests made by Congress or the public to the IC or otherwise be required by the IC in fulfilling its responsibilities. The [assisting IG] will retain all IC Investigation Working Papers for the same period of time that similar documents prepared by [assisting IG] in the conduct of its own investigations are retained pursuant to applicable records schedules, but for no less than 10 years. Upon request by the CIGIE Chairperson, IC Chairperson, or IC Vice Chairperson, [the assisting IG] will provide a full and unredacted copy of the IC Investigation Working Papers to the IC within 10 business days. Upon receipt by the IC, such IC Investigation Working Papers will constitute IC Records subject to section 14 of the Integrity Committee Policies and Procedures.”
- iv. The written agreement between CIGIE and the assisting IG shall also include, in part, the following or substantially identical language regarding requests made to the assisting IG for disclosure of the IC Investigation Working Papers: “[The assisting IG] will consult with IC Vice Chairperson or other CIGIE designee prior to the disclosure of IC Investigation Working Papers (e.g., pursuant to the Freedom of Information Act, 5 USC 552.)”
- v. The investigation will be conducted under the control and direction of the IC Chairperson and IC Vice Chairperson.

9. Conducting Investigations

- A. Notice to Respondent and opportunity for comment. When an investigation is initiated, the IC Chairperson will notify the Respondent, in writing, of the following:
 - i. The allegations to be investigated by the IC;
 - ii. That additional allegations may be investigated by the IC as they become known, with notice of such additional allegations to be made to Respondent if they concern new subject matter;
 - iii. That the investigation will include the following procedures:
 - a. The Respondent will be given the opportunity to speak with investigators.
 - b. As specified in section 11(A), a copy of the draft report of investigation, or portions of it pertaining to a particular Respondent, will be provided to that Respondent for review. Exhibits supporting the portion of the report pertaining to

a particular Respondent will be furnished to that Respondent or made available for review. The respondent will also receive a transcript of any recorded interview of the Respondent and a summary memorandum of any unrecorded interview of the Respondent. 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 14(B)) or to protect the identity of a complainant or witness requesting confidentiality. The Respondent will have 20 business days following receipt of the report to submit additional documents, information, and written argument to the IC before the IC's final consideration of the draft report of investigation.

- B. Forwarding the findings. As specified in section 12, the IC's findings, conclusions, and any recommendations will be forwarded:
- i. Within 5 business days, to the CIGIE Executive Chairperson, the CIGIE Chairperson, and to the President (in the case of a report relating to an IG of an establishment or any designated staff member of that IG) or the head of a designated federal entity (in the case of a report relating to an IG of such entity or any designated staff member of that IG) for resolution. The Executive Chairperson of CIGIE will inform the IC of the final disposition of the matter, including what action was taken by the President or Agency Head. Upon receipt of a notice of final disposition provided by the CIGIE Executive Chairperson, pursuant to section 11(d)(8)(B) of the IG Act, the IC will close the matter.
 - ii. Within 5 business days of submission under paragraph i. of this section, to the Respondent, with a copy to the affected IG if the Respondent is a staff member.
 - iii. Pursuant to section 11(d)(8)(A)(iii) of the IG Act, within 30 calendar days of submission under paragraph A of this section, a copy of the executive summary and recommendations to those committees of the House and Senate designated in the Act.
- C. 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 otherwise by the IC.
- D. Reimbursement to the Investigating IG. Reimbursement of expenses incurred by the Investigating IG during the course of the investigation will be subject to the policies and procedures established by CIGIE.
- E. Reviewing the status of an investigation. The IC, through the Working Group, will monitor the progress of all pending investigations. If additional allegations are received in a complaint or if additional allegations surface during the course of the investigation, the IC may direct the assisting IG to expand the scope of the investigation to include these new matters, as appropriate.

- F. 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.

10. Reporting the Results of the Investigation

At the conclusion of the investigation, the assisting IG (as described in sections 8 and 9 of these procedures) or relevant IG (as described in section 7(D)) will provide a written investigative report containing necessary facts and conclusions regarding the allegations to the IC Chairperson for distribution to each member of the IC. Subject to the directions of the IC, the format of the report will be determined by the assisting IG.

11. Review of Reports of Investigation by Respondent and IC

- A. Review and comment by the Respondent. Consistent with section 9(A)(iii)(b) of these procedures, a copy of the draft report of investigation, or portions of it pertaining to a particular Respondent, will be provided to that Respondent for review. Exhibits supporting the portion of the report pertaining to a particular Respondent will be furnished to that Respondent or made available for review. The respondent will also receive a transcript of any recorded interview of the Respondent and a summary memorandum of any unrecorded interview of the Respondent. 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 14(B)) or to protect the identity of a complainant or witness requesting confidentiality. The Respondent will have 20 business days following receipt of the report to submit additional documents, information, and written argument to the IC before the IC's final consideration of the draft report of investigation.
- B. Review by the IC. The IC will review and assess the report of investigation, along with any exhibits and the Respondent's additional materials, 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. The IC will seek to complete its review of the report of investigation within 20 business days after the expiration of the 20 business day period in paragraph 11(A) of this section.
- C. IC determination. The IC will determine whether facts within the investigative report are proven by a preponderance of the evidence. Thereafter, the IC will determine whether those facts provide a reasonable basis to conclude that the Respondent engaged in substantial misconduct, such as gross mismanagement, gross waste of funds, abuse of authority in the exercise of official duties or while acting under color of office, substantial violation of law, rule or regulation, or conduct that undermines the independence or integrity reasonably expected of a Covered Person. If the IC concludes that the facts do not support such a finding, it will direct that the matter be closed. If the IC finds that the facts do support such a finding, the IC will make recommendations, as appropriate, including recommendations on disciplinary action. The IC's conclusions

and recommendations will be set forth in writing. Dissenting findings, conclusions and recommendations may be filed by an IC member.

- D. Findings or recommendations involving an Acting IG. Whenever an investigation results in 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 findings, conclusions and recommendations, including, if necessary, designation of an interim IG.

12. Forwarding the Investigative Report

If the IC finds that the Respondent has engaged in wrongdoing, it will forward the report of investigation, along with the IC's findings, conclusions, and recommendations, and any dissenting findings, conclusions, and recommendations, in the following manner:

- A. Within 5 business days, to the CIGIE Executive Chairperson, the CIGIE Chairperson, and to the President (in the case of a report relating to an IG of an establishment or any designated staff member of that IG) or the head of a designated federal entity (in the case of a report relating to an IG of such entity or any designated staff member of that IG) for resolution. The Executive Chairperson of CIGIE will inform the IC of the final disposition of the matter, including what action was taken by the President or Agency Head. Upon receipt of a notice of final disposition provided by the CIGIE Executive Chairperson, pursuant to section 11(d)(8)(B) of the IG Act, the IC will close the matter.
- B. Within 5 business days of submission under paragraph A of this section, to the Respondent, with a copy to the affected IG if the Respondent is a staff member.
- C. Pursuant to section 11(d)(8)(A)(iii) of the IG Act, within 30 calendar days of submission under paragraph A of this section, a copy of the executive summary and recommendations to those committees of the House and Senate designated in the Act.

13. Notice of Final Action

When a case is closed, unless the complaint was made anonymously, the IC Chairperson will notify the complainant about the disposition of the matter. The IC Chair will also notify the Respondent after a case is closed if the allegation was investigated by the IC or by another agency and referred back to the IC for review and recommendation. All such notices will be subject to applicable laws and regulations regarding disclosure, with due care taken to protect the identity of a complainant or witness requesting confidentiality.

14. 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 complaints making allegations against Covered Persons; IC correspondence; IC Investigation Working Papers; reports of IC investigations; 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 collected and maintained as IC records in the FBI's Central Records System or another appropriate Privacy Act system of records.
- ii. Criminal Investigative Files Not Included as IC Records. The IC records will not include any criminal investigative files with general investigative information, except that IC records will contain complaints made to the IC as specified in section 6(B) and may contain limited additional information about an allegation from criminal investigative files when such information is the source of the alleged administrative misconduct being investigated by the IC or such information is reflected in the summary report provided to the IC pursuant to section 6(B)(ii). The FBI's criminal investigative files are maintained in the Central Records System under the subject matter of the criminal violation, and, therefore, will be separate from IC records.
- iii. Retention of records. The Working Group will maintain the records of the IC in a manner which ensures their physical security and will ensure that appropriate restrictions on access are in place. IC members will ensure that the Working Group receives copies of internal and external correspondence on significant administrative or substantive case-related matters (including emails between members) so that the Federal Records Act can appropriately be applied to all IC records.
- iv. Disposal of records. IC records will be disposed of in accordance with the record disposition programs that apply to the FBI's Central Records System or to the system of records in which the IC records are maintained.

B. Disclosure of IC Records

- i. Privacy Act protection and restrictions on disclosure. The records of the IC will be maintained in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a. 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), or as otherwise permitted or required by law.

- ii. Access by individuals to their own records. Procedures for access by individuals to their own records have been established by the Privacy Act and in regulations implementing the Act at Title 28, C.F.R., Part 16, Subpart D.
- iii. Congressional Disclosures required by the IG Act or that fall within the scope of Privacy Act Section 552a(b)(9).
 - a. As required by section 11(d)(8) of the IG Act, the IC Chairperson will provide an executive summary of a report of investigation, along with recommendations of the IC, to congressional committees of jurisdiction within 30 days of providing the complete report to the CIGIE Executive Chairperson.
 - b. As required by section 11(d)(9) of the IG Act, the CIGIE Chairperson will provide to the Congress by December 31 of each year a report on the activities of the IC including, in the case of allegations referred to the IC Chairperson, a summary of the status of the investigation and, in the case of investigations completed during the preceding fiscal year, a summary of the findings of the investigation.
 - c. Pursuant to section 11(d)(10) of the IG Act, after an executive summary or annual report is provided, upon request of the chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate, the chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives, or the chairperson or ranking member of other congressional committees of jurisdiction, CIGIE is required to provide more detailed information about specific allegations. All such requests will be referred to the IC Chairperson, with notice to the IC members and CIGIE Chairperson. The IC Chairperson will be responsible for responding to such requests but will consult with the IC Vice Chairperson before finalizing the response. The IC Chairperson will provide a copy of such response to the CIGIE Chairperson and IC members.
 - d. 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 CIGIE Chairperson. The IC Chairperson will be responsible for responding to such requests but will consult with the IC Vice Chairperson before finalizing the response. The IC Chairperson will provide a copy of such response to the CIGIE Chairperson and IC members.
 - e. 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 14(B)(iv).
 - f. The IC will not provide information while an allegation or investigation is pending, except as described in sections 11(d)(8), (9), and (10) of the IG Act.

- iv. Disclosures pursuant the Freedom of Information Act, 5 USC Section 552.
 - a. The following requests for IC records will be handled pursuant to Freedom of Information Act, 5 USC § 552 (FOIA), and in regulations implementing FOIA at Title 28, C.F.R., Part 16, Subpart A:
 - 1) requests for access by individuals to their own records from the Central Records System(in addition to the procedures described at section 14(B)(ii));
 - 2) congressional requests that do not fall within the provisions if the IG Act or the scope of section 552a(b)(9) of the Privacy Act, as described in section 14(B)(iii);
 - 3) media requests for records; and
 - 4) other third party requests for records.
 - b. When the FBI, IC Chairperson or Working Group receive requests for IC records that fall within the four categories listed above, the Working Group may assist FBI FOIA officials in collecting the responsive records. The FBI will process the records in accordance with FOIA, 28 CFR Part 16, guidance from DOJ Office of Information Privacy, and FBI policy and procedure. Once the documents have been processed, the IC working group will notify the IC members and CIGIE of the release. The FBI will not be required to obtain authorization from CIGIE or IC members to finalize the release as long as the applicable policies and procedures have been followed. Notwithstanding the foregoing, recognizing the special nature of the IC records and that many IC records are CIGIE originated records, the FBI FOIA office will observe the FOIA consultation and coordination policies reflected in 28 CFR 16.4(d) and as otherwise required.
- C. Other external inquiries relating to the Integrity Committee. When the IC Chairperson or Working Group become aware of other external inquiries relating to the IC, such as media requests for data or organizations seeking a speaker to address Integrity Committee topics, the working group will notify IC members and the response to the request will be coordinated by the IC Vice Chairperson.

15. Confidentiality

The IC attempts to protect the confidentiality of a person who makes an allegation of wrongdoing concerning an IG or OIG staff member if specifically requested by that complainant. In conducting investigations, the IC will also endeavor to protect the confidentiality of a person making a statement to investigators from those outside of the investigative or IC review process if specifically requested by the person. However, the IC may be required to disclose the identity of these persons if a criminal prosecution ensues based on information from the complainant or person who has requested confidentiality, if adverse action is taken against the subject of the complaint or investigation in an administrative forum based on the information from the complainant or person, or if a court orders disclosure. Even if the IC does not release the name of a complainant or a witness, that person's identity may become discernible from the context of the complaint or investigation.

16. Amendments to the IC Policies and Procedures

The CIGIE Chair or Vice Chair, or any IC member may propose revisions or amendments to these procedures. The IC will consider the proposed revision or amendment following consultation with the CIGIE Chair. A majority of the IC members must approve any revision or amendment. Thereafter, the revision or amendment will be submitted to the CIGIE Chair who will provide a copy to the congressional committees of jurisdiction in accordance with section 11(d)(7)(ii) of the IG Act.

17. No Right or Benefit

These procedures 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.

Approved: Patrick W. Kelley Date: 7/26/2016
Patrick W. Kelley
Chairman
Integrity Committee

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 minimus standard for abuse of authority.

“Act” means the Inspector General Act of 1978 as amended by the Inspector general Reform Act of 2008, P.L. 110-409.

“Agency head” means the head of an establishment or designated federal entity, as defined by the Act.

“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.

Appendix B: Section 11(d) of the Inspector General Reform Act of 2008 (Public Law 110-409)

11(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.--The Integrity Committee shall consist of the following members:

“(A) The official of the Federal Bureau of Investigation serving on the Council, who shall serve as Chairperson of the Integrity Committee, and maintain the records of the Committee.

“(B) 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)).

“(C) The Special Counsel of the Office of Special Counsel.

“(D) The Director of the Office of Government Ethics.

“(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—

“(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.--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).

"(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)(C) 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) may provide resources 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; and

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

"(ii) 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) REPORTS.--

"(i) POTENTIALLY MERITORIOUS ALLEGATIONS.--For allegations described under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

"(ii) ALLEGATIONS OF WRONGDOING.--For allegations referred to an agency under paragraph (5)(B), the head of that agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.

"(8) ASSESSMENT AND FINAL DISPOSITION.—

"(A) IN GENERAL--With respect to any report received under paragraph (7)(C), 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 "(iii) 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).

"(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 other agencies, 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 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.

"(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."

(b) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL-

(I) DEFINITIONS.--In this section--

(A) the term "Integrity Committee" means the Integrity Committee established under section 11(d) of the Inspector General Act of 1978 (5 U.S.C. App), as amended by this Act; and

(B) the term "Special Counsel" refers to the Special Counsel appointed under section 1211 (b) of title 5, United States Code.

(2) AUTHORITY OF INTEGRITY COMMITTEE.--

(A) IN GENERAL--An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the *4313 same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this paragraph.

(B) COORDINATION WITH EXISTING PROVISIONS OF LAW.--This subsection does 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 subsection involves section 2302(b)(8) of that title, a failure to obtain corrective action within 120 days after the date on which that 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 that title.

(3) REGULATIONS.--The Integrity Committee may prescribe any rules or regulations necessary to carry out this subsection, subject to such consultation or other requirements as might otherwise apply.

(c) EFFECTIVE DATE AND EXISTING EXECUTIVE ORDERS.--

(1) COUNCIL--Not later than 180 days after the date of the enactment of this Act, the Council of the Inspectors General on Integrity and Efficiency established under this section shall become effective and operational.

(2) EXECUTIVE ORDERS.--Executive Order No. 12805, dated May 11, 1992, and Executive Order No. 12933*, dated March 21, 1996 (as in effect before the date of the enactment of this Act) 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.

* Incorrect in original; should be Executive Order 12993.