



June 11, 2015

The Honorable Ron Johnson
Chairman, Committee on Homeland Security and Governmental Affairs
U.S. Senate
Washington, DC 20510

The Honorable Thomas R. Carper
Ranking Member, Committee on Homeland Security and Governmental Affairs
U.S. Senate
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Carper:

The Council of the Inspectors General on Integrity and Efficiency (CIGIE) appreciates your continued support of our work and the Committee on Homeland Security and Governmental Affairs' interest in advancing S. 579, the Inspector General Empowerment Act of 2015, as amended (S. 579). CIGIE has advocated a number of the changes included in S. 579 to enhance the work of Inspectors General (IGs).¹ In this and recent Congresses, committees of jurisdiction have taken testimony and maintained an ongoing dialogue with CIGIE representatives and IGs regarding the underlying challenges the legislative proposals seek to address. IGs are charged with addressing fraud, waste, and abuse in Federal programs and are committed to doing so in the most efficient and cost-effective manner as we carry out the responsibilities set forth in the Inspector General Act of 1978, as amended (IG Act).

S. 579 would provide IGs with important additional tools the community has long advocated for, as well as other provisions that would enhance CIGIE's operations and increase transparency of Federal oversight efforts. We appreciate their inclusion in the legislation. However, there remain several provisions in S. 579 which, as we have discussed with Committee staff previously, continue to be of concern to CIGIE. In particular, we do not support Section 5(c) of the legislation, which would have a significant detrimental impact on the IG community and undermine our ability to perform our investigative responsibilities. For the reasons outlined below, we strongly urge the Committee to eliminate or substantially rewrite this provision.

We look forward to continuing to discuss the issues identified below with Committee staff.

¹ See February 20, 2015, letter from the CIGIE Legislation Committee Chair to the Deputy Director for Management, Office of Management and Budget.

SECTION 2. NONDUTY STATUS OF INSPECTORS GENERAL; SUPERVISION

General Supervision

Section 2 of the bill seeks to protect the independence of IGs to carry out the functions of the IG Act. The IG Act in Section 3(a) prohibits agency management officials from directing the work of the IG and states that neither the head of an establishment nor the officer next in rank shall prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. A similar provision can be found in Section 8G(d)(1) of the IG Act with regard to designated Federal entity IGs. This important organizational independence helps to limit the potential for conflicts of interest that could exist if an IG were to report to a subordinate agency official whose programs the Office of Inspector General (OIG) audits and investigates. Further, the insulation of IGs against interference with its audits or investigations promotes independent and objective reporting by IG offices.

Section 3(a) of the IG Act further provides:

Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment.

Similar language can be found in Section 8G(d)(1) of the IG Act with regard to designated Federal entity IGs. There is no statutory definition of “general supervision,” although the IG Act is clear that this supervision may not be exercised in a way that would inhibit an IG’s full discretion to undertake an audit or investigation, issue subpoenas, and see these matters through to conclusion. Although few court decisions have analyzed the “general supervision” language of the IG Act, one case in particular, *United States Nuclear Regulatory Commission v. Federal Labor Relations Authority*, 25 F.3d 229, 235 (4th Cir. 1994), reviewed the legislative history of the “general supervision” language and described the agency head’s supervisory authority over the IG as “nominal.”

CIGIE understands that the existing statutory language was intended to recognize that IGs, while acting independently, reside within the agencies they oversee. However, some IGs have found that agencies mistakenly rely upon the “general supervision” language when attempting to improperly direct an IG in their duties. We appreciate the Committee’s concern about safeguarding the independence of IGs by deleting the phrase “general supervision” in Section 3(a) of the IG Act. However, deleting the phrase “general supervision” without inserting new, clearer statutory language may unintentionally create further conflicts or confusion and prevent IGs from relying on the favorable construction of the term in the case law. Leaving Section 3(a) to read that an IG “shall report to the head of the establishment” may lead agency leaders to believe, contrary to Congressional intent, that deletion of the term *increases* their supervisory authority over IGs. Therefore, CIGIE suggests that, consistent with Congressional intent and the Fourth Circuit decision, the phrase “general supervision” in Section 3(a) and Section 8G(d)(1) of the IG Act be replaced with the phrase “nominal supervision.”

Appropriate Use of Paid or Unpaid, Non-duty Status for an IG

Section 3(b) of the IG Act provides a specific process for removing an IG from office or transferring an IG to another position or location within an “establishment.” Section 8(G)(e) provides a similar process for IGs within designated Federal entities. These removal processes require Congressional notification not later than 30 days before any such action. They provide a safeguard to protect the independence of IGs to undertake or complete any audit or investigation, or to issue a subpoena related to that work. This safeguard can be circumvented when an IG is placed on “administrative leave” or “suspended without pay” (i.e., a paid or unpaid, non-duty status) by the President (for an IG of an establishment) or by an agency head (for an IG of a designated Federal entity).

Section 2 of S. 579 would establish a Congressional notification requirement for use of either paid or unpaid, non-duty personnel actions involving an IG, and limits the timeframe of such leave for IGs but permits extensions. It also provides three specific reasons that may justify placing an IG on leave, which are identical to the reasons for placing a Federal employee on paid, non-duty status set forth in regulations.² This process is consistent with a proposal offered to OMB by CIGIE in its compilation of legislative priorities for the 114th Congress.³

SECTION 3. ADDITIONAL AUTHORITY FOR INSPECTORS GENERAL

Authority to Issue Subpoenas for Testimony

Section 3 of the bill would authorize IGs to subpoena the attendance and testimony by individuals employed by certain entities subject to oversight by IGs, as well as to subpoena former Federal employees. The IG community appreciates the strong Congressional interest in enhancing IG oversight through this limited testimonial subpoena authority. To avoid any confusion about the extent to which IGs may exercise this authority, CIGIE proposes two possible changes to the language:

- (1) CIGIE suggests removal of the word “certain” in front of “witnesses” and removal of the clause “including a current or former contractor with the Federal Government, a current or former subcontractor (at any tier) of a contractor with the Federal Government, a current or former grantee of the Federal Government, a current or former subgrantee of a grantee of the Federal Government, a current or former employee of such a contractor, subcontractor, grantee, or subgrantee, and any former Federal employee[.]”

This change would align the testimonial subpoena authority with the IGs’ existing authority to subpoena documents. That authority, set forth in section 6(a)(4) of the IG Act, does not specify the recipients to whom IGs may issue subpoenas, but only requires a subpoena be necessary in the performance of IG work. We recommend removal of this clause in part because it could be interpreted to restrict recipients to those specifically

² See 5 C.F.R. §§ 752.404 and 752.604.

³ See February 20, 2015, letter from the CIGIE Legislation Committee Chair to the Deputy Director for Management, Office of Management and Budget.

listed in the statute. Among the subjects of IG oversight that are not included in this list are lenders participating in guaranteed loan programs, employees of a current or former contractor or subcontractor of a federal grantee, participants and volunteers in national service programs, and parties to cooperative agreements. Moreover, certain designated Federal entities may not be interpreted to fall within the definition of the “Federal government,” thereby denying their IGs testimonial subpoena authority.

- (2) While CIGIE strongly prefers the prior suggestion, a possible alternative would be to insert “but not limited to” after “including” and before the list of examples of possible witnesses to at least make clear that the list of entities is not exhaustive.

Further, Section 3 of the bill mandates that a subpoena review panel for IGs of the Intelligence Community be composed of members of the “Council of Inspectors General on Integrity and Efficiency’s Intelligence Community.” Because there is no such committee, we recommend that proposed Section 6A(b)(1)(B) be amended to read:

“(B) in the case of a request by an Inspector General from the Intelligence Community, the 3 members designated under subparagraph (A) shall each be an Inspector General within the Intelligence Community.”

In addition, there are two Special Inspectors General that currently perform certain oversight functions as set forth in their enabling legislation—the Special Inspector General for Afghanistan Reconstruction and the Special Inspector General for the Troubled Asset Relief Program. CIGIE recommends inserting within the Rule of Construction contained in Section 6A(e) of S.579 an amendment to their authorizing statutes to include 6A into their explicit authorities under the IG Act.⁴

Relief from the Computer Matching and Privacy Protection Act and the Paperwork Reduction Act for Inspector General Oversight Activities

Section 3 of the bill also exempts IGs from the Computer Matching and Privacy Protection Act (CMPPA), an exemption CIGIE has long supported and which the Congress has already granted to the OIG for the Department of Health and Human Services (HHS-OIG). Timely use of computer matching can be a powerful tool for safeguarding the integrity of Federal programs. Other than HHS-OIG, IGs are impeded in their efforts to effectively use this tool. Under the CMPPA as currently written, an IG’s request for computer matching must undergo a protracted review by the agency and is subject to the discretion of agency leadership. This requirement results in agency leadership deciding whether an IG can have access to information the IG has determined is necessary to conduct its oversight work of the agency. Removing this impediment will better enable IGs to conduct their work timely, efficiently, and independently.

Section 3 of the bill also will exempt IGs from the provisions of the Paperwork Reduction Act (PRA). For over a decade, the IG Community has sought a change to the PRA in order to

⁴ We note that the current language in this draft does not provide testimonial subpoena authority to Inspectors General of the Intelligence Community or Central Intelligence Agency, as their authorities are contained in Title 50 of the U.S. Code.

facilitate IG work, and CIGIE has recommended the PRA be amended to exempt OIGs from its requirements. Specifically, our concern is that the PRA requires that information collections, such as OIG surveys, be subject to approval from a "senior official" of the agency and then from OMB. Subjecting IGs to the review process requirements of the PRA conflicts with the mandate that IGs be independent. Moreover, application of the PRA to IGs has both process and substance implications. We continue to support an exemption to the PRA for IGs that is analogous to that afforded to the Government Accountability Office (GAO).

SECTION 4. ADDITIONAL RESPONSIBILITIES AND RESOURCES OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Section 4 of the bill amends Section 11 of the IG Act in several respects to provide additional responsibilities and resources to CIGIE:

- The Section makes technical corrections and authorizes certain delegation authority. Specifically, the IG Act is amended to update the title of the IG of the Intelligence Community, previously identified as the IG of the Director of National Intelligence. The amendments also provide flexibility for the Director of the Office of Government Ethics (OGE) to designate a representative to carry out responsibilities on the Integrity Committee. Such flexibility is necessary to ensure OGE is a full participant on the Integrity Committee, particularly when a conflict may exist that requires recusal of the Director in specific matters.
- The Section establishes a new function and duty for CIGIE by authorizing it to receive, review, and mediate any disputes submitted in writing by an IG regarding an audit, investigation, inspection, evaluation, or project that involves the jurisdiction of more than one OIG. We recommend language such as "Except for matters coordinated among Inspectors General under Section 3033 of Title 50..." which would take into account the existing Intelligence Community IG Forum, which is the mechanism created by Congress to address IG jurisdictional issues in the Intelligence Community.

Composition and Procedures of the Integrity Committee

The Section makes changes to the membership and procedures of the Integrity Committee. We would note that the Integrity Committee recently adopted revised policies and procedures that address several of the issues that the legislation seeks to address. Attached to this letter is a copy of the revised policies and procedures that will be issued shortly.

- The bill changes the Chair of the Integrity Committee from the Federal Bureau of Investigation (FBI) to one of the IGs serving on the Integrity Committee. CIGIE supports this change, looks forward to the continued participation of a senior FBI representative as a member of the Integrity Committee, and believes the FBI's participation provides an additional assurance to the public regarding the Integrity Committee's oversight process. The bill also removes the Special Counsel as a member of the Integrity Committee. Given the conflicts that frequently arose for the Special

Counsel between matters pending before the Office of Special Counsel and matters pending before the Integrity Committee, CIGIE supports this change.

- The bill prescribes time frames to carry out functions of the Integrity Committee. The role of the Integrity Committee is one of CIGIE's paramount duties and is vital to maintaining public trust in the work of IGs. CIGIE agrees that providing time frames will help ensure that allegations under the purview of the Integrity Committee are reviewed and investigated in a timely manner. However, CIGIE has concerns about two particular time frames included in the bill. First, CIGIE recommends the 15-day time frame following referral to initiate an investigation be extended to, at a minimum, 45 days. A 45-day time period will allow the Integrity Committee to obtain from individuals subject to allegations any exculpatory or clarifying information, which can then be evaluated to determine whether a full investigation is warranted and, if so, its parameters. This process has served to reduce the number of full IG investigations required to be initiated.

Second, CIGIE recommends the 120-day time period required to complete an investigation be extended to 180 days. Investigations initiated by the Integrity Committee often involve complicated allegations, and must be carefully and thoroughly conducted. CIGIE suggests a 180-day time period provides a more realistic deadline for completion, and we are concerned that a 120-day deadline could result in investigations being rushed or create the perception that an investigation was rushed, even when it was not, in order to meet a statutory deadline. We are further concerned that the 120-day deadline could make it difficult for the Integrity Committee to find OIGs that are available to conduct more complicated investigations if they believe it will be difficult to complete the investigation in a timely manner.

- The bill also requires that Congress be notified if an Integrity Committee investigation cannot be completed within the 120-day time period and be briefed every 30 days thereafter. Whether the time period for completion of the investigation is 120 days or extended to 180 days, CIGIE would have significant concerns if the briefing requirement were intended to be substantive in nature. Providing a substantive briefing during the pendency of an ongoing Integrity Committee investigation to the Congress, or to the agency itself, risks impairing the independence of the investigation. CIGIE does, however, appreciate the importance of keeping Congress informed on the anticipated timing of an Integrity Committee investigation, and therefore suggests that the bill make clear that the briefing requirement is intended to be procedural, not substantive, and only entails an update on the anticipated timing of the investigation.
- The bill clarifies the authority of the Integrity Committee to conduct and coordinate parallel investigations with other investigations that may be ongoing by another governmental entity.
- The bill also provides that any Member of Congress may have access to Integrity Committee reports. The IG Act currently requires the Integrity Committee to submit an executive summary of its final reports to the House Committee on Oversight and

Government Reform (HOCR), the Senate Committee on Homeland Security and Governmental Affairs (HSGAC), and other congressional committees of jurisdiction. The IG Act also currently provides that the Chair and Ranking Member of each of these committees can request more detailed information from the Integrity Committee concerning completed investigations. CIGIE recognizes the importance of congressional oversight of Inspectors General and of the need for committees with responsibility to oversee an OIG to receive Integrity Committee reports, but has concerns about making available those reports to committees and Members that do not have oversight responsibility of an OIG. CIGIE therefore requests that the bill be amended to provide for distribution of Integrity Committee reports to the Chair and Ranking Member of HOCR, HSGAC, and other congressional committees of jurisdiction.

Authorization of Appropriations for CIGIE

The Section amends Section 11 of the IG Act by authorizing a new source of funds available for appropriations to CIGIE. CIGIE has long believed an appropriation would provide the most efficient and effective means of funding CIGIE, and we support the bill's authorization of an appropriation.

SECTION 5. REPORTS AND ADDITIONAL INFORMATION

GAO and CIGIE Report Mandates

Sections 5(a) and 5(b) of the bill establish a requirement for two reports to Congress. GAO is required to conduct a study of prolonged vacancies in OIGs. CIGIE is required to conduct an examination of critical issues that involve the jurisdiction of more than one IG. The examination will identify issues that could be better addressed through greater coordination among IGs and best practices that can be employed to increase coordination and cooperation on each issue identified.

Congressional Reporting Mandates

Section 5(c) of the bill seeks to enhance transparency of Federal oversight efforts. Since 2010, CIGIE members have been requested by letters from certain Members of Congress to provide information similar in respect to that mandated in Section 5(c). The request letter and ensuing dialogue with congressional staff provided flexibility for individual OIGs to meet information needs of the Members of Congress while at the same time reducing the cost and burden of providing responsive data. This dialogue and flexibility has increased the value in such reporting, which will be lost in the much broader mandated framework offered in S. 579.

While CIGIE strongly supports transparency of the work of IGs, we do not support Section 5(c) of the legislation for several reasons. First, it would create a substantial burden for many OIGs by requiring them to prepare for Congressional distribution and public posting a large number of investigative reports each year. Indeed, larger OIGs close hundreds of investigative reports each year, many of which do not result in public actions (e.g., prosecution or public

interest disclosures). Most of these “investigations” are closed due to lack of evidence developed, are deemed to not warrant additional OIG resources, or result in personnel actions taken at the discretion of the agency, not the IG. Reporting out on all of these investigations, as the legislation provides, including those with no adverse findings, would require a significant investment of time for many OIGs, thereby diverting investigative resources that would otherwise be dedicated to accomplishing the OIG’s mission. Second, it could impact our ability to gain voluntary cooperation from witnesses once the witnesses understand that our reports, which would likely include information that they provided, were required to be made public and be provided to Congress. Third, by making OIG reports available to any Member of Congress, the legislation effectively subjects an OIG to oversight by any Committee of Congress or any Member of Congress that wishes to review and raise questions regarding that OIG’s reports. We are concerned that expanding oversight in this manner would substantially burden OIG offices that receive such additional requests. Finally, we are concerned that requiring OIGs to provide investigative reports, including those with no adverse findings, to any Member of Congress, including those that are not members of the OIG’s oversight committees, risks creating a conflict between the proposed affirmative disclosure requirement and the Privacy Act. The proposed requirement also establishes a double standard for disclosing investigative reports with IG reports being subject to one standard while other Federal law enforcement reports would be subject to a different standard.

In light of these concerns, and the existing arrangements that OIGs have with Members of Congress to provide these reports, we recommend that the Committee delete Section 5(c) in its entirety. If Section 5(c) is not deleted in its entirety, we offer several suggestions to streamline the reporting requirements and avoid unintended harm to ongoing IG oversight efforts by imposing significant additional reporting obligations on IGs:

- CIGIE suggests incorporating the remaining reporting elements into Section 5 of the IG Act, which requires IG semiannual reports to Congress. Such an approach would eliminate a parallel reporting scheme and allow for the preparation and transmission of one report, the semiannual report to Congress.
- In Section 5(c)(1)(A), CIGIE suggests substituting “serving in a GS-15 position or equivalent or above” to replace the current language “receiving pay at the rate specified for GS-15 level or above.” This amendment would make clear that the reporting requirement pertains to employees serving in GS-15 (or equivalent or above) positions, and not lower level GS-14 employees whose pay may fall within the GS-15 scale.
- In Section 5(c)(1)(A)(i)(II), CIGIE suggests deleting “and an explanation of the reasons for the declination” by the Department of Justice (DOJ) of cases involving GS-15 (or equivalent or above) employees. This information is under the purview of the Department of Justice and may be considered attorney work product. Additionally, any explanation received from DOJ by OIG personnel may represent an incomplete analysis, and an OIG mandated disclosure of its knowledge of the explanation may have a chilling effect on the relationship between OIG criminal investigators and DOJ attorneys.

- CIGIE suggests deleting Section 5(c)(1)(B). This provision will result in duplicative submission of reports to Congress. For example, to the extent such reports include investigative reports, some of these already would be reported under 5(c)(1)(A). Other investigative reports may involve investigations of entities or individuals outside of an IG's department or agency and are usually closed because prosecution is declined. To the extent that this provision covers audits and other reviews, we note that typical reasons an IG does not publicly post reports are that they include classified information or specifics on information security processes, the release of which could harm the government. We suggest that such reports be provided to Congress in carefully controlled ways that both meet the needs of Congress in its oversight efforts and provide some degree of protection of the information they contain.
- CIGIE suggests deleting "investigations" from the reporting requirement set forth in 5(c)(1)(E)(i). This reporting requirement presents a significant burden for OIGs, as described above, and may pose privacy concerns given the scope of the term "investigations." Reporting out on certain investigations is also prohibited by Federal confidentiality laws. For example, TIGTA is prohibited by IRC sec. 6103 from providing more than statistical information to non-tax writing Congressional committees.
- CIGIE suggests amending 5(d) "(e)(2)" to add "or subject to ongoing or potential litigation" at the end. This amendment would protect from disclosure reports containing recommendations that may be subject to further administrative or appeal proceedings, such as disciplinary actions, suspensions, or debarments.

SECTION 6. TECHNICAL AND CONFORMING AMENDMENTS

Section 6 amends the IG Act to make necessary technical corrections, which CIGIE supports. The amendments codify certain provisions of the IG Reform Act, make technical corrections, and make corrections to typographical errors. However, CIGIE notes that the bill does not codify two provisions of the IG Reform Act of 2008 (IG Reform Act): the designated Federal entity IG pay provisions set forth in section 4(b) of the IG Reform Act and pay provisions for career Senior Executive Service personnel who become IGs, as set forth in section 4(c) of the IG Reform Act. CIGIE suggests that Sections 4(b) and 4(c) of the IG Reform Act be codified into the IG Act.

CIGIE welcomes the opportunity to offer any technical assistance necessary to incorporate its other legislative priorities, such as the proposed technical changes to preserve IG independence in context of the Federal Information Technology Acquisition Reform Act. Should you have any questions or need more information, please do not hesitate to contact me at 202-692-2900.

Sincerely,



Kathy A. Buller
Inspector General
Peace Corps

Chair, Legislation Committee
Council of the Inspectors General on Integrity
and Efficiency

cc: The Honorable Jason Chaffetz
Chairman, Committee on Oversight and Government Reform

The Honorable Elijah E. Cummings
Ranking Member, Committee on Oversight and Government Reform

Attachment 1: CIGIE Integrity Committee Policies and Procedures

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

**Integrity Committee
Policies and Procedures
2015**

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

As public watchdogs, 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 IG Act, were adopted by the IC in conjunction with the CIGIE Chairperson.

2. Matters for Consideration by the IC

A. Complaints within the IC's jurisdiction. Complaints within the IC's jurisdiction are:

- 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;
 - b. an objective internal investigation of the allegation is not feasible; or
 - c. 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 apply to the Special Counsel and Deputy Special Counsel as well, except that the Special Counsel is not required to designate staff members under paragraph 4.
- iv. The IC has jurisdiction to consider wrongdoing alleged to have occurred while the IG or designated staff member was employed as such, regardless of their employment status at the time of the allegation or during the proceedings. Whether to exercise

- jurisdiction over 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 jurisdiction. The IC shall 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: an FBI official designated by the Director of the FBI, who serves as Chairperson; the Special Counsel of the Office of Special Counsel; the Director of the Office of Government Ethics; and four IGs, appointed by the Chairperson of CIGIE to serve terms of four years each. The Chief of the Public Integrity Section of the Department of Justice, or designee, serves as the IC's legal advisor and attends the meetings in an advisory capacity.
- B. Vice Chairperson. The CIGIE Chairperson shall 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 shall be as outlined in these policies and procedures, to fulfill the IC Chairperson's functions in the IC Chairperson's absence, and other duties as assigned by the IC or IC Chairperson.
- C. Working Group. The IC shall establish an Integrity Committee Working Group (“Working Group”) composed of employees of the FBI, CIGIE personnel, or IG staff members. The Working Group shall assist the IC in the execution of the IC's responsibilities, as determined by the IC.
- D. Meetings. The IC shall meet monthly, unless pending business is insufficient to warrant a meeting, with at least one meeting per calendar quarter to take place in person, to review the status of all pending complaints. More frequent meetings may be called at the discretion of the IC Chairperson or IC Vice Chairperson. Prior to the meetings, IC members shall independently review each case. The Working Group shall maintain a written agenda of each meeting, and of action determinations made regarding each agenda item, as a record for the IC.
- E. Quorum. A quorum, consisting of four IC members, is required for the IC to consider a complaint or take any action concerning a complaint. If: (1) the IC Chairperson determines that consideration of a pending matter is urgent and cannot reasonably be delayed and a quorum cannot be established within five business days, or (2) two or more of the IG members are recused from a matter, the IC Chairperson shall immediately

notify the CIGIE Chairperson. Upon notification, the CIGIE Chairperson shall appoint a temporary IC member or members as necessary to establish a quorum or to ensure that at least two IG members of the IC are eligible to participate in a decision regarding the matter

- F. Voting: Matters before the IC shall be determined by a majority of the IC members voting.
- G. Recusal of IC members. A recused IC member shall not vote or otherwise participate in the consideration of a matter from which the member is recused. All recusals shall be noted in the minutes of the meeting at which the recusal is determined.
 - i. An IC member shall be recused from consideration of any matter in which a reasonable person, knowing all of the facts and circumstances involved, would question the member's impartiality, including, but not limited to, the following:
 - a. An IC member shall be recused from consideration of matters involving that IC member or another Covered Person in that IC member's office.
 - b. An IC member shall be recused from consideration of a matter if the member believes that his or her impartiality would reasonably be questioned, because of a close personal, financial or business relationship, or for any other reason.
 - c. The IC Chairperson, and any Working Group members from the FBI shall be recused from matters involving the IG or a staff member of the Department of Justice Office of the Inspector General.
 - d. If the IC Vice Chairperson is recused from participation in some or all matters before the IC, the remaining IG members of the IC shall designate one of their number to perform the duties of the Vice Chairperson.
 - e. An IC member who knows that he or she is under a criminal investigation or an IC investigation shall be recused from participating in all matters before the IC during the pendency of that investigation.
 - f. An IC member shall be recused from consideration of a matter if the IC determines that the circumstances present would lead a reasonable person to question the member's impartiality in the matter.
 - g. IC members who have determined that their own recusal is not necessary may nevertheless disclose a potential basis for recusal for final determination by the IC, provided that the disclosing IC member shall not vote on the final determination.

- H. Matters Requiring a Security Clearance. If a matter before the IC requires a security clearance, any member who does not hold the requisite clearance shall be recused.

4. Designation of Staff Members by an Inspector General

Pursuant to Section 11(d)(4) of the IG Act, each IG shall 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 shall 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 Concerning a Designated Staff Member

A. Reporting by an Inspector General.

- i. Allegation Concerning the IG. An IG shall 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, shall be made in a referral letter to the IC. The referral letter shall 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 objective internal investigation of the allegation is not feasible or that the objectivity of an internal investigation might reasonably be questioned.

- 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 shall conduct an initial review of each complaint received by the IC and determine whether the complaint alleges wrongdoing on the part of a Covered Person. The Working Group may seek additional information from the complainant if the complaint lacks sufficient detail to make this determination. The Working Group shall log each complaint and assign it a control number, and acknowledge each complaint to the complainant unless the complaint is made anonymously. The Working Group shall complete its initial review within 15

calendar days of receipt of the complaint. Questions about whether a particular complaint is within the IC's jurisdiction shall be referred to the IC for resolution.

- B. Review by the Public Integrity Section. During the course of its initial review, the Working Group shall provide to the Public Integrity Section (PIN), United States Department of Justice (DOJ) any complaint alleging a substantial criminal offense (i.e. an allegation of the nature and detail for which the FBI or an OIG would ordinarily seek a prosecutive review or review by State or local law enforcement authorities). After an expeditious review, if PIN determines the complaint warrants criminal investigation, the Working Group shall notify the IC at the next meeting of PIN's determination and provide a copy of the complaint to the IC.
- i. Upon PIN's determination that a complaint warrants criminal investigation under Section 6(B), the IC shall refer the complaint to PIN.
 - ii. PIN shall promptly report to the IC that DOJ or another prosecutive authority has declined or deferred further action on a matter that the IC referred to PIN.
 - iii. 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 paragraph 8), if information is uncovered that may indicate a substantial criminal offense, the IC shall promptly discuss the complaint with PIN. If requested by PIN, the IC shall refer the complaint to PIN. PIN shall promptly report to the IC that DOJ or another prosecutive authority has declined or deferred further action.
 - iv. Following an IC referral to PIN, if a criminal investigation has been concluded by PIN without charges being filed, then potentially meritorious allegations of wrongdoing against a Covered Person shall be referred by PIN to the IC for its consideration. 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)), although no particular information must be provided by PIN on behalf of DOJ or another prosecutive authority.
 - v. Following an IC referral to PIN, if a prosecutive authority has brought an unsealed criminal charge, PIN shall report that fact to the IC. Before taking further action on any allegations outside the scope of a pending criminal case, the IC shall consult with PIN.
- C. Complaints outside the IC's jurisdiction. Complaints determined by the Working Group to be clearly outside the IC's jurisdiction 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 shall notify the complainant concerning the referral. Due care shall be taken to protect the identity of a complainant who requests confidentiality.

- D. Placement on the IC agenda. The Working Group shall place those complaints that may fall within the IC's jurisdiction on the agenda for consideration at the next IC meeting. The Working Group shall also provide the IC at its meetings 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, except for the complaints identified in Section 6(B).

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, shall 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 is not intended as a preliminary investigation.
- C. Referral to an Executive Branch agency. Either before or after requiring a response from a Covered Person under paragraph 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 shall 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, except as provided for 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 shall include a request that within 10 business days of receipt, the IG determine whether an objective internal investigation could be conducted, 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 shall 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 shall be held in open status by the IC pending the response, and the IG shall provide an update every 90 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 shall 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 shall be reviewed and investigated under the authority of the IC in the following manner:

A. Request for a response:

- i. The IC shall 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 shall 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 paragraph 8(A)(i) of these procedures, the IC shall 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 clearly 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 shall place the matter on the agenda for the next IC meeting and the Vice Chairperson shall make the further request of the Respondent. Absent extraordinary circumstances, no further extensions shall be granted, and the IC shall determine at its next meeting whether to initiate an investigation.

B. 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 shall 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 under the supervision of another IG.

- a. CIGIE shall maintain a list of IGs capable of undertaking investigations for the IC, and these responsibilities shall be allocated among CIGIE members so as not to create an undue burden on any particular OIG.
- b. When so authorized by the IC, the IC Vice Chairperson shall seek assistance from an IG on the list maintained by CIGIE. The Vice Chairperson shall describe for the assisting IG the nature of the allegations and come to an agreement on the scope of the investigation and an expected timeline for completion. The IC shall have an overall goal of completing investigations within 6 months, recognizing that more complicated investigations may take longer than 6 months. The assisting IG shall provide the IC with an update on the status of the investigation every 60 days.
- c. The investigation shall be conducted under the control and direction of the IC Chairperson and IC Vice Chairperson.
- d. The investigation shall 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.
- e. Reimbursement of expenses shall be subject to the policies and procedures established by CIGIE.

9. Conducting Investigations

- A. Notice to Respondent and opportunity for comment. When an investigation is initiated, the IC Vice Chairperson shall 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. The Respondent will receive a copy of the draft report of investigation, including a transcript of any recorded interview of the Respondent and a summary memorandum of any unrecorded interview of the Respondent, and will have 20 business days to submit additional documents, information, and argument to the IC before the IC's final consideration of the draft report.
 - c. The IC's findings, conclusions, and any recommendations will be forwarded, along with the final investigation report and additional materials submitted by the

Respondent, for review to the CIGIE Executive Chairperson, the CIGIE Chairperson, and to head of the authority that appointed the Respondent.

- B. Reviewing the status of an investigation. The IC, through the Vice Chairperson and the Working Group, shall 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.
- C. 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 shall 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 shall be determined by the assisting IG, who shall ensure that the investigation meets the *Quality Standards for Investigations*.

11. Review of Reports of Investigation by Respondent and IC

- A. Review and comment by the Respondent. A copy of the draft report, or portions of it pertaining to a particular Respondent, shall be provided to that Respondent for review. Exhibits supporting the portion of the report pertaining to a particular Respondent shall be furnished to that Respondent or made available for review. The assisting IG or the IC may make appropriate redactions pursuant to applicable law or regulation (e.g., the Privacy Act) or to protect the identity of a complainant or witness requesting confidentiality. Consistent with paragraph 9(A)(iii)(b) of these procedures, the Respondent shall have 20 business days following receipt of the report to submit additional materials to the IC before its final consideration.
- B. Review by the IC. The IC shall 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 shall 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 these procedures.
- C. IC determination. The IC shall determine whether facts within the investigative report are proven by a preponderance of the evidence. Thereafter, the IC shall 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 an IG or IG senior staff member. If the IC concludes that the facts do not support such a finding, it shall direct that the matter be closed. If the IC finds that the facts do support such a finding, the IC shall make recommendations, as appropriate, including those on disciplinary action. The IC's conclusions and recommendations shall be set forth in writing. A dissenting report may be filed.

- 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 recommendation, 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 shall forward the report of investigation, along with the IC's findings, conclusions, recommendations, and dissenting reports 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 the 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. 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 shall close the matter.
- B. Within 5 business days of submission under subparagraph A, 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 subparagraph A, 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

The IC Chairperson shall notify the individual making the complaint when a case is closed and the basis for the IC's action and recommendations, unless the complaint was made anonymously. The IC Chair shall notify a 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 shall 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. Maintenance of IC Records

A. The Central Records System

- i. Content of Records. All documents received or transmitted by the IC in fulfilling its responsibilities under the Act or under EO 12993 (including, but not limited to, written complaints making allegations against Covered Persons; IC correspondence; 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, outside the jurisdiction of the IC, or otherwise closed without further investigation) shall be collected and maintained as IC records in the FBI's Central Records System. The Central Records System consists of a numerical sequence of subject matter files and an index.
- ii. Criminal Investigative Files Not Included as Integrity Committee Records. The IC records shall not include any criminal investigative files with general investigative information except that IC records may contain limited information about an allegation from criminal investigative files when such information is the source of the alleged administrative misconduct being investigated by the IC. The FBI's criminal investigative files are maintained in the Central Records System under the subject matter of the criminal violation, and, therefore, shall be separate from IC records.

B. Disclosure of Information

- i. Privacy Act protection and restrictions on disclosure. The records of the IC shall be maintained in accord with the Privacy Act of 1974 (Title 5, U.S.C., Section 552a), which restricts the disclosure of all records contained in a system of records maintained by an Executive Branch agency and retrieved by an individual's name or a personal identifier, such as a social security number. 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, or under the conditions specifically set forth in the Act at Section 552a(b).
- 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. All disclosures of information requested from the IC records shall be coordinated with the Working Group.
- iii. Disclosure under the Freedom of Information Act. Third party requests (requests by individuals other than the Respondent) for information shall be processed pursuant to the Freedom of Information Act (FOIA) (Title 5, U.S.C., Section 552), in accord with applicable law; regulations implementing the FOIA at Title 28, C.F.R. Part 16, Subpart A; and FBI FOIA policy and procedures.

- iv. Congressional inquiries. Section 11(d)(8) of the IG Act directs the IC Chairperson to 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 Executive Chairperson. Under Section 11(d)(9) of the IG Act, the CIGIE Chairperson shall 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. Under Section 11(d)(10) of the IG Act, after an Executive Summary or annual report is provided, CIGIE is required to provide more detailed information about specific allegations upon request of the Chair and Ranking Member of the Committee on Homeland Security and Governmental Affairs of the Senate, the Chair or Ranking Member of the Committee on Oversight and Government Reform of the House of Representatives, and the Chair or Ranking Member of other congressional committees of jurisdiction. The IC shall 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. Requests from other committee chair or ranking members, or from individual senators or representatives, shall be treated as requests received under the Freedom of Information Act.

C. Physical Maintenance of Records

- i. Retention of records. The Working Group shall maintain the records of the IC in a manner which ensures their physical security and shall restrict access to the records except as necessary for their review, as provided in these Policies and Procedures.
- ii. Disposal of records. IC records shall be disposed of in accordance with the record disposition programs that apply to the FBI's Central Records System.

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 shall also endeavor to protect the confidentiality of a person making a statement to investigators 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 shall 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 shall be submitted to the CIGIE Chair who shall provide a copy to the congressional committees of jurisdiction in accordance with section 11(d)(7)(ii) of the 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: _____ Date: _____

Timothy Delaney
Chairperson
Integrity Committee

Appendix

Selections from 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.