



President's Council on Integrity and Efficiency

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Testimony of

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Integrity and Efficiency

Before the

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

Regarding

The 25th Anniversary of the
Inspector General Act of 1978



Mr. Chairman, Ranking Member Towns, and Members of the Subcommittee:

I am pleased to be here today to recognize the 25th anniversary of the Inspector General (IG) Act and acknowledge the importance of this law in improving the efficiency and effectiveness of Federal operations and weeding out fraud, waste, and abuse in Federal programs. On behalf of the IG community, we sincerely thank you for calling this hearing and supporting the IGs over the years.

In the last Congress, the entire House Committee on Government Reform was instrumental in helping the IG community achieve our number one legislative priority—providing most Offices of Inspectors General (OIGs) with statutory law enforcement authority. We appreciate your efforts in getting this important tool enacted into law as well your continuing interest in the IG community and our role in improving the efficiency and effectiveness of government operations.

Over the next few minutes, I would like to share a bit of IG history, highlight our community and its accomplishments, and identify possible legislative changes that could refine the Act. Before I begin, I would like to take this opportunity to briefly introduce myself and the community I represent.

I am the IG for the Federal Deposit Insurance Corporation and have served in this capacity since April 1996. I am also 1 of 29 presidentially appointed, Senate confirmed IGs, who are members of the President’s Council on Integrity and Efficiency (PCIE). Created by Executive Order in 1981, the PCIE provides a forum for IGs, the Office of Management and Budget (OMB), and other Federal officials to work together and coordinate their professional activities. Since May 1999, I have served as the Vice Chair of this Council, and it is in this capacity that I appear before this Subcommittee today.

The IG Act: Where We Have Been and Where We Are

For 25 years, IGs have served as independent voices to their agency heads and to the Congress by identifying opportunities and promoting solutions for improved performance of government programs. Unfortunately, departmental scandals had to occur before this concept of independent voice became a reality. In essence, we owe this reality to the work of your predecessor Committee.

As history will show, moving from IG concept into IG law was neither quick nor without opposition. In the early 1960’s, a subcommittee of the House Government Operations Committee, chaired by Congressman L.H. Fountain, began to highlight the need for independent statutory IGs. While individual audit and investigative units may have existed, they were fragmented and typically reported to the officials directly responsible for the programs being reviewed. These units were understaffed, and the opportunity to coordinate within and between agencies did not exist.

Further work by this same subcommittee in 1974 revealed that the former Department of Health, Education and Welfare (HEW) lacked effective processes for investigating program fraud and abuse. In response, legislation establishing a statutory IG at HEW was enacted 2 years later. During congressional hearings debating the Act itself, several witnesses sounded warnings of serious adverse consequences that would result if the Act became law, and other witnesses questioned the constitutionality of some of the 1978 Act's provisions. However, testimony of the HEW Secretary and IG tempered these concerns.

The Act, creating 12 IGs with powers and responsibilities modeled after the HEW IG, passed the House of Representatives with strong bipartisan support. The Act subsequently passed the Senate without opposition and was signed into law by then President Jimmy Carter on October 12, 1978.

Mr. Chairman, nearly 40 years ago, the Congress was clearly looking to shine a light on Federal programs and operations and provide a mechanism for independently reporting the results. This desire produced a unique piece of legislation.

The IG Act created an inherent tension between the executive and legislative branches of government. The IG must keep both the agency head and the Congress "fully and currently" informed about program or operational deficiencies. This dual reporting requirement creates a fine line and one that involves balancing the needs and requests of "two masters." But that is the beauty of the Act and why it has served the Congress, the Administration, and the public so well for so long.

The IG Act is a good law and has stayed the test of time. Since 1978, the basic tenets of the Act have remained constant and strong. The Act gave IGs the authority and responsibility to be independent voices for economy, efficiency, and effectiveness within the Federal government.

To respond to changes in our government, the Act has been amended several times since its enactment. The most extensive amendment occurred in 1988, when reporting requirements were clarified and IGs from designated federal entities (DFE) were added, more than doubling the size of the community. Over the years, other IGs have either been added or changed, as the FDIC IG was in 1993, to a presidentially appointed position.

IG Impact on Efficiency and Integrity of Federal Government Operations

Speaking on behalf of my colleagues in the IG community, I believe that the IG Act has had a profound impact on our government. This impact can be seen in improved operations in Federal agencies, added attention on governmentwide initiatives, and increased collaboration from our colleagues abroad.

Today, 57 OIGs protect the integrity of the government; improve program efficiency and effectiveness; and prevent and detect fraud, waste, and abuse in Federal agencies. By virtue of our independent and nonpartisan status, we provide a measure of continuity and offer a wealth of institutional knowledge and expertise.

Each year, OIG audits, inspections, and evaluations identify billions of dollars in potential savings that could be put to better use or questioned costs representing expenditures that may violate a provision of law, regulation, or contract. OIG investigations lead to thousands of prosecutions or other actions as well as billions of dollars in potential recoveries for violations of Federal criminal laws.

In fiscal year 2002 alone, IG community efforts accounted for nearly \$72 billion in potential savings from agency action on current and prior recommendations and through investigative recoveries. Further, the community was instrumental in nearly 10,700 successful prosecutions, suspensions or debarments of over 7,600 individuals or businesses, and almost 2,200 civil or personnel actions. The community as a whole processed over 234,000 complaints, received primarily through OIG fraud hotlines, issued more than 4,600 reports, and testified more than 90 times before the Congress.

In addition to focusing on issues unique to their individual agencies, OIGs are also attentive to matters that transcend agency lines and impact the government as a whole. Our contributions toward the smooth Year 2000 (Y2K) transition are well known. OIGs provided their agency management with independent and objective assessments of their agencies' readiness and remedial efforts.

More recently, the IG community has played a significant role in the Administration's emphasis on accelerating the reporting of audited financial statements from agencies covered by the Chief Financial Officer (CFO) Act. We are working these issues individually at the agency level as well as collaboratively with the CFO Council to focus on steps necessary to achieve these acceleration goals.

Over the past 3 years, OIGs have also been extensively involved in information technology (IT) security with the responsibility for conducting annual independent evaluations of their agencies' IT security programs and practices. The requirement for these evaluations expired in November 2002 but was reintroduced in legislation passed that same month, ensuring that these evaluations would continue. We view this as yet another example of the impact that the IG Act has had over the years.

The IG community has also been actively involved in several other governmentwide initiatives, such as erroneous payments, purchase card fraud and abuse, critical infrastructure protection, Federal non-tax delinquent debt, controls over social security number use, and agency implementation of the Government Performance and Results Act (GPRA).

The desire for good governance and accountability embodied in the IG Act reaches beyond the United States. In recent years, we have hosted delegations from foreign

governments on five different continents who were seeking our knowledge, expertise, and advice. Each delegation had the goal of replicating the basic IG principles in their governments.

Mr. Chairman, success and impact can be measured in several different ways. The IG community publishes impressive statistics, issues reports to agency management, works cooperatively with U.S. Attorneys, and testifies before the Congress. This type of success is tangible and easy to quantify. However, another way to measure how successful the IG Act has been and will continue to be lies in the fact that IGs are being repeatedly asked by their agency and the Congress to make recommendations to promote the agency's economy, efficiency, and effectiveness and uncover fraud, waste, and abuse.

Over the years, the Congress has seen fit to expand the duties of an OIG beyond the sole mission contained in the IG Act by assigning new responsibilities through general management laws, such as the CFO Act, the Reports Consolidation Act, and more recently, the Federal Information Security Management Act. The Administration has encouraged our involvement in assisting agencies in their implementation of the President's Management Agenda. We interpret this to mean that our work "adds value" to improving the efficiency, effectiveness, and integrity of our government.

PCIE Facilitates the Community's Impact

One of the many issues that the Fountain subcommittee wrestled with many years ago was the lack of effective coordination and communication within and between departments and agencies. The IG Act and the Executive Order creating the PCIE in 1981 sought to resolve these issues.

The PCIE was established to promote collaboration on integrity, economy, and efficiency issues that transcend individual Federal agencies and enhance the professionalism and effectiveness of OIG personnel throughout the government. OMB's Deputy Director for Management chairs the PCIE and reports to the President on its activities. An IG, recommended by the PCIE members and approved by OMB, serves as the Vice Chair and manages the PCIE's day-to-day activities.

As a community, OIGs have collaborated on good government issues for many years. In May 2001, the PCIE, along with the Executive Council on Integrity and Efficiency (ECIE), which serves a parallel mission as the PCIE for the 28 Designated Federal Entity IGs, adopted *A Strategic Framework* to memorialize this responsibility. *A Strategic Framework* focuses our efforts on (1) improving programs and operations, (2) communicating reliable and timely information, (3) implementing human resource development programs, and (4) advancing the professionalism and effectiveness of the community.

To guide the Councils' strategic direction and stay apprised of governmentwide issues, the Councils have an Executive Council, six standing committees, and five roundtables and working groups. The Executive Council provides leadership, centralizes external communications on behalf of the community, and provides long-term planning. The standing committees include the Audit, Human Resources, Inspections and Evaluations, Investigation, Integrity, and Legislation Committees. These committees examine important issues and assist the community in promoting integrity, accountability, and excellence in government.

The GPRA, Inspections and Evaluations, and Information Technology Roundtables and the Misconduct in Research Working Group provide opportunities for the IG community to stay abreast of pertinent issues and share best practices on these initiatives. Earlier this summer, the community formed the Competitive Sourcing Roundtable to develop a governmentwide perspective on this issue. We also actively coordinate with other Federal management councils, including the CFO, Chief Information Officers, and Federal Acquisition Councils.

In addition, the IG community maintains an on-going dialogue with the General Accounting Office (GAO) when addressing both agency-specific as well as governmentwide issues. In particular, several IGs are participating in the Comptroller General's Domestic Working Group, comprised of officials from Federal, state, and local governments who focus their attention on such issues as education, transportation, and the environment. The IG community as a whole is also very engaged in the Intergovernmental Audit Forum to help foster communications between and among audit officials in all levels of government.

Given our unique position and responsibilities within the Federal government, we believe that maintaining a well-trained core of professionals, effective processes for ensuring accountability and transparency, and timely communications are critical for the IG community to remain successful. Toward that end, we are proud to say that we do the following:

- Maintain two professional training facilities. The Inspector General Auditor Training Institute offers OIG audit, evaluation, and inspection training, and the Inspector General Criminal Investigator Academy provides OIG investigative training. A related project to develop core competencies for the OIG audit, evaluation and inspection, and investigative professionals will provide information to better develop our training programs.
- Promulgate standards for our community to ensure that our work is of the highest quality and integrity. Next week, we will be issuing the updated *Quality Standards for Federal Offices of Inspector General* to the community. In honor of the 25th anniversary, we have given the publication a silver cover and it will be known as the "Silver Book."

- Oversee a peer process to ensure that our audit and investigative work is done in accordance with professional standards.
- Maintain an IG community Web site (www.ignet.gov) that acts as a clearinghouse for key reports, statistics, publications, and other general information and serves as a springboard to individual OIG Web sites.
- Publish semiannually a professional journal to share best practices and perspectives of interest to our community. In 2000, we produced two special issues of the *Journal of Public Inquiry* to focus attention on the issues and challenges facing the new Administration.

It is important to note that the two Councils do not receive funding to support the various items I have just described and rely on individual OIGs to absorb the costs or contribute funding by other methods. Codification of the two Councils, which I will discuss later in my statement, would help to eliminate these funding issues and provide opportunities to enhance these initiatives.

GAO's Consolidation Report

In your invitation letter, you asked that we discuss the GAO's 2002 report on IG consolidation and related issues. As requested by GAO, the presidentially appointed IGs participated in the survey portion of the review and provided comments on the draft report. As reported, the presidentially appointed IGs generally believe that independence, quality, and use of resources could be strengthened by conversion or consolidation.

While this general opinion did not change during the comment period of the draft, several IGs expressed concern that significant issues surrounding consolidation were not more thoroughly explored and addressed in the report. These issues included funding and staffing resources, organizational supervision, areas of expertise, and criteria for consolidation. Several of the IGs noted that any benefits that consolidation could provide would be lost if these issues were not appropriately addressed.

One of the related issues referenced in the GAO report that the IG community continues to support involved establishing a statutory IG council with defined roles and designated funding sources that could strengthen the effectiveness of the Councils. In July 2000, I testified, in my capacity as the PCIE Vice Chair, in support of codifying the two Councils, and in light of the items I just described, believe this to be an important legislative change.

Possible Legislative Changes to the IG Act

As the community approached the 25th anniversary, we felt it would be prudent to consider whether any statutory changes to the IG Act would be in order. Our Legislation Committee, chaired by Ken Mead, IG at the Department of Transportation, has been assessing what changes, if any, are needed.

Our consensus view is that the Act's provisions have worked quite well. However, in anticipation that the Congress might revisit the Act in light of the 25th anniversary, we developed four proposals that we would like to share this afternoon. These proposals are still under review within the IG community and will need to be thoroughly discussed with our oversight committees and OMB before we endorse them. We understand that Congressman Jim Cooper is planning to introduce legislation on improving government accountability and has included some of these proposals. We look forward to working with him and this Subcommittee on these issues.

1. Codification of the PCIE & ECIE

As I previously mentioned, the idea of statutorily establishing a single IG Council for all federal IGs has been of continuing interest to a large majority of the IG community. This proposal would institutionalize our existing Councils and necessitate modest annual appropriations. Many members of the IG community believe codification would enhance the way OIGs function across the entire government, and enable us to provide better service and assistance to our agencies and the Congress.

The codification proposal, as currently envisioned, would do the following:

- Create a single, unified IG Council, comprised of the current membership of the existing Councils.
- The IG Council would assume the duty for maintaining governmentwide training for OIG staff conducted by the Inspector General Criminal Investigator Academy, the IG Forensic Laboratory, and the IG Auditor Training Institute. An IG Council would help promote and coordinate a multi-disciplinary approach to address increasingly complex and technical programs.
- The IG Council could strengthen our relationship with the Congress, which could task the Council with statutory responsibilities and conduct periodic oversight hearings. Under the current two-Council structure, IGs have a dual reporting responsibility to both our parent agencies and the Congress, but the two councils are creations of Presidential Executive Orders.
- The IG Council could significantly improve coordination and effectiveness among IGs on governmentwide projects and initiatives of interest to the Congress and Administration and could enhance sharing of law enforcement and audit-related information.

2. Creation of a Statutory Term of Office and Removal for Cause Protection

Another issue of long-standing interest in the IG community is the question of whether statutory terms of office and tenure protection for IGs would enhance the independence of our offices. It is clear that the Congress, in passing the IG Act, sought to provide IGs with a certain measure of independence and insulate them from political influence.

Currently, IGs nominated by the President and confirmed by the Senate have no statutory terms of office, and the only statutory condition for their removal is that the President must notify the Congress in writing of the reasons for removal. By contrast, removal for cause means providing, in statute, that an officer of the government can only be removed under certain criteria, such as misconduct or malfeasance, lack of integrity, inadequate performance, etc.

We note that a number of positions within the Executive branch -- many of whom are PCIE members -- with analogous functions and responsibilities similar to IGs already have fixed terms of office, removal for cause protection, or both. The Director of the Federal Bureau of Investigation, Director of the Office of Government Ethics, Special Counsel, and Director of the Office of Personnel Management (OPM) each have term limits of varying length. The Special Counsel has removal for cause protection. In the Legislative Branch, the Comptroller General has both a fixed term of office and removal for cause protection.

Our Legislation Committee has been engaged in lengthy discussions about the merits of a proposal that would stipulate a fixed statutory term of office for IGs (i.e., a range of anywhere from 5-9 years) and establish removal from office for cause.

3. Personnel Flexibility for Inspectors General

Just as the idea of enhanced and more flexible personnel management authorities has attracted the interest of many Executive Branch officials and this Committee, it has significant interest in the IG community. The IG Act currently authorizes IGs to “select, appoint, and employ such officers and employees” as necessary to carry out their duties. We note that the GAO and the Department of Homeland Security have been provided with additional personnel authorities designed to improve human capital management at those entities.

The IG community is considering a proposal that would authorize OIGs to apply to OPM, on a discretionary basis, for personnel management authorities in the following areas: Pay banding and Merit-based pay systems; new Performance Management measures; Senior Executive Service allocations; Extended Probationary Periods; Nominations for Presidential Rank Awards; and Voluntary Early Retirement and Separation Authority.

Again, this proposal would require approval by OPM for any new personnel authorities granted to individual OIGs in these areas. The benefit is that the authorities could be provided on a pilot basis to gain experience in offices with similar missions, across a

wide variety of government agencies. We recognize that the Congress is considering human capital management issues in a comprehensive manner and may prefer to address this type of proposal as part of a governmentwide initiative.

4. Changing the Reporting Periods of Our Semiannual Reports

Currently, each IG must prepare semiannual reports (SAR) summarizing the activities of his or her office and provide them to the agency head no later than April 30th and October 31st of each year. The agency head then transmits the SAR to the appropriate committees of the Congress within 30 days.

The proposal under review within the IG community would change our reporting from a fiscal year to a calendar year basis. Thus, IGs would be required to prepare reports by January 31st and July 31st of each year, followed by a similar transmission to the Congressional committees 30 days later. This change would ensure that the Congress would receive our SARs by March 1 each year, coinciding with the delivery of the President's budget request and agency Performance Accountability Reports. The change could also provide helpful input to the Congress for use in oversight hearings on agency budgets and in earlier stages of authorization and appropriations bills.

Given that many IGs currently keep their oversight and appropriations committees regularly updated with electronically mailed OIG reports and products, we welcome the input of this Subcommittee on the value of this proposed change. Our goal is to make sure that our SARs provide true "value added" to your oversight and legislative activities at a time when it really matters.

Future Direction for the IG Community

Having just highlighted some of our many accomplishments and noted some of the legislative proposals we are exploring, I along with my colleagues within the community recognize that we cannot sit back and rest. We are constantly looking for ways to improve our operations and processes and ensure that the community's nearly 11,000 employees are adequately trained and have the necessary tools to do their job. We are also forever mindful that our integrity and credibility is of the utmost importance to remain effective in our unique position as IGs and as "agents of positive change" in our agencies.

As always, we welcome opportunities to provide perspective on our work and offer assistance in the Congress' oversight function. For example, over the summer, several IGs testified before the House Budget Committee on fraud, waste, and abuse in Federal mandatory programs. Many more IGs provided statements for the record. This body of work was useful and timely for the Members needing this information.

As previously noted, OIGs have been operating in a changing environment. In addition to our core mission and matters directly related to our agencies, we remain ready to

mobilize as new issues emerge. OIGs are continuing to play a pivotal role in the acceleration of audited financial statements, assessments of information security, identification of significant management challenges, and effective implementation of the President's Management Agenda.

We remain flexible and able to respond to future issues that directly affect our government. Investigative activities in the aftermath of the tragic events of September 11 illustrate how the IG community banded together to assist with the immediate crisis. Today, members of our community are continuing to conduct independent reviews and make recommendations to the agencies responsible for protecting the Nation and our citizens from future attacks.

Closing

Mr. Chairman, this concludes my prepared statement. I would like to again thank you and the Members of your Subcommittee for having this hearing and allowing us to focus attention on where we've been and where we are going. As always, we appreciate your support of the IG mission and community and look forward to continuing this dialogue.

We would also like to express our sincere appreciation to you, Mr. Chairman; and you, Mr. Towns; Congressman Cooper; the House Government Reform Committee Chairman, Tom Davis; and the Committee's Ranking Member Henry Waxman for your involvement with H.J. Res. 70, a joint resolution in recognition of our 25th anniversary. This resolution acknowledged our many accomplishments, commended our employees, and reaffirmed our role. We look forward to its passage.

In closing, IGs were given authority to be independent voices for economy, efficiency, and effectiveness within the Federal government. We take this authority and responsibility very seriously as we are committed to promoting integrity, accountability, and transparency within our respective agencies. At this time, we would be happy to respond to any questions that you, Mr. Towns, or the other Members of the Subcommittee may have.