

**THE INSPECTOR GENERAL ACT OF 1978:  
A 10-YEAR REVIEW**

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**SIXTY-FIRST REPORT**

BY THE

**COMMITTEE ON GOVERNMENT  
OPERATIONS**



OCTOBER 3, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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**LETTER OF TRANSMITTAL**

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HOUSE OF REPRESENTATIVES,  
*Washington, DC, October 3, 1988.*

Hon. JIM WRIGHT,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MR. SPEAKER: By direction of the Committee on Government Operations, I submit herewith the committee's sixty-first report to the 100th Congress. The committee's report is based on a study made by its Legislation and National Security Subcommittee.

JACK BROOKS, *Chairman.*

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2d Session }

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100-1027

### THE INSPECTOR GENERAL ACT OF 1978: A 10-YEAR REVIEW

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OCTOBER 3, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on Government Operations, submitted the following

### SIXTY-FIRST REPORT

BASED ON A STUDY BY THE LEGISLATION AND NATIONAL SECURITY  
SUBCOMMITTEE

On September 27, 1988, the Committee on Government Operations approved and adopted a report entitled "The Inspector General Act of 1978: A 10-Year Review." The chairman was directed to transmit a copy to the Speaker of the House.

#### A. INTRODUCTION

A principal area of jurisdiction of the Committee on Government Operations is improvement in the management and general operation of the Federal Government, its departments and agencies. Toward that end, one of the committee's principal activities has been the establishment of offices of inspectors general beginning with its establishment of the first statutory Office of Inspector General in 1977 in the then Department of Health, Education and Welfare.<sup>1</sup> A second statutory Office of Inspector General was established in the Department of Energy a short time later.<sup>2</sup> The Inspector General Act of 1978,<sup>3</sup> which became law on October 12, 1978, established offices of inspectors general in 12 departments and agencies. Since that date, seven additional Offices of Inspector Gen-

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<sup>1</sup> Public Law 94-505, Stat. 2429, 42 U.S.C. 3512 (1976).

<sup>2</sup> Public Law 95-91, 91 Stat. 575, 42 U.S.C. 7138 (1977).

<sup>3</sup> Public Law 95-452, 92 Stat. 1101, 5 U.S.C. App. (1978), (hereinafter referred to as the "1978 act").

eral have been authorized by statute.<sup>4</sup> Legislation pending before the Congress, if enacted into law, will bring the total number of statutory Offices of Inspector General to 56, including offices in all of the Cabinet departments, all regulatory agencies, and all other Federal entities that receive \$100 million or more in appropriations.<sup>5</sup>

The existing Offices of Inspector General have made substantial contributions to improving the operations of their respective departments and agencies. By the close of the 100th Congress most of these offices will have completed their first decade in operation. This report examines their history as well as the problems they have encountered in effectively exercising the authority provided by the 1978 Act.

### B. HEARING

On August 4, 1988, the Legislation and National Security Subcommittee held a hearing to review the offices of the statutory inspectors general a decade after passage of the Inspector General Act of 1978.<sup>6</sup> Testimony was presented by representatives of the General Accounting Office, the Office of Management and Budget, the Federal Bureau of Investigation, and the Inspectors General from the Departments of Defense, Health and Human Services, Transportation, Education, and the Environmental Protection Agency, as well as the former inspector general from the Department of Housing and Urban Development. Testifying on behalf of GAO was Frederick D. Wolf, Director of the Accounting and Financial Management Division. Testifying on behalf of the Office of Management and Budget [OMB] was Joseph R. Wright, Deputy Director of OMB and Chairman of the President's Council on Integrity and Efficiency. Testifying on behalf of the Federal Bureau of Investigation was Floyd I. Clarke, Assistant Director of the Criminal Investigative Division. The inspectors general providing testimony included June Gibbs Brown from the Department of Defense, Richard P. Kusserow from the Department of Health and Human Services, James B. Thomas from the Department of Education, John W. Melchner from the Department of Transportation, and John C. Martin from the Environmental Protection Agency. Testimony was also provided by Charles L. Dempsey, former inspector general at the Department of Housing and Urban Development.

<sup>4</sup> For the 21 authorized Offices of Inspector General there are 19 Presidentially appointed inspectors general. One of the offices is authorized for the Community Services Administration [CSA], a Federal agency that no longer exists. Another of these, the Office of Inspector General for the Arms Control and Disarmament Agency [ACDA], is headed concurrently by the Inspector General of the Department of State, who uses Department of State Inspector General personnel on a reimbursable basis to provide audit and investigative coverage to ACDA. If enacted, current legislation currently pending before the Congress (S. 908) would delete the authorization for CSA from the 1978 Act.

<sup>5</sup> The language of the House-passed bill, H.R. 4054, was substituted for the language of the Senate-passed bill, S. 908, and returned to the Senate. House and Senate conferees have been appointed and resolution of the differences between the two Houses is expected. See apps. 1 and 2 for a listing of Offices of Inspector General currently in existence and a listing of those that would be established by current legislation.

<sup>6</sup> "The Inspectors General: A 10-Year Review," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, 100th Cong., 2d sess. Aug. 4, 1988 (hereinafter referred to as "August 4, 1988, hearing").

### C. STATUTORY OFFICES OF INSPECTOR GENERAL

#### (1) LONGSTANDING REQUIREMENTS FOR EFFECTIVE AND INDEPENDENT INTERNAL AUDIT NOT FOLLOWED BY DEPARTMENTS AND AGENCIES

The Accounting and Auditing Act of 1950,<sup>7</sup> and numerous administrative directives have been designed to require strong internal audit in Federal agencies. The 1950 Act directs the heads of Federal agencies to "establish and maintain systems of accounting and internal control that provide \* \* \* effective control over, and accountability for, assets for which the agency is responsible, including internal audit."<sup>8</sup> It was later amended to require compliance with audit standards prescribed by the Comptroller General.<sup>9</sup>

A "Statement of Principles and Concepts of Internal Auditing for Federal Agencies" was issued by the General Accounting Office [GAO] in 1957, and revised in 1968, to enhance audit independence and freedom, concentrate efforts, and gain top-level attention to audit findings.<sup>10</sup> The statement specified that each department or agency should have a single centralized internal audit organization reporting directly to the agency head or to a principal executive next in line.

The "Statement of Principles and Concepts \* \* \*" was followed by the "Standards for Audit of Government Organizations, Programs, Activities, and Functions," first promulgated by the Comptroller General of the United States in 1972, which specify that:

In all matters relating to the audit work, the audit organization and the individual auditors, whether government or public, should be free from personal and external impairments to independence, should be organizationally independent, and should maintain an independent attitude and appearance.<sup>11</sup>

Office of Management and Budget [OMB] Circular No. A-73 requires audits of Federal operations and programs and reiterates the policy that "Agencies are responsible for providing adequate audit coverage of their program \* \* \*" The circular states that the audit organization should report to the head or deputy head of the agency.<sup>12</sup>

#### (2) DEFICIENCIES IN INTERNAL AUDIT AND INVESTIGATIVE ORGANIZATIONS AND ACTIVITIES

Beginning in the late 1950's, GAO conducted reviews of the internal audit function in 18 departments and agencies, the District of Columbia Government, the Government Printing Office, the Army

<sup>7</sup> Public Law 81-784, sec. 113(a), 64 Stat 834, 31 U.S.C. 3512(a) (hereinafter referred to as "1950 Act").

<sup>8</sup> Ibid., sec. 113(a)(3).

<sup>9</sup> Ibid., sec. 113(b)(1).

<sup>10</sup> Sperry, Roger L., et al, "GAO 1966-1981 An Administrative History," U.S. General Accounting Office, 1981.

<sup>11</sup> "Government Auditing Standards," Comptroller General of the United States, 1988 Revision, pp. 3-4. Formerly these carried the title "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," which is now the subtitle. In other documents, these standards are referred to as "Yellow Book Standards," or as "Generally Accepted Government Audit Standards" [GAGAS].

<sup>12</sup> OMB Circular No. A-73, Audit of Federal Operations and Programs, Revised, June 20, 1983, sections 5 and 8(a).



Corps of Engineers, and two constituent agencies of the Department of Transportation. The reviews were summarized in a booklet published by GAO in 1970. In the summary, GAO pointed out that, in most cases, the internal auditor reported to an official who was also directly responsible for activities subject to audit and concluded:

Under these circumstances, the internal auditor could find himself in the position of reporting matters which reflect adversely on activities or operations which are carried out within the responsibility of his immediate supervisor.<sup>13</sup>

During the 1960's and 1970's, the Committee on Government Operations conducted a number of investigations which revealed that auditors and investigators throughout the Federal Government were being severely handicapped by one or more of the following conditions:

Lack of independence—auditors and investigators were subordinates of officials directly responsible for the activities being audited or investigated and had no authority to open audits or investigations without approval from their superiors;

Lack of effective organization and leadership—some agencies had multiple audit or investigative units, organized in fragmented fashion with no strong central leadership;

Lack of coordination—there was little or no coordination between auditors and investigators, or even among different units of auditors or investigators in the same agency; and,

Lack of resources—because of inadequate resources, audit cycles were as long as 20 years and some activities had never been audited.<sup>14</sup>

In the early 1960's the committee found that audit and investigative activities in the Department of Agriculture were being conducted by a number of separate and uncoordinated units, which in many cases were subordinate to the officials responsible for the activities being audited or investigated.<sup>15</sup> In response, the Depart-

<sup>13</sup> "Views on Internal Auditing in the Federal Agencies," B132900, 1970, p. 7. The transmittal letter, which is signed by the Comptroller General, states that " . . . [t]he contents of this booklet summarize our view on the organization and operation of the internal auditing function in the Federal departments and agencies. These views are based on our examinations of internal auditing operations in the Federal Government during the past several years."

<sup>14</sup> "Establishment of Offices of Inspector General in Certain Executive Branch Departments and Agencies," Committee on Government Operations, H. Rept. 95-584, Aug. 5, 1977, pp. 5-7.

<sup>15</sup> "What Congress Expects from the New Inspectors General," Hon. L.H. Fountain, Government Accountants Journal, spring 1979, vol. 28, p. 8. (Hereinafter referred to as the "Fountain article".) This article contains the remarks of Representative Fountain to the new inspectors general during the course of their orientation briefings in 1979. In these remarks, Representative Fountain elaborated on the case which led to the nonstatutory inspector general in the Department of Agriculture: "A comprehensive subcommittee investigation of the operation of Billie Sol Estes disclosed that several different audit or investigative units of the Department of Agriculture had looked into various phases of Mr. Estes' questionable activities over a period of nearly 10 years: however, because of an almost total lack of coordination or communication among these units, no effective remedial action was initiated until after a newspaper story revealed the extent to Estes' illegal operations." Also see generally, "The Inspectors General, On-The-Spot Watchdogs," Judy G. Kopff, the GAO Review, spring 1980, p. 51.

ment of Agriculture administratively established an Office of Inspector General which brought together the Department's auditing and investigative resources under an official reporting directly to the Secretary of Agriculture.<sup>16</sup>

The Department of Housing and Urban Development [HUD] established a similar administrative Office of Inspector General in 1972 following scandals in the late 1960's and early 1970's involving collusion of construction firms and builders in urban housing projects.<sup>17</sup> The Veterans' Administration also established an administrative Office of Inspector General in early 1978.<sup>18</sup>

While these administratively established Offices of Inspector General represented a substantial improvement over previous arrangements, such offices existed at the sufferance of the head of the department or agency. This was clearly demonstrated in 1974 when Earl Butz, then the Secretary of Agriculture, summarily abolished the Department's Office of Inspector General and split the audit and investigative responsibilities.<sup>19</sup> Even though the Department of Agriculture's administrative Office of Inspector General was reestablished in 1977 by the then Secretary Bob Bergland,<sup>20</sup> a fatal flaw in administratively established Offices of Inspector General—their lack of statutory underpinnings—had been clearly demonstrated.<sup>21</sup>

### (3) ENACTMENT OF INSPECTOR GENERAL LEGISLATION

An extensive investigation by the committee which began in 1974 and continued for more than a year, disclosed serious deficiencies in the resources and procedures used by the Department of Health, Education and Welfare [HEW] for the prevention and detection of fraud and program abuse. These deficiencies were described in a report issued by the committee on January 26, 1976,<sup>22</sup> which revealed that investigative activities in HEW lacked central leadership and that HEW's central investigative unit had only 10 investigators with a 10-year backlog of uninvestigated cases.<sup>23</sup> The

<sup>16</sup> Fountain article at p. 8. He also concluded that "By and large, the nonstatutory Office of Inspector General at the Department of Agriculture worked well; certainly it was a vast improvement over the disorganized arrangements previously in effect."

<sup>17</sup> "Establishment of Offices of Inspector General," hearings before a Subcommittee of the Committee on Government Operations, House of Representatives, on H.R. 2819, 95th Cong. 1st sess., p. 132 (hereinafter referred to as the "1977 hearings").

<sup>18</sup> "Nomination of Inspector General," hearing before the Committee on Governmental Affairs, U.S. Senate, 96th Cong., 1st sess., May 29, 1979, p. 21.

<sup>19</sup> 1977 hearings, p. 26.

<sup>20</sup> Department of Agriculture, Secretary's Memorandum No. 1915, Mar. 23, 1977. See 1977 hearings, p. 31.

<sup>21</sup> A more recent example of this fatal flaw in administrative established Offices of Inspector General is reported in a June 1986 GAO report "Internal Audit: Nonstatutory Audit and Investigative Groups Need To Be Strengthened" (GAO/AFMD 86-11), p. 17. In this report, GAO states that "At [the National Science Foundation], we found that the audit function was downgraded in January 1985 when it was transferred from reporting to the head of the agency to the Office of the Comptroller. The audit unit head told us that the was concerned that the audit staff's independence was not guaranteed by this organizational placement, even though the current controller was very supportive of its efforts."

<sup>22</sup> "Department of Health, Education and Welfare (Prevention and Detection of Fraud and Program Abuse)," Committee on Government Operations, H. Rept. 94-786, Jan. 26, 1976.

<sup>23</sup> Fountain article, p. 9. Also, Doherty, Robert P., "Shaping the Inspector General Law", Government Accountants Journal, spring 1979, vol. 28, p. 2. Doherty reports on even earlier situations at HEW that further illustrate the problems there. He states that in the early 1960's an investigator on loan to HEW from NASA reported: "They [HEW] had no investigators at all. Management resisted investigators. They also resisted my recommendation [to create their own investigative capability]. Reluctantly, they hired one investigator. This was a department of 80,000 people at the time."

committee's studies, together with the abolition of the administratively established Office of Inspector General at Agriculture, provided the impetus for the creation of statutorily established offices of inspectors general in HEW in October 1976<sup>24</sup> and in the newly created Department of Energy in 1977.<sup>25</sup>

Between May and July 1977, the Intergovernmental Relations and Human Resources Subcommittee of this committee held hearings which disclosed continued serious deficiencies in organizational structure, in investigative and audit procedures, and in audit and investigative resources at a number of departments and agencies.<sup>26</sup> Examples of deficiencies noted include the following:

The committee's August 5, 1977, report<sup>27</sup> recommended establishment of Offices of Inspector General in 12 additional departments and agencies; the legislation proposed by the committee was enacted into law the following year as the Inspector General Act of 1978.<sup>28</sup>

The basic purpose of the 1978 Act was to strengthen audit and investigative activities in order to obtain greater efficiency and effectiveness in Federal Government operations. This purpose was to be achieved by consolidating audit and investigative units under a single individual reporting directly to the agency head, by providing protections designed to ensure that the new offices had independence and authority to carry out their responsibilities, and by requiring periodic reports to agency heads and Congress on their activities.

<sup>24</sup> Public Law 94-505, 90 Stat. 2429, 42 U.S.C. 3521 (1976), Title II—Office of Inspector General [Department of Health, Education and Welfare (now Department of Health and Human Services)] Oct. 5, 1976. In the fall 1983 issue of the *Bureaucrat* (p. 35), Thomas W. Novotny asserts that the first statutory IG was the Office of Inspector General of Foreign Assistance [IGA] at the Department of State, which was established by the Foreign Assistance Act of 1961. However, while the name was the same, the IGA (which was subsequently abolished) was designed as a special investigative unit and did not include elements essential to the current inspector general concept. For example, it did not combine audit and investigation under the leadership of a single individual and did not require periodic reports to Congress. Even though the IGA differs greatly from the present statutory inspectors general, it is interesting to note that the IGA at State was created because its predecessor had reported to the comptroller of the Mutual Security Agency, and, according to Novotny, the Congress believed that the IG should report to the Secretary of State "to provide a means by which information about deficiencies in the operation of [foreign assistance programs] can be transmitted from the operating level in the field where they become apparent to the top echelon of the organization where rededial action can be taken."

<sup>25</sup> Public Law 95-91, 91 Stat. 575, 42 U.S.C. 7138 (1977), the Department of Energy Act (Aug. 4, 1977).

<sup>26</sup> 1977 hearings in general. The committee findings were similar to findings published by the GAO in its summary report in November 1976, entitled "An Overview of Federal Internal Audit," (FGMSD-76-50, p. 15). GAO concluded that there were continuing problems with internal audit and reported that " . . . some agencies still have not established audit groups and other are understaffed." GAO concluded, "The complete or partial absence of internal audit capability means that Federal expenditures in the affected agencies are not being subjected to the important internal control provided by auditors. In addition, opportunities to reduce or eliminate unnecessary or wasteful practices and identify potential cost reductions are being lost."

<sup>27</sup> *Op. cit.*, note 14.

<sup>28</sup> Public Law 95-452, 92 Stat. 1101, 5 U.S.C. app. sec. 208, the Inspector General Act of 1978, Oct. 12, 1978. This act created Offices of Inspector General in 12 departments and agencies. These were the Departments of Agriculture, Commerce, Housing and Urban Development [HUD], Interior, Labor, and Transportation; and in the Community Services Administration [CSA], Environmental Protection Agency [EPA], General Services Administration [GSA], National Aeronautics and Space Administration [NASA], Small Business Administration [SBA], and the Veterans' Administration [VA]. See also app. 1.

(4) CONTINUING DEFICIENCIES IN AGENCIES WITHOUT STATUTORY  
INSPECTORS GENERAL

Following passage of the 1978 Act, President Jimmy Carter issued a memorandum to the heads of all Federal agencies asking those without statutory Offices of Inspector General to designate a single official to oversee efforts to eliminate waste, fraud and error.<sup>29</sup> Chairman Brooks, in August 1983, asked the GAO to determine the extent to which agencies without statutory Offices of Inspector General had complied. In response to the chairman's request, GAO conducted two reviews.

The first review, completed in 1984, consisted of an analysis of responses to a questionnaire sent to 99 agencies without statutory inspectors general. GAO found that:

\* \* \* some agencies are not complying with OMB Circulars A-50 and A-73, which address audits of Federal operations and programs and audit follow-up; and with GAO's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." Some agencies have no audit coverage; at others the internal auditor does not report to the head or deputy head of the agency; and at several agencies that have more than one audit or investigative unit, there are no procedures for coordination.<sup>30</sup>

The second review, completed in 1986, was a followup study of 41 of the larger agencies without statutory inspectors general. In fiscal year 1985 these agencies had a combined total budget authority of over \$100 billion and employed more than a quarter million people. The study revealed that problems similar to those disclosed by GAO's previous report continued to exist. In addition, a detailed review at four agencies showed that:

Important agency functions received little or no audit coverage;

Audit and investigative staffs did not evaluate most of the investigations of alleged fraud and abuse and did not track their disposition or ascertain underlying causes of the illegal activities; and

Audit resolution and followup systems did not meet governmental requirements.<sup>31</sup>

For example, GAO found that the nonstatutory Office of Inspector General at the Federal Emergency Management Agency [FEMA] did not enjoy the full support of agency management. A fiscal year 1985 request to increase the staff to 60 was denied by agency officials despite: (1) an overall agency backlog of 273 investigative cases at that time that resulted in the assignment of as many as 60 cases to each senior investigator; and (2) a "significant number of cases with no investigative actions for 1 to 2 years." In addition, little or no internal audit coverage had been accorded

<sup>29</sup> "Public Papers of the Presidents of the United States, Jimmy Carter, 1978, Book II," Dec. 13, 1978, p. 2233.

<sup>30</sup> "Status of Internal Audit Capabilities of Federal Agencies Without Statutory Inspectors General," (GAO/AFMD84-45), GAO report to the chairman, Legislation and National Security Subcommittee of the House Committee on Government Operations, May 4, 1984.

<sup>31</sup> Op. cit., note 21.

many FEMA activities. Some of FEMA's procurement activities had not been audited since at least 1982. Moreover, in early fiscal year 1985, the investigative staff was devoting "about 90 percent of its time" to investigating cases in just one of the agency's programs.<sup>32</sup>

Based on these studies, the committee concluded in a 1986 report that:

Many of these Federal agencies have demonstrated their inability or unwillingness to establish effective internal audit during the 36 years since the enactment of the Accounting and Auditing Act of 1950. Improvements are long overdue, and it is obvious that the needed improvements will not occur without new legislation.<sup>33</sup>

The committee conclusion and the GAO findings were reconfirmed during 1987 when several statutory inspectors general, acting under the auspices of the President's Council on Integrity and Efficiency [PCIE], conducted analyses of audit and investigative coverage at smaller agencies.<sup>34</sup> According to the inspector general of the Department of State, who directed this effort, the analyses found that:

\* \* \* very few of the smaller agencies had effective audit services. Most lacked any in-house audit units: When these did exist, the bulk of them were not organizationally independent. Perhaps worse, their long-term status was not assured through legislation.<sup>35</sup>

Earlier this Congress, because of situations such as those described above, the committee reported legislation which would bring the total number of statutory Offices of Inspector General to 56.<sup>36</sup> The bill was passed by the House and is currently pending before a House-Senate conference committee. Additionally, the committee has rigorously exercised its oversight responsibilities over the Offices of Inspector General.<sup>37</sup>

#### D. PROBLEMS AND CHALLENGES ENCOUNTERED BY THE OFFICES OF INSPECTOR GENERAL

Offices of Inspector General have experienced some difficulty in effectively implementing provisions of the Inspector General Act of 1978. Some of these experiences result from the failure of persons outside the Offices of Inspector General to understand the 1978 Act and the inspector general concept. Others have resulted from fail-

<sup>32</sup> Ibid.

<sup>33</sup> "Inspector General Act Amendments of 1986," Committee on Government Operations, H. Rept. 99-828, Sept. 16, 1986, p. 13.

<sup>34</sup> "Review of Small Agency Audit and Investigative Capabilities," Report to the Chairman, President's Council on Integrity and Efficiency, May 1987. Additionally, a July 24, 1987, memorandum to the Chairman, President's Council on Integrity and Efficiency, discusses a followup analysis of certain of these agencies.

<sup>35</sup> "Inspector General Act Amendments of 1988," hearing before the legislation and National Security Subcommittee of the House Government Operations Committee, May 17, 1988, (hereinafter referred to as "May 17, 1988, hearing").

<sup>36</sup> See apps. 1 and 2 for a listing of departments and agencies with statutory Offices of Inspector General and those that would be added by current legislation. Op. cit., note 5.

<sup>37</sup> See app. 3 for a listing of legislative and oversight hearings, reports, and a study concerning Offices of Inspector General.

ures within an inspector general's organization. Examples of both are discussed in this section. Regardless of the motives of the participants, these cases are instructive for existing Offices of Inspector General, as well as for any new OIG offices that may be established.

(1) MASS FIRING OF THE INSPECTORS GENERAL ENDANGERS THE INSPECTOR GENERAL CONCEPT

The Inspector General Act of 1978 requires that inspectors general be appointed " \* \* \* by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations."<sup>38</sup>

Inspectors General are prohibited by law from engaging in partisan political activities.<sup>39</sup>

In the event an inspector general is removed from office by the President, the act provides that the President " \* \* \* shall communicate the reasons for any such removal to both Houses of Congress."<sup>40</sup>

*(a) 1981 removal of all incumbent inspectors general*

On January 20, 1981 (Inauguration Day), President Reagan took three official actions—he nominated new Cabinet members, imposed a more stringent hiring freeze, and removed all incumbent inspectors general.<sup>41</sup>

In letters to the Speaker of the House and the President of the Senate, the President gave no specific reasons for removal of the inspectors general, stating that "As is the case with regard to all positions where I, as President, have the power of appointment by and with the advice and consent of the Senate, it is vital that I have the fullest confidence in the ability, integrity and commitment of each appointee to the position of inspector general."<sup>42</sup>

*(b) Mass removal not in accordance with intent of law*

The Committee on Government Operations began investigating the removal of the inspectors general almost immediately after it happened. In a July 1981 report, the committee unanimously concluded that the mass removal of the inspectors general was not in accordance with the intent of the laws authorizing their offices. The report stated that:

The laws establishing statutory Offices of Inspector General were carefully drawn to distinguish the IG's from political appointees. Inspectors general are required to be appointed without regard to political affiliation on the basis

<sup>38</sup> 1978 Act, Sec. 3 (a).

<sup>39</sup> Ibid., Sec. 3(c).

<sup>40</sup> Ibid., sec. 3(b).

<sup>41</sup> "Statutory Offices of Inspector General (Leadership and Resources)," Committee on Government Operations, H. Rept. 97-211, July 30, 1981, p. 19. Although the incumbent inspectors general were removed on January 20, they were not told they had been dismissed until the following day when most of them received brief form letters from a Presidential assistant advising them they had been fired.

<sup>42</sup> Ibid., p. 19.

of integrity and demonstrated ability in specified professional disciplines. Unlike most Presidential appointees, they are prohibited by law from engaging in partisan political activities.

While removal of an inspector general for unsatisfactory performance would clearly not contravene the intent of the authorizing legislation, it was never intended that IG's be automatically replaced on a wholesale basis without regard to their individual merits whenever there is a change in administration.

*(c) Adverse effects of mass removal*

The committee further concluded that the mass removal was carried out without careful consideration and had serious adverse effects on the operations of the Offices of Inspector General. It noted that the Inauguration Day action was taken without notice or consultation with any of the individuals designated to head the affected departments and agencies or any Members of Congress of either party. The committee report also pointed out that:<sup>43</sup>

No meaningful review of the qualifications and performance of the incumbent inspectors general was made before they were removed. Inquiries conducted by the Reagan administration immediately afterward resulted in the conclusion that approximately half the IG's were highly qualified, highly professional, and had done a truly outstanding job.

No apparent thought was given to how long it would take to fill the vacancies resulting from the mass removals or how the IG offices would be managed in the meantime.

Because of the mass removals, there were no statutory inspectors general for at least 4 months; most of the IG positions were vacant for nearly 6 months. \* \* \* Ongoing operations of the Offices of Inspector General [were] delayed or impaired because of the confusion, uncertainty, and loss of permanent leadership resulting from the removals; the damage would have been even worse without the efforts of a number of highly competent professionals serving in the IG offices.

*(d) Efforts to alleviate concern about "politicization" of IG Offices*

Shortly after removal of the IG's, President Reagan personally assured Chairman Brooks and Congressman Horton, ranking minority member of the committee, that he had no intention of "politicizing" the Offices of Inspector General. In a February 19, 1981, letter, the Assistant to the President for Legislative Affairs told Congressman Fountain that both the President and the Deputy OMB Director (who had been put in charge of the selection process for new IG's) had made personal pledges "to insure that the inspector general program not become infested with partisan political considerations" and that "the single bipartisan objective of elimi-

<sup>43</sup> Ibid., p. 5 and 6.

nating fraud and waste would be observed and thoroughly pursued by an outstanding team of top-qualified professionals."<sup>44</sup>

As of July 16, 1981, nearly 6 months after Inauguration Day, only 5 of the 16 statutory IG positions then authorized had been filled; however, nominations had been made for 15 of the 16 positions. In 1981, the committee found that the 6 reappointed inspectors general and the remaining nominees as a group had excellent qualifications and experience.<sup>45</sup>

*(e) Long-term impact of 1981 removals*

In testimony at a June 1981 hearing, Harper tacitly acknowledged that those responsible for firing the IG's had not understood the unique nature of these positions, telling the committee that:<sup>46</sup>

I think there has been some confusion, frankly, in people's minds about what is the relationship of the Inspector General to the executive branch and to the Congress.

I think that members of the administration have a clearer sense of that now than they may have had in the past and I think the point is better understood on everybody's part with respect to the future.

The President clearly has authority to remove an inspector general. If the performance of an inspector general is unsatisfactory or there is good reason to believe that someone else would do a better job, a change would be in accordance with the intent of the law. However, the damage caused by the ill-advised mass firing of all incumbent inspectors general in 1981 was severe. While recognizing that the President's firing of all the inspectors general was within his constitutional and legal authority, Chairman Brooks characterized it as " \* \* \* not a wise thing to do."<sup>47</sup> Even now, nearly 8 years later there is a sense of concern and uncertainty in the inspector general community because of the 1981 removals. Should any future President ignore the lessons of 1981 and again remove incumbent inspectors general without regard to their individual merits and performance, it would be difficult to explain such removals as a mistake. Many would see them as a deliberate move to "politicize" the Offices of Inspector General. If outstanding service as an inspector general is likely to be rewarded with preemptory dismissal whenever there is a change in administrations, it would have a devastating impact on the independence and professionalism of the IG offices, making it difficult or impossible to obtain the independent, highly qualified professionals needed to successfully combat waste, fraud, and inefficiency in Government operations.

**(2) INSPECTORS GENERAL ENCOUNTER PROBLEMS IN OBTAINING NECESSARY RESOURCES**

Adequate resources (that is, funding and staffing) are essential in carrying out the responsibilities assigned to the Offices of Inspector

<sup>44</sup> Ibid., p. 20.

<sup>45</sup> Ibid., p. 24.

<sup>46</sup> Ibid., p. 23.

<sup>47</sup> Aug. 4, 1988, hearing. Additionally, the chairman has expressed this same position on a number of occasions since the firings in 1981.



General by the 1978 Act. Since its passage, resources allocated to the Offices of Inspector General have increased. Nonetheless, most inspectors general believe they could use more resources to carry out, as effectively as possible, their statutorily mandated duties and responsibilities. Some agencies have agreed with their inspector general's assessment and have approved substantial increases in staffing for these offices over the next several years.<sup>48</sup>

*(a) Problems encountered by inspectors general in obtaining needed resources*

Inspectors general, in trying to obtain additional resources, must compete with other offices that have a more direct impact on mission accomplishment than does the Office of Inspector General. In addition, funds appropriated for those inspectors general without separate appropriation accounts may be commingled with funds for other elements of the department or agency and used for other purposes.

*(i) The Small Business Administration*

The SBA inspector general stated that his office has failed to receive all of the funds intended by the Congress for fiscal year 1988.<sup>49</sup> The conference report accompanying the continuing resolution, passed in December 1987, provided \$7.191 million for the Office of Inspector General. However, the inspector general's funds were commingled with other agency funds. Because some SBA offices later exceeded their allotments, it appeared that the agency as a whole might exceed its budget. SBA then ordered the Office of Inspector General and other headquarters offices to reduce personnel ceilings by 7 percent and other budget categories by 5 percent. In computing the 5 percent reduction for the Offices of Inspector General, the agency used the \$6.561 million level, which was the amount originally approved by OMB, and not the \$7.191 million authorized by Congress. Only after a vigorous protest by the inspector general did the agency subsequently allot \$6.945 million to the Office of Inspector General. An additional amount, \$250,000, was held in reserve for unanticipated emergency OIG needs, but these funds were also available for other SBA programs.

*(ii) National Aeronautics and Space Administration*

The National Aeronautics and Space Administration's [NASA] Office of Inspector General is understaffed and has been for some time. According to GAO, over the years this office has been asked to absorb more than its share of reductions in NASA staffing.<sup>50</sup>

As a part of the 1988 budget process, the NASA Administrator approved a staffing increase of about 100 persons over a 4-year period for the Office of Inspector General, which would have about doubled its staff. Because of a hiring freeze from November 1987 to July 1988, however, the inspector general was unable to fill more

<sup>48</sup> The inspectors general at NASA and Energy have won agreement for substantial increases in staffing over the next several years.

<sup>49</sup> Aug. 4, 1988, hearing.

<sup>50</sup> "Impact of Administrative Budget Procedures on Independence of Office of Inspector General." GAO/AFMD-84-78, Sept. 26, 1984.

than half of the first 25 positions newly authorized for the first year.

He has now been informed that the entire second year increment is in jeopardy because of a congressionally mandated reduction of 100 positions in NASA headquarters. All of the 25 new staff positions promised in the inspectors general's current year increase have been targeted for elimination. For budget purposes, the Office of Inspector General is considered a part of the Office of the Administrator (a headquarters operation).

*(iii) Department of Commerce*

An experience of the inspector general of the Department of Commerce provides another example of an inspector general's difficulty in obtaining needed resources. At that Department, the inspector general requested, for fiscal year 1985, a budget increase and 12 additional staff positions for the purpose of auditing the Department's 900 automatic data processing systems, which at the time were costing \$200 million per year. The request was denied by the Deputy Secretary after an analysis of the proposal by the management official who was responsible for the computer systems.

*(b) Solutions to resource problems*

In 1985, the committee studied the effect of existing budget processes on Offices of Inspector General. The committee concluded that, notwithstanding the intent of the 1978 act, agency budget procedures had the effect of delegating decisions on Office of Inspector General budgets to levels below the agency head or deputy head.<sup>51</sup> The committee also found that Office of Inspector General funds in commingled accounts could be reprogrammed by agency management without the inspectors general's knowledge or consent and that some inspectors general with commingled funds did not receive a hearing before the Office of Management and Budget or congressional appropriations committee.<sup>52</sup> These conditions make both short- and long-term planning difficult for an Office of Inspector General.

Pending legislation will, if it becomes law, provide separate appropriations accounts for all offices headed by Presidentially appointed inspectors general.<sup>53</sup> This step should make the budgets of this group of statutory offices more visible and less susceptible to manipulation by agency management than was the case with commingled appropriations. In addition, it could result in separate reviews of Office of Inspector General budgets by OMB budget analysts and congressional authorizing and appropriating committees.

In endorsing separate appropriations accounts for offices headed by Presidentially appointed inspectors general, the Deputy Director of the Office of Management and Budget stated:

A separate appropriations account for each [inspector general] would clearly identify their resources and provide a basis for their performance. \* \* \* This heightens [inspector general] independence and promotes certainty in

<sup>51</sup> H. Rept. 99-46, p. 12.

<sup>52</sup> *Ibid.*, p. 13.

<sup>53</sup> *Op. Cit.*, note 5.

[Office of Inspector General] budgets by protecting against agency reprogramming of [Office of Inspector General] funds.<sup>54</sup>

Offices of Inspector General headed by administratively appointed inspectors general, as well as other internal audit and investigative units in agencies without statutory inspectors general, may also find their funds commingled with funds of other agency units. Inspectors general and heads of audit or investigative groups should make every effort to avoid processes that require reporting to less than the head or deputy head of the department or agency. Further, in order to maintain necessary credibility, the inspectors general should make every effort to insulate themselves from aspects of the budget process that impinge on their independence. Actions taken by the U.S. Information Agency [USIA] inspector general shortly after the establishment of that office provide a good example.

The inspector general sought approval from the Deputy Director of USIA for a process that would limit review and approval of the Office of Inspector General budget to only the Director or Deputy Director. In justification, the IG noted that the OIG's budget was reviewed internally in a manner similar to that of other agency elements, creating the appearance that IG resources were controlled by elements of the agency (the USIA comptroller and resource management committee) that were subject to audit and investigation by the inspector general. The IG further stated that this change would bring the OIG in line with recommendations of the GAO and the procedures followed other OIG's. The Deputy Director approved the inspector general's proposal.<sup>55</sup>

### (3) PERSONNEL PRACTICES

The 1978 act authorized the inspectors general to select, appoint and employ such personnel for the Office of Inspector General as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General.<sup>56</sup> Current personnel practices, however, result in agency management selecting persons for some positions in the Offices of Inspectors General.

#### *(a) Military and Foreign Service officers serving as OIG inspectors raise questions concerning their independence*

Three Offices of Inspector General—the Departments of State and Defense and the U.S. Information Agency—employ military officers or Foreign Service officers as inspectors. These officers generally are nominated by the parent agencies and rotate from program operations into the IG office for a tour of duty and then rotate back into program roles.

At the Department of Defense, the services nominate military officers to serve as inspectors and in the position of assistant inspector general for inspections. The IG interviews the nominees and determines whether they are acceptable. If the IG does not want to

<sup>54</sup> Aug. 4, 1988, hearing.

<sup>55</sup> Aug. 4, 1988, hearing.

<sup>56</sup> The 1978 act, section 6.(1)(6).

select a nominee, the services nominate another person. These 20 to 25 military officers and the remainder of the 127 person inspections staff conduct inspections of the Defense agencies, the Office of the Secretary of Defense, other Office of the Secretary of Defense organizations, the Joint Chiefs of Staff, as well as functional inspections of Department-wide issues.

At the Department of State, the deputy inspector general, the assistant inspector general for inspections, and some 15 to 17 other members of the inspections staff are Foreign Service officers. The deputy inspector general, the assistant inspector general for inspections and all six of the inspections team leaders hold ambassador rank. The ambassador rank personnel have no fixed tour of duty; the remaining Foreign Service officers rotate back to State program offices after a fixed 2-year tour with the Office of Inspector General.

At the U.S. Information Agency [USIA] the first assistant inspector general for inspections was a Foreign Service officer who was in charge of the inspections group when it was melded into an administrative established Office of Inspector General. At that time, Chairman Brooks voiced his concerns (1) about having the inspection function, which he viewed as a management function, in an Office of Inspector General, and (2) about the use of Foreign Service personnel in the Office of Inspector General.<sup>57</sup> He recommended that any Foreign Service officer employed by the OIG not be used in a supervisory capacity. An agreement was reached that the then head of inspection, who was a Foreign Service officer in his last tour of duty, stay on in that capacity until his retirement and that some Foreign Service officers be allowed to serve as team leaders in appropriate situations.<sup>58</sup> When the first head of inspection retired, the inspector general was denied permission to be the selecting official, under the Civil Service Reform Act, for this Senior Executive Service position.<sup>59</sup> Subsequently, from a listing of qualified persons submitted according to Civil Service Reform Act procedures, the inspector general selected a civil service employee, who was a career auditor with knowledge of Foreign Service operations, to be head of inspections. The inspector general's selection was rejected. About 3 months later, the inspector general made a second choice, a retired former Foreign Service officer, who was approved. In addition to this former Foreign Service officer, the inspection staff includes seven Foreign Service officers, who usually serve in the OIG for 3 years and then return to Foreign Service assignments.

Inspectors who are military and Foreign Service officers are called on to evaluate programs and activities managed by former

<sup>57</sup> Letters from Chairman Brooks to the Honorable Charles Z. Wick, Director, U.S. Information Agency, Oct. 30, 1984, and Dec. 4, 1984.

<sup>58</sup> Letter from Charles Z. Wick, Director U.S. Information Agency to Chairman Brooks, Jan. 30, 1985. See also letter from Chairman Brooks to the Honorable Tony Gabriel, inspector general, U.S. Information Agency, Feb. 24, 1986.

<sup>59</sup> Staff interview with Tony Gabriel, inspector general, U.S. Information Agency. The Civil Service Reform Act which was signed into law 1 day after the IG Act of 1978, details the Senior Executive Service selection and appointment procedures, S. 908, as amended by the House in the 100th Cong., if enacted, would eliminate any current ambiguity in SES selection procedures by designating IGs as the appointing authority for SES positions in the Offices of Inspector General. Congressional Record, July 26, 1988, p. H5827.

peers and possible future supervisors. In a 1983 report to Chairman Brooks,<sup>60</sup> GAO reviewed this situation and reported that most of the Foreign Service officers interviewed (who were working in the Office of Inspector General for 2 year details after which they would rotate back to management positions), agreed that their independence could be questioned. One told GAO "that 'the name of the game' in the IG office is making contacts to try to get a good assignment after leaving that office." He said that no one in the IG office wanted to push big problems through the system because it would be like "shooting yourself in the foot." The committee finds nothing in the arrangements at the Department of Defense, Department of State or USIA that has overcome either the problem identified by the chairman in his letter to USIA or the situation presented in the GAO report.

*(b) Office of Personnel Management interpretations*

Although the authority to select personnel to fill Senior Executive Service [SES] positions in the Office of Inspector General has been delegated to the inspector general in most agencies, the Office of Personnel Management has included in its proposed amended guidelines an interpretation of the SES appointment authority under the Civil Service Reform Act that would give the agency head and not the inspector general the authority to select high-level [SES] IG officials. However, this interpretation is clearly inconsistent with the intent of the 1978 act. Legislation that is currently pending resolution in a House-Senate conference will, if enacted, give inspectors general specific statutory authority to select Senior Executive Service members for SES positions in their offices.<sup>61</sup>

*(c) Need for independent legal counsel for the inspectors general*

Inspectors General believe that they need independent legal counsel to assure that legal advice is not tainted by any duty owed by counsel to agency management. By virtue of the duties and responsibilities vested in them by law, the inspectors general are often placed in a position conflicting with the position of organizational elements within the agency. Some IG's have, therefore, hired their own counsel, while others made special arrangements with the agency's office of General Counsel to provide independent legal services under a memorandum of understanding.

The arrangement between the EPA Office of Inspector General and that agency's Office of General Counsel is viewed as a model in the inspector general community. When the current EPA inspector general took office in fiscal year 1983, he found that the inspector general had no exclusive legal counsel which could assure attorney-client privilege. Instead the Office of Inspector General was sharing the services of an attorney from the Grants, Contracts, and General Law Division of the EPA Office of General Counsel. This arrangement precluded the attorney from serving the inspector general as a primary client and maintaining confidentiality in

<sup>60</sup> "State Department's Office of Inspector General Should be More Independent and Effective," GAO/AFMD-83-56, June 2, 1983.

<sup>61</sup> Op. Cit., note 5.

dealing with potentially sensitive issues. To rectify this situation, the inspector general and the Office of General Counsel negotiated a memorandum of understanding [MOU] whereby a separate associate counsel office was established within the Office of General Counsel solely to serve the OIG. The MOU further stipulates that the attorney(s) serving the OIG cannot be rewarded or removed without the IG's approval.

(4) OFFICE OF MANAGEMENT AND BUDGET (OMB) ATTEMPT TO REQUIRE CLEARANCE OF IG AUDIT GUIDES

In testimony for the record at the August 4, 1988, subcommittee hearing, the Labor Department's inspector general stated that <sup>62</sup>

\* \* \* several years ago, my office did encounter a potential threat to the independence of our OIG audit function. In this instance, OMB attempted to interfere with and/or change the content and direction of an audit by trying to apply the Paperwork Reduction Act to an OIG audit guide.

According to the IG, the OMB action occurred shortly after passage of the Job Training Partnership Act [JTPA],<sup>63</sup> which involved "block" grants to the States. The OIG and the program agency, the Employment and Training Administration [ETA], agreed that preaward audits should be conducted to determine whether each state had an adequate system of financial and other internal controls and procedures for administration of the program. Before the audits could be conducted, officials from OMB's Office of Information and Regulatory Affairs objected to such preaward audits as " \* \* \* contrary to administration policy."<sup>64</sup>

Later, OMB told the IG that it had problems with questions to be asked in the audit and the overall concept of the audits and might not approve the effort; however, by this time most of the preaward audits had been completed.

The Labor Department IG regarded OMB's actions as " \* \* \* direct interference with the IG's independent audit authority that is guaranteed under the IG Act." Along with other IG's, he expressed his concern to the OMB Deputy Director,<sup>65</sup> who agreed that OMB would not insist on submission of OIG audit guides. However, OMB has not clearly acknowledged its lack of authority to require such reviews; consequently, he remains concerned that OMB may once again try to exert such control over the IG's in a future administration.

(5) EARLY INSPECTORS GENERAL AT ENVIRONMENTAL PROTECTION AGENCY FAILED TO INSIST ON INDEPENDENCE

The early years of the Office of Inspector General at the Environmental Protection Agency [EPA] present a textbook case on how not to establish and operate a statutory Office of Inspector General. The initial response of EPA management to enactment of the 1978 act was to delay establishment of the office and then to

<sup>62</sup> Aug. 4, 1988, hearing.

<sup>63</sup> Public Law 97-000, Oc. 13, 1982, 96 Stat. 1322, as amended.

<sup>64</sup> Aug. 4, 1988, hearing.

<sup>65</sup> OMB's Deputy Director, Joseph R. Wright, Jr.

provide too few resources for the office to be fully effective. In 1981, with the change in administration, senior management and the inspector general, the situation deteriorated. The Administrator set inappropriate goals for the inspector general,<sup>66</sup> and directed investigations against her enemies.

The basic issues are summed up by the acting inspector general<sup>67</sup> who was detailed to the EPA OIG in an effort to strengthen that office. He said that the EPA Office of Inspector General had not lost its independence, because "it never had independence. \* \* \*"<sup>68</sup> In his March 31, 1983, report the acting inspector general concluded that the EPA Office of Inspector General had:

\* \* \* been rendered ineffective due to (1) severe staffing shortages, (2) insufficient budget resources, (3) weak management, and (4) Agency management constraints. Moreover, [the office was] viewed by many Agency officials and employees as merely an extension of the Administrator's office, lacking credibility and independence.<sup>69</sup>

Because EPA management had failed to provide the resources necessary for an effective Office of Inspector General, the report continued, "\* \* \* EPA top management denied themselves the most important management tool available to them. \* \* \*" Among the major items which had an adverse impact on the office were:

- A severe staffing shortage;
- Restrictive budget allocations;
- Agency goals for the Office of Inspector General that emphasized grant closeouts;
- The failure of agency officials to provide copies of proposed legislation to the Office of Inspector General for comment;
- The Office of Inspector General's failure to perform some audits in compliance with GAO standards;
- The Office of Inspector General's surrender to the office of the Administrator authority to approve all new hires before they were brought on board;
- Control by the agency's office of the Administrator over congressional correspondence addressed to the inspector general from members of the Congress and over the inspector general's replies to the Congress;
- Disclosure of confidential whistleblower information by the Office of Inspector General; and,

<sup>66</sup> Chairman Brooks has responded on several occasions when it appeared others were directing any of the inspectors general to perform specific tasks. Most recently, in a Feb. 16, 1988, letter to Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget, Mr. Brooks stated "\* \* \* it is important that the IG's have the flexibility to determine the priority of their workloads. Therefore, such [work] should be conducted only at an IG's discretion and more appropriate arrangements should be made for [such work]." This was in response to Dec. 18, 1987, memorandum for heads of departments and establishments directing the development of a management control plan which would "\* \* \* be reviewed by [the agency] Inspector General."

<sup>67</sup> Charles Dempsey, then inspector general at the Department of Housing and Urban Development, was detailed from HUD to be the acting inspector general for EPA until a permanent selection was made. Upon the selection of John Martin as inspector general for EPA, Dempsey returned to HUD.

<sup>68</sup> Aug. 4, 1988, hearing

<sup>69</sup> "Office of the Inspector General Semiannual Report," Oct. 1, 1982 through Mar. 31, 1983, p. iii.

Failure of the Administrator to transfer necessary functions considered critical to an effective operation to the Office of Inspector General.<sup>70</sup>

A GAO report issued at about this time contained case studies that showed the inspector general was performing investigations of "friends of management" differently from investigations of "enemies of management."<sup>71</sup> Further, " \* \* \* some allegations were not being investigated consistently and all relevant matters were not followed up."<sup>72</sup>

(6) A DEPARTMENT OF THE INTERIOR INSPECTOR GENERAL MISHANDLED INVESTIGATION UNDER PRESSURE FROM THE SECRETARY

An inspector general can lose credibility over a single incident. Such was the case when the second statutory inspector general at the Department of the Interior investigated allegations of a leak of sensitive information prior to a 1982 sale of leases of coal lands in the Powder River Basin. GAO, in May 1983 report,<sup>73</sup> stated that the Government may have received less than fair market value for the coal leases sold. GAO, at about this same time, referred to the Interior inspector general an allegation that sensitive coal data had been leaked prior to the sale of these leases.

Interior's inspector general initiated an investigation and, on May 11, 1983, delivered a report to the Secretary of the Interior the day before a congressional hearing called to inquire into the leak. The report indicated that there was no evidence of a leak of data.<sup>74</sup>

At the request of Members of Congress, GAO reviewed the inspector general's investigation. The evidence gathered by GAO during its investigation strongly suggests that the inspector general's investigation was terminated before all significant leads had been evaluated and that, in fact, there was evidence of a leak of information. The former Secretary of the Interior acknowledged that he had probably pressed the inspector general to complete the investigation and issue a report—a point which the inspector general said he could not recall.<sup>75</sup> GAO's June 11, 1984, report concluded that " \* \* \* [t]he shortcomings in the OIG's investigation of the Powder River leaks are sufficiently serious to render the resulting reports incomplete and unreliable."<sup>76</sup> The inspector general resigned effective September 30, 1984.<sup>77</sup>

<sup>70</sup> Ibid., pp. 6 through 12.

<sup>71</sup> "Improvements Needed in EPA's Inspector General Operations," GAO/AFMD-84-13, Oct. 21, 1983.

<sup>72</sup> Aug. 4, 1988, hearing. The situation in the EPA Office of Inspector General has greatly improved.

<sup>73</sup> "Analysis of the Powder River Basin Federal Coal Lease Sale: Economic Valuations Improvements and Legislative Changes Needed," GAO/RCED-83-119, May 11, 1983.

<sup>74</sup> Department of Interior press release dated May 12, 1983, which stated: "instead, \* \* \* an official on the scene was erroneously told a leak had taken place and assumed it to be true, thereby setting off a chain of circumstances that lent an aura of accuracy to the initial mistaken impression." It was clear from the inspector general's subsequent reports that the press release was not correct. See "Deficiencies in the Department of the Interior OIG Investigation of the Powder River Basin Coal Lease Sale," GAO/RCED-84-167, June 11, 1984.

<sup>75</sup> Ibid., p. 27.

<sup>76</sup> "Deficiencies in the Department of the Interior OIG Investigation of the Powder River Basin Coal Lease Sale," GAO/RCED-84-167, June 11, 1984, p. 32.

<sup>77</sup> The inspector general was Richard Mulberry who was nominated June 1, 1981, was confirmed July 10, 1981 and who resigned Sept. 30, 1984.



## (7) DEPARTMENT OF DEFENSE ATTEMPTED TO REQUIRE MANAGEMENT CLEARANCE FOR IG INVESTIGATIVE ACTIVITIES

On February 25, 1988, agents of the Defense Criminal Investigative Service [DCIS], an element of the DOD Office of Inspector General, executed a Federal search warrant at the St. Louis, MO, plant of the Emerson Electric Co. Emerson was suspected of fraudulently billing the U.S. Government for parts which were actually being used in military equipment sold by Emerson to foreign customers. The purpose of the search was to identify Government-owned parts on foreign contract vehicles at the Emerson plant before the vehicles were shipped.

The search warrant had been issued by U.S. magistrate on February 24 at the request of the U.S. attorney in St. Louis.<sup>78</sup> The search warrant was issued after a formal finding that there was probable cause to believe a crime had been committed, and the search was subsequently upheld by a Federal district court.<sup>79</sup>

On May 5, 1988, in a memorandum to the Secretary, an Under Secretary of Defense raised questions as to whether a search warrant was necessary and complained about the manner in which it has been executed, stating that the incident had " \* \* \* an adverse impact on Government/Industry relations and should not be repeated." The Under Secretary recommended that the Secretary of Defense ask the inspector general to " \* \* \* establish appropriate levels of review and approval to move forward in a manner like this. The appropriate level of review and/or approval should at least be Will Taft<sup>80</sup> or myself and quite possibly yourself." A handwritten note on the memorandum for the Secretary of Defense reads, "This is a good idea. Lets ask June to do it. FC."<sup>81</sup>

The DOD inspector general emphatically rejected the Under Secretary's proposal for prior clearance by management of IG investigative activities. In a June 1, 1988, memorandum to the Secretary, she stated she could not agree with the Under Secretary's recommendation that searches be reviewed or approved by the Secretary or Under Secretary of Defense because:

[t]he legislative history of the Inspector General Act states that the decision to conduct criminal investigation and the decision to use certain investigative techniques is within the sole discretion of the Inspector General. In the worst case, such a policy could be interpreted as placing constraints on or interfering with the criminal investigative process. Such an approval would be unprecedented within Federal law enforcement and unwise as a matter of law enforcement and procurement policy.

The inspector general also noted that she failed to see " \* \* \* how relations with industry would be improved if contractors were aware that the Secretary of Defense or the chief procure-

<sup>78</sup> The DOD inspector general does not have authority to issue search warrants.

<sup>79</sup> Memorandum for the Secretary of Defense, Searches of DOD Contractors " \* \* ", by the inspector general, Department of Defense, June 1, 1988.

<sup>80</sup> Ibid., p. 2. Will Taft is William Howad Taft IV, Deputy Secretary of Defense.

<sup>81</sup> June Gibbs Brown, the inspector general, and Frank Carlucci, Secretary of Defense.

ment official of the DOD had approved the decision to search a contractor's plant."

The Under Secretary's attempt to require prior clearance of IG investigative activities may have reflected a lack of knowledge of the inspector general's statutory authority, rather than a deliberate effort to circumvent it. Whatever the motive, the proposed advance clearance would have constituted a serious and improper impairment of the inspector general's independence. The inspector general's prompt and firm rejection of the proposal sent an unmistakable message to management that the independence of her office is mandated by statute.

#### E. REPORTING TO THE CONGRESS

The 1978 act requires the inspectors general to report to both the head of the establishment in which they are located and to the Congress.<sup>82</sup> The inspectors general appear to keep the heads of the establishments well informed. They also provide the Congress information both formally and informally. However, the quality of reporting to the Congress could be improved.

##### (1) REPORTING MECHANISMS

In addition to the general requirement to keep both the head of the establishment and the Congress fully and currently informed,<sup>83</sup> the 1978 act provides for two types of formal reports:

Semiannual reports summarize the activities of the Office of Inspector General. These are sent first to the head of the establishment. Within 30 days, these reports are sent, by the head of the establishment, unchanged, to the Congress along with any comments the head of the establishment cares to add.<sup>84</sup> And,

Reports that describe specific serious or flagrant problems, abuses or deficiencies relating to the programs and operation of the department or agency. These are first sent to the head of the establishment who sends them unchanged to the Congress within 7 days, along with any comments the head of the establishment cares to add.<sup>85</sup>

In addition to these formal mechanisms, inspectors general provide testimony and copies of audit and investigative reports to the Congress at the request of specific committees, subcommittees, and Members. They also provide responses to specific inquiries from committees, subcommittees, and Members.

##### *(a) Semiannual reports to the Congress*

The inspectors general indicate that their primary formal means of keeping the Congress "\* \* \* fully and currently informed" is through semiannual reports, which generally depict the results of

<sup>82</sup> The 1978 act, sec. 2(3).

<sup>83</sup> *Ibid.*

<sup>84</sup> The 1978 act, sec. 5 (a) and (b).

<sup>85</sup> The 1978 act, sec. 5(d). These have come to be called "7-day reports" or "7-day letters."

efforts that have been completed.<sup>86</sup> These reports, as noted above, go to the head of the establishment before going to the Congress and provide the Congress a great deal of information about the activities of the Offices of Inspector General.

While the semiannual reports provide a vast store of information for use by the Congress, there is room for improvement in narrative and statistical data. For example, much of the information included in the PCIE reports, which are criticized later in the section on inspector general organizations, was based on inspector general semiannual reports that also included inflated statistics concerning savings. Additionally, the accuracy and completeness of some of the information being supplied was recently questioned during a hearing<sup>87</sup> of one of this committee's subcommittees. That hearing examined a number of cases that were investigated by the inspector general of the Department of Education, which were not fully reported.

Still another example of needed improvement is found in the fact that the semiannual reports do not clearly reflect the concerns of some of the IG's about the leniency of administrative actions taken against Government employees following inspector general investigations, as well as decisions by Department of Justice officials not to prosecute in favor of administrative action.<sup>88</sup> For example, the Department of Health and Human Services' inspector general in his semiannual report noted "\* \* \* [o]ccasionally individuals violate their fiduciary duties. During the reporting period, only 16 employees were disciplined by the Department or the Courts. \* \* \*" <sup>89</sup> Without more information, such as the number of employees involved in inspector general investigations who were not clearly absolved of any wrongdoing, it is difficult to read this as a serious complaint about how administrative actions are handled.

Pending legislation contains definitions and requirements intended to improve the quality and usefulness of semiannual reports. If inspectors general provide more complete information and comply with these new requirements, the quality of semiannual reports should be improved.

*(b) Seven-day reports to the Congress*

The inspectors general state that the 7-day report requirement is very useful to them.<sup>90</sup> However, as of June 1986 only six of them had made such reports, and only eight 7-day reports had been sent since the Offices of Inspectors General were established. Reportedly, the inspectors general have concluded that the 7-day report is to be used "\* \* \* only in those situations so egregious as to require congressional oversight to produce a satisfactory resolution."<sup>91</sup>

<sup>86</sup> "OIG Use of 7-Day Letter Provision of the IG Act of 1978 (Sec. 5d)," PCIE Survey, Inspections and Special Reviews Committee, Sherman Funk, Chairman, June 1986 (hereinafter referred to as "supplementary analysis").

<sup>87</sup> "Criminal Investigations Involving Department of Education Employees," hearing before the Human Resources and Intergovernmental Relations Subcommittee, House Committee on Government Operations, 100th Cong., 2d sess., June 23, 1988.

<sup>88</sup> Staff interviews of the inspectors general.

<sup>89</sup> HHS IG Semiannual Report to the Congress for the period Oct. 1, 1987-Mar. 31, 1988, p. 11.

<sup>90</sup> Staff interviews with the inspectors general.

<sup>91</sup> Op. Cit., note 86.

The inspectors general view the use of this mechanism as a last resort to attempt to force appropriate action. For example, of the eight 7-day reports issued thus far, three expressed opposition to pending legislation, and two reported serious shortages with Office of Inspector General funding levels. Only three of the reports dealt with serious problems in agency programs.

*(c) Other reporting*

The inspectors general report extensive informal contact and reporting to the Congress during day-to-day operations.<sup>92</sup> While relations between the House committees and subcommittees and the inspectors general appear to be good, there are reports of problems and expressions of disappointment concerning individual cases. There are also indications that some inspectors general have relied solely on their semiannual reports to provide information to appropriate committees and have failed to establish any other contact with them.

(2) OBSERVATIONS

The inspectors general believe it is their duty, and in their best interest, to keep the head of their respective agencies well informed—and they have generally achieved this goal. While the inspectors general should not be expected to report to Congress in the same volume and detail, they can use more effectively the formal reporting mechanisms set forth in the 1978 act. Specifically, the inspectors general should assure that matters included in their semiannual reports fairly and clearly represent activities and accomplishments. In addition, they should make a greater effort to report particularly serious or flagrant problems to the Congress through the use of the 7-day report. Such reports could be made whether or not the agency agrees to take action in response to the inspector general's work. And, thus, need not necessarily reflect badly on management since the inspector general could also report actions taken in response to IG work.

Further, the inspectors general should take care to assure that relationships have been established with all appropriate committees and subcommittees. While keeping the head of the establishment informed is in the inspectors general's best interest, the public interest as well as the inspector general's interest will be best served if the inspectors general also keep the Congress adequately informed.

F. INSPECTOR GENERAL ORGANIZATIONS

Both Presidents who have served in office since passage of the 1978 act have established organizations that include the inspectors general as members.

(1) EXECUTIVE GROUP TO COMBAT FRAUD AND WASTE IN GOVERNMENT

President Carter, in 1979, established the Executive Group to Combat Fraud and Waste in Government, a group chaired by the

<sup>92</sup> Staff interviews with the inspectors general.

Deputy Attorney General.<sup>93</sup> The committee is not aware of any reports of the activities of this group.

(2) PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY

President Reagan, by Executive order dated March 26, 1981, established the President's Council on Integrity and Efficiency (PCIE).<sup>94</sup> The Executive order specifies that the Council is chaired by OMB's Deputy Director,<sup>95</sup> and that its members include the statutory inspectors general, the Associate Attorney General, the Executive Assistant Director-Investigations from the Federal Bureau of Investigations, and representatives from the Office of Personnel Management, the Department of Treasury, and the Merit System Protection Board. In February 1984, the position of Vice Chairman was authorized by Executive order and it has been filled by inspectors general.<sup>96</sup>

In the Executive order issued in 1981 the Council was directed to "develop plans for coordinating governmentwide activities which attack fraud and waste in Government programs and operations."<sup>97</sup>

The inspectors general believe that these organizations have contributed to the effectiveness of the inspector general concept. Participation in such organizations, however, provides unique challenges to inspector general independence, collectively and individually.

(a) *Inspector general monetary savings and recoveries were overstated in early reports*

The first and second semiannual reports by the PCIE exaggerated the monetary savings and recoveries of the inspectors general, which reflected poorly on the credibility and integrity of the reports.

In a May 18, 1982 report, the GAO noted that these two PCIE reports were "of questionable value \* \* \* because data comparability and validity have been compromised by the change in data collection methodology, problems with the definitions, and \* \* \* double counting. \* \* \*"<sup>98</sup> The GAO found, for example, that the second PCIE report claimed audit recoveries totaling \$388 million for the 6-month period ending September 30, 1981, with 73 percent of this amount attributed to the efforts of the inspectors general of the Department of Transportation and the General Services Administration. The PCIE report defined audit recoveries as amounts recovered through management actions to collect on questioned costs sustained; however, GAO's examination showed that the

<sup>93</sup> Memorandum from the President on Federal Programs to Improve Management and Combat Waste and Fraud, May 3, 1979.

<sup>94</sup> "Integrity and Efficiency in Federal Programs," Executive Order 12301, Mar. 26, 1981.

<sup>95</sup> Edwin Harper served as the first chairman of the PCIE from its creation until February 1982. He was replaced by Joseph R. Wright, Jr.

<sup>96</sup> The vice chairs have been (1) Charles Dempsey, then inspector general, Department of Housing and Urban Development, (2) James Richards, then inspector general, Department of Energy, and (3) for the last 3 years, Richard P. Kusserow, inspector general, Department of Health and Human Services.

<sup>97</sup> Op. cit., note 94.

<sup>98</sup> "Validity and Comparability of Quantitative Data Presented by the President's Council on Integrity and Efficiency on Inspectors General Activities" (GAO/AFMD-82-78), May 18, 1982, p. 8.

claimed audit recoveries of the Department of Transportation inspector general, totaling \$190 million, were not based on actual recoveries, but included total questioned costs sustained (\$51 million—funds that the agency agreed to try to collect), and costs avoided (\$139 million—funds which were found to be unnecessary to expend as first intended and which were therefore available for other agency purposes). GAO noted that only \$20.2 million had actually been recovered in response to efforts of the Transportation inspector general over the previous three fiscal years.

Similarly, GAO found that the PCIE figure of \$92.2 million for the General Services Administration Office of Inspector General represented potential cost avoidance and not actual recoveries. General Services Administration officials told GAO that while they did not know how much would actually be recovered, it would be substantially less than the \$92.2 million reported as savings. GAO noted that recoveries at the General Services Administration had totaled only \$1,000 as of June 30, 1981, for audit costs disallowed during fiscal years 1978 through 1980.<sup>99</sup>

GAO also questioned the validity of the PCIE's claims of costs avoided. The council's report for the period ending September 30, 1981, claimed \$1.7 billion in this category. GAO's analysis of the Department of Defense portion of this claim, which represented over two-thirds of the total, showed that it was not based on costs actually avoided but represented potential cost avoidances "if audit recommendations were implemented." In addition, over \$500 million claimed for this period was based on actions actually taken during the previous administration. GAO also found that the "questioned costs sustained" included double counting, because both the Defense Contract Audit Agency and its agency customers reported the same amounts.<sup>100</sup>

*(b) Use of the PCIE for partisan purposes and direction of inspector general efforts*

In agenda and minutes of PCIE meetings and in interviews with inspectors general, the committee noted subtle indications of attempts to direct the inspector general and to use the PCIE for partisan purposes. In addition, such activities provided a unique challenge to the independence and, equally important, the perception of independence of the inspectors general. Examples follow:

The accumulated statistics reported in the PCIE annual reports cover only the years from 1981—the start of the Reagan administration—yet the report states that it contains the accomplishments of the inspectors general and there have been statutory inspectors general since 1977.<sup>101</sup> Apparently there was little attempt made to compile data from the earlier years. The inspectors general did not perceive this as a partisan act.

In November 1983, the PCIE discussed the possibility of developing IG guidance for handling congressional re-

<sup>99</sup> Ibid., pp. 3-4.

<sup>100</sup> Ibid., p. 5.

<sup>101</sup> The data from the last 3 months of 1980, a part of the inspectors general's semiannual reports for the period Oct. 1, 1980-Mar. 31, 1981, were included in the PCIE statistics.

quests for draft audit reports and IG staff support in order to develop a standard PCIE policy rather than handling requests as they arise. (The proposal was defeated.)

The IGs were asked to assess their governmentwide audit plans to assure they were in support of the President's program known as Reform 88.

A recent project under the auspices of the PCIE raises questions concerning OMB's influence in determining where the IGs will expend resources. In this regard, in support of the Reform 88 objective to collect debts owed the federal government, several IGs are aiding Department of Justice U.S. Attorneys, in assessing the collectability of selected debts in their respective agencies identified by the Department of Justice. The current chairman of the PCIE volunteered the IGs to help the U.S. Attorneys, a project that caused one IG to divert his relatively small investigative staff from ongoing investigations, which were delayed to permit travel to locations other than those required by the work of his office.

### (3) OBSERVATIONS

The exchange of ideas and information by the inspectors general to solve common problems and the inspectors general's participation as appropriate in multiple agency efforts are desirable endeavors. Further, the IG's believe they have benefitted by the involvement of, support from, and coordination with, the Deputy Director of OMB and others. Nonetheless, participation by the inspectors general in a formal organization tied to the Executive Office of the President, and headed by a political appointee offers potential for control of the inspectors general—or the appearance thereof—by the administration. It is imperative that the individual inspectors general not allow their role in such an organization to interfere with their independence and objectivity or their statutory responsibility with respect to programs of their own agency. Further, the inspectors general should be mindful of their responsibility to report to the Congress on an individual basis in order to give this body the benefit of their individual and distinct viewpoints. In order to alleviate concerns about control of the inspectors general in any organization in which they are the core membership, it would be advisable for its leadership to be rotated among the inspectors general.

#### G. ROLE OF OFFICES OF INSPECTOR GENERAL INVESTIGATORS

Offices of Inspector General, under the 1978 act,  
 conduct and supervise investigation relating to programs  
 and operations of their agencies,<sup>102</sup> and,  
 recommend policies for and conduct, supervise or coordinate  
 relationships between their agencies and other feder-

<sup>102</sup> The 1978 act, sec. 2(1). During fiscal year 1987 inspector general investigators participated in almost 4,400 successful prosecutions (convictions and pretrial diversions) as a result of their criminal investigations.

al agencies with respect to the prosecution of participants in fraud or abuse.<sup>103</sup>

Additionally, the 1978 act requires the IG's to inform the Attorney General whenever they have reasonable grounds to believe that a Federal criminal statute has been violated.<sup>104</sup>

(1) JUSTICE VIEWS OF THE IG ROLE

Department of Justice officials in 1977 testified in support of the 1978 act stating that early referral of suspected fraud to U.S. attorneys would help give the prosecutor the opportunity to direct the investigation and thereby assure its success, as well as focus resources on the most important cases. This approach, they said, would also allow the prosecutors to include investigators from other sources outside the agency.<sup>105</sup> They suggested that the inspector general would be responsible for the detection of fraud and abuse and the Federal Bureau of Investigation would get involved after a problem was identified. The two offices were viewed as complementary and not duplicative and law enforcement would thus be enhanced.

The inspectors general and the Federal Bureau of Investigation have negotiated memoranda of understanding that spell out the types of cases that would be investigated by the Federal Bureau of Investigation versus those that the inspectors general would investigate. Generally, these memoranda state that the inspectors general will refer all cases to the Federal Bureau of Investigation involving the following activities:

violations of criminal law consisting of bribery, attempted bribery and other specific significant allegations of corruption involving U.S. Government officials;  
all information pertaining to organized crime; and  
criminal matters requiring the resources or expertise of the Federal Bureau of Investigation for proper investigation.

The inspectors general, according to the agreements, are responsible for violations pertaining to program specific crimes, except for those described above, and all noncriminal administrative and civil matters involving agency programs, functions, and personnel, except for those described in the footnote.<sup>106</sup> The agreements also allow for joint investigations involving both the inspectors general and the Federal Bureau of Investigation when appropriate and investigations by the inspectors general of any case referred to the Federal Bureau of Investigation which that agency could not or would not investigate.

<sup>103</sup> The 1978 act, sec. 4(a)(4).

<sup>104</sup> The 1978 act, sec. 4(d).

<sup>105</sup> Marjorie Knowles' article in Alabama Law Review suggests that this strongly implies that the FBI would be called in to the more complex and sensitive investigations.

<sup>106</sup> The FBI also reserves to itself certain civil investigations resulting from criminal cases investigated by the FBI and accepted for civil action by a U.S. attorney or the Department of Justice. In addition, the FBI reserves the right to investigate any criminal allegation involving agency programs received independently in the FBI, but as a general rule will not investigate recipient or participant fraud unless there are indications of a pattern of widespread criminal activity.



## (2) LAW ENFORCEMENT AUTHORITY

Although the 1978 act does not itself provide law enforcement authority (such as the authority to carry guns and to make warrantless arrests)<sup>107</sup> on the inspectors general to carry out their investigative responsibilities, they have employed approximately 1,600 criminal investigators.<sup>108</sup> More than 800 of these investigators have some law enforcement authority<sup>109</sup> based on laws other than the 1978 act or delegations from the heads of certain agencies.<sup>110</sup>

Some Office of Inspector General investigators are deputy U.S. marshals, a designation that provides them with law enforcement authority for the purpose of a specific case.<sup>111</sup> Becoming a deputy U.S. marshal takes from several weeks to several months and involves review and agreement by the local U.S. attorney, the Assistant Attorney General of the Criminal Division, the head of the U.S. Marshals Service, and the Associate Attorney General, all of whom are personnel within the Department of Justice.

While a blanket grant of all law enforcement functions may be the most efficient way for the IG's to obtain them, such an action by itself would not provide the due process and protection of individual rights inherent in the grand jury process, used when the inspectors general conduct investigations in cooperation with the U.S. attorney, nor would it provide the oversight inherent in the deputization process. Any proposal to extend law enforcement to inspectors general on other than a case-by-case basis without careful analysis and specific provision for the protection of individual rights would be unwise. The IG's should explore every other available avenue to improving their ability to implement the 1978 act, as an alternative to seeking an expansion of their investigative roles or law enforcement authority.

## H. CONCLUSIONS

In departments and agencies covered by the act, most of the audit and investigative activities are directed and coordinated by a single inspector general who reports directly to the agency head. The act contains specific provisions to ensure that IG's have the in-

<sup>107</sup> The term "law enforcement authority" when used herein, implies Federal criminal law enforcement functions including the exercises of traditional police powers. These include the authority to (1) carry a firearm, (2) seek and execute an arrest or search warrant, (3) make a warrantless arrest, (4) serve a grand jury subpoena or other process, (5) administer an oath or affirmation, and (6) use a covert investigative technique. See also the June 29, 1984, memorandum to heads of executive departments and agencies from the Attorney General dealing with guidelines for legislation involving Federal criminal law enforcement authority.

<sup>108</sup> The inspector general investigators are generally in the GS-1811 series which has special pay and retirement benefits and which is the traditional criminal investigator classification. There are no specific educational requirements to be hired as an IG investigator but 95 percent of the inspector general investigators have college degrees according to the Association of Federal Investigators. New investigative personnel receive 8 weeks training at the Law Enforcement Training Center in Glenco, GA.

<sup>109</sup> For example: carry a firearm; make warrantless arrests; and use covert investigative techniques.

<sup>110</sup> According to a May 10, 1988, letter from the inspector general of the Small Business Administration commenting on the Department of Justice comments on S. 1975, of the approximately 1,600 inspector general investigators, "... 731 already have law enforcement authority by statute or delegation. Of the remaining 900 or so, about 150 are deputy U.S. marshals."

<sup>111</sup> The office of inspector general investigators generally are working on more than one case at a time. If another case warrants law enforcement authority, additional deputization must be obtained.

dependence and authority they need to carry out their statutory responsibilities, and requires each inspector general to keep both the agency and the Congress informed about serious problems and deficiencies. These basic provisions of the inspector general act have accomplished what they were designed to do.

1. The inspector general concept, which was initially opposed by every agency covered by the 1978 act, is now accepted as a valuable means of protecting the integrity of government programs.

2. In the 10 years since the Inspector General Act of 1978 became law, the Offices of Inspector General have made substantial progress in conducting audits and investigations aimed toward improving efficiency and combatting fraud and waste in Federal programs and activities.

The work of the Offices of Inspector General has resulted in significant monetary savings and in thousands of convictions for criminal violations involving Federal programs and activities. While it is unfortunate that overstated and illusory savings were claimed in some reports, this should not be allowed to obscure the legitimate savings. Moreover, statistics on monetary savings and criminal convictions do not fully reflect the value of the Offices of Inspector General. Examples of other benefits include improved efficiency and effectiveness in the administration of Government programs and activities and prevention or reduction of waste, fraud and abuse through improved internal controls and deterrent effect of criminal prosecutions and civil recovery actions.

3. The points made above do not imply that the inspectors general, immediately upon establishment, were fully effective or that they have developed without problem. The contrary is true. One or two of the offices—certainly EPA and to a lesser degree Interior—stumbled badly and had to be shored up. Others also encountered problems and responded with varying degrees of success—examples provided were the Offices of Inspector General in DOD, NASA, Commerce, and SBA. Nor have all problems been solved. For example, the use of military and Foreign Service officers in Offices of Inspector General—DOD, USIA, and State—on a rotating basis is still a matter of concern.

4. For the IG concept to succeed, it is essential that inspectors general be independent and that they carry out their duties in an objective manner, without regard to partisan political considerations. The 1978 act contains strong provisions to assure the independence and objectivity of inspectors general, but those provisions would have little value if IG positions were held by individuals who were unable or unwilling to vigorously maintain the independence of their office against political pressures.

The 1981 mass firing of all incumbent inspectors general without any meaningful review of their individual qualifications or performance had serious adverse effects on the operations of their offices. It was initially viewed by many as a deliberate attempt to "politicize" the IG offices, but was subsequently explained as a mistake attributable to lack of understanding of the unique nature of the Offices of Inspector General. Despite the explanation, there is still an undercurrent of concern and uncertainty in the IG community. Similar action by any future administration also would be a

serious mistake, as it would likely inflict irreparable damage to the IG concept.

5. While audit and investigative activities at agencies with statutory inspectors general have improved since 1978, serious deficiencies in such activities continue to exist at agencies without IG's. Legislation currently pending before a House-Senate conference committee would establish additional statutory IG's to correct this situation.

6. The availability of arrangements which facilitate cooperative work by Inspectors General on matters of common interest is desirable. However, an inspector general's statutory responsibilities must always come first, and it is essential that work with any organization not be allowed to interfere with an IG's primary responsibilities. It is also essential that the activities of such organization not be manipulated—or give the appearance of being manipulated—for political purposes.

7. While hopefully not a common occurrence, misleading statistics are sometimes found in reports of Government agencies. The last place this should occur is in reports on the activities of Offices of Inspector General.

Pending legislation to require more specific reporting of claims savings, should it become law, would help to assure that claimed IG savings are complete and accurate.

## APPENDIXES

### APPENDIX 1.—OFFICES OF INSPECTOR GENERAL HEADED BY PRESIDENTIALLY APPOINTED INSPECTORS GENERAL

Public Law:	Federal entity	Date enacted
94-505 <sup>1</sup>	Department of Health, Education and Welfare (Now Health and Human Services)	Oct. 15, 1976.
95-91	Department of Energy	Aug. 4, 1977.
95-452 <sup>2</sup>	Department of Agriculture, Department of Interior, Department of Commerce, Department of Housing and Urban Affairs, Department of Labor, Department of Transportation, Environmental Protection Agency, Community Services Administration, Veterans' Administration, General Services Administration, National Aeronautics and Space Administration, Small Business Administration.	Oct. 12, 1978.
96-88	Department of Education	Oct. 17, 1979.
96-456 <sup>3</sup>	Department of State	Oct. 17, 1980.
97-113	Agency for International Development	Dec. 29, 1981.
97-252	Department of Defense	Sept. 8, 1982.
98-76	Railroad Retirement Board	Aug. 12, 1983.
99-399	U.S. Information Agency	Aug. 27, 1986.
100-213	Arms Control and Disarmament Agency	Dec. 24, 1987.

<sup>1</sup> Health and Human Services' Office of Inspector General and Department of Energy's Office of Inspector General will be brought under the Inspector General Act of 1978 if H.R. 4054/S. 908 are enacted.

<sup>2</sup> Public Law 95-452 also established an office of inspector general in the Community Services Administration. That agency no longer exists. H.R. 4054/S. 908, if enacted, will delete the Community Services Administration's Office of Inspector from the listing of Federal entities covered by the Inspector General Act of 1978. Additionally, these bills both propose conforming the Offices of Inspector General at Energy, Health and Human Services and at the Railroad Retirement Board to the 1978 Act.

<sup>3</sup> Department of State's Office of Inspector General was established by Public Law 96-465 as a "program inspector general." Public Law 99-93, Aug. 16, 1985, amended the Inspector General Act of 1978 and included the Department of State thereunder. Public Law 99-399, Aug. 27, 1986, contained further amendments relating to the office of inspector general at Department of State.

APPENDIX 2.—DEPARTMENTS AND AGENCIES TO BE ADDED BY H.R.  
4054/S. 908

*Offices of Inspector General to be Headed by Presidentially Appointed Inspectors General:*

Department of Justice  
Department of the Treasury  
Federal Emergency Management Agency  
Office of Personnel Management  
Nuclear Regulatory Commission

*Offices of Inspector General to be Headed by an Inspector General Appointed by the Head of the Federal Entity:*

**ACTION**

Amtrak  
Appalachian Regional Commission  
Board of Governors of the Federal Reserve System  
Board for International Broadcasting  
Commodity Futures Trading Commission  
Consumer Product Safety Commission  
Corporation for Public Broadcasting  
Equal Employment Opportunity Commission  
Farm Credit Administration  
Federal Communications Commission  
Federal Deposit Insurance Corporation  
Federal Election Commission  
Federal Home Loan Bank Board  
Federal Labor Relations Authority  
Federal Maritime Commission  
Federal Trade Commission  
Interstate Commerce Commission  
Legal Services Corporation  
National Archives and Records Administration  
National Credit Union Administration  
National Endowment for the Arts  
National Endowment for the Humanities  
National Labor Relations Board  
National Science Foundation  
Panama Canal Commission  
Peace Corps  
Pension Benefit Guaranty Corporation  
Securities and Exchange Commission  
Smithsonian Institution  
Tennessee Valley Authority  
United States International Trade Commission  
United States Postal Service

APPENDIX 3.—COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT  
HEARINGS, REPORTS AND STUDY CONCERNING THE INSPECTORS  
GENERAL

"Inspectors General: A 10-Year Review," hearing before the Legislation and National Security Subcommittee, House Committee on Government Operations, August 4, 1988.

"Inspector General Act Amendments of 1988," Committee on Government Operations, House Report 100-771, July 13, 1988.

"The Need for a Statutory Inspector General in the Department of Justice," a Study Prepared for the Legislation and National Security Subcommittee of the House Committee on Government Operations, June 1988.

"Inspector General Act Amendments of 1988," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, May 17, 1988.

"Inspector General Act Amendments of 1986," Committee on Government Operations, House Report 99-828, 99th Congress, 2d session, September 16, 1986.

"Inspector General Act Amendments of 1985," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, June 26, 1986.

"The Impact of the Budget Process on Offices of Inspector General," Committee on Government Operations, House Report 99-46, 99th Congress, 1st session, April 17, 1985.

"The Budget Process: Potential Impairment of the Independence of Inspectors General," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, September 26, 1984.

"Inspector General Act Amendments of 1983," Committee on Government Operations, House Report 98-586, 98th Congress, 1st session, December 7, 1983.

"Inspector General Act Amendments of 1983," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, October 26, 1983.

"Statutory Offices of Inspector General (Leadership and Resources)," Committee on Government Operations, House Report 97-211, 97th Congress, 1st session, July 30, 1981.

"Oversight of Offices of Inspector General," hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, April 1 and June 10, 1981.

"Department of Defense Authorization Act, 1982," Committee on Government Operations, House Report 97-71, part 3, 97th Congress, 1st session, June 12, 1981.

"Department of Defense Authorization Act of 1982," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, June 3, 1981.

"Inspector General Act of 1981," Committee on Government Operations, House Report 97-40, 97th Congress, 1st session, May 14, 1981.

"The Inspector General Act of 1981," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, April 8, 1981.

"HUD Management's Responsiveness to Inspector General Reports," hearings before the Manpower and Housing Subcommittee of the House Committee on Government Operations, March 11 and 12, 1981.

"Inspector General Act Amendments of 1980," Committee on Government Operations, House Report 96-1414, 96th Congress, 2d session, September 26, 1980.

"The Inspector General Act Amendments of 1980," hearings before the Legislation and National Security Subcommittee of the House Committee on Government Operations, August 27 and 28, 1980.

"Operations and Internal Evaluation Process of the State Department Inspector General, Foreign Service," Committee on Government Operations, House Report 96-806, 96th Congress, 2d session, March 6, 1980.

"Operation and Internal Evaluation Process of the State Department Inspector General for Foreign Service," hearing before the Legislation and National Security Subcommittee of the House Committee on Government Operations, September 24, 1979.

"Establishment of Offices of Inspector General in Certain Executive Departments and Agencies," Committee on Government Operations, House Report 95-584, 95th Congress, 1st session, August 5, 1977.

"Establishment of Offices of Inspector General," hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, May 17 and 24, June 1, 7, 13, 21, and 29, July 25 and 27, 1977.

"Department of Energy Organization Act," Committee on Government Operations, House Report 95-346, part 1, 95th Congress, 1st session, May 16, 1977.

"Department of Energy Organization Act." hearings before the Legislation and National Security Subcommittee of the House Committee on Government Operations, March 28 and 29, April 5, 6, 18, and 19, 1977.

"HEW Office of Inspector General," Committee on Government Operations, House Report 94-1573, 94th Congress, 2d session, September 10, 1976.

"Establishment of an Office of Inspector General in the Department of Health, Education and Welfare," hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, May 25 and 26, 1976.

"Department of Health, Education and Welfare (Prevention and Detection of Fraud and Program Abuse)," Committee on Government Operations, House Report 94-786, 94th Congress, 2d session, January 26, 1976.

"HEW Procedures and Resources for Prevention and Detection of Fraud and Program Abuse," hearings before the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations, April 22 and 30; May 15 and 22; and, June 24, 1975.



**APPENDIX 4.—STATUTORY INSPECTORS GENERAL APPOINTMENTS AND  
TOURS OF SERVICE, FEBRUARY 24, 1977 TO SEPTEMBER 30, 1988<sup>1</sup>**

Department or agency and appointee	Nominated	Term of service—	
		From	To
<b>Agriculture:</b>			
Thomas F. McBride.....	Feb. 28, 1979.....	July 24, 1979.....	Jan. 20, 1981.
John V. Graziano.....	June 9, 1981.....	July 30, 1981.....	Feb. 28, 1986.
Robert W. Beuley.....	June 5, 1986.....	Aug. 11, 1986.....	
<b>Commerce:</b>			
Mary Bass.....	Mar. 7, 1979.....	July 2, 1979.....	Jan. 20, 1981.
Sherman M. Funk.....	June 1, 1981.....	Sept. 29, 1981.....	Aug. 13, 1987.
Frank D. DeGeorge.....	Feb. 29, 1988.....	Apr. 15, 1988.....	
<b>Defense:</b>			
Joseph H. Sherrick.....	Mar. 4, 1983.....	Apr. 28, 1983.....	June 3, 1986.
June Gibbs Brown.....	Apr. 21, 1987.....	Nov. 13, 1987.....	
<b>Education: James B. Thomas, Jr.....</b>			
	June 13, 1980.....	Apr. 26, 1980.....	Jan. 20, 1981.
	May 27, 1981.....	July 17, 1981.....	
<b>Energy:</b>			
J. Kenneth Mansfield.....	Apr. 20, 1978.....	May 3, 1978.....	Jan. 20, 1981.
James R. Richards.....	June 9, 1981.....	Sept. 23, 1981.....	Jan. 5, 1986.
John C. Layton.....	Nov. 13, 1985.....	Dec. 16, 1985.....	
<b>Health, Education, and Welfare:</b>			
Thomas D. Morris.....	Feb. 24, 1977.....	Mar. 27, 1977.....	Sept. 28, 1979.
Richard D. Lowe <sup>a</sup> .....	Aug. 5, 1980.....		
<b>Health and Human Services: Richard P. Kusserow.....</b>			
	May 5, 1981.....	June 1, 1981.....	
<b>Housing and Urban Development:</b>			
Charles L. Dempsey.....	Feb. 28, 1979.....	June 27, 1979.....	Jan. 20, 1981.
	May 27, 1981.....	July 31, 1981.....	Feb. 1, 1985.
Paul A. Adams.....	Apr. 1, 1985.....	June 5, 1985.....	
<b>Interior:</b>			
June Gibbs Brown.....	Feb. 28, 1979.....	May 10, 1979.....	Jan. 20, 1981.
Richard Mulberry.....	June 1, 1981.....	July 10, 1981.....	Sept. 30, 1984.
James R. Richards.....	Nov. 13, 1985.....	Dec. 19, 1985.....	
<b>Labor:</b>			
Marjorie Fine Knowles.....	Feb. 28, 1979.....	May 10, 1979.....	May 2, 1980.
Thomas F. McBride.....	June 1, 1981.....	July 10, 1981.....	Oct. 15, 1982.
J. Brian Hyland.....	Apr. 4, 1983.....	Aug. 3, 1983.....	
<b>State:</b>			
Robert L. Brown.....	Mar. 26, 1981.....	June 22, 1981.....	June 30, 1983.
William C. Harrop.....	Nov. 8, 1983.....	Nov. 17, 1983.....	Aug. 27, 1986.
Sherman M. Funk.....	Mar. 23, 1987.....	Aug. 8, 1987.....	
<b>Transportation:</b>			
Frank S. Sato.....	Mar. 7, 1979.....	May 10, 1979.....	Jan. 20, 1981.
Joseph P. Welsch.....	May 29, 1981.....	July 17, 1981.....	Dec. 31, 1985.
John Melchner.....	July 30, 1986.....	Oct. 14, 1986.....	
<b>Agency For International Development:</b>			
Herbert L. Beckington <sup>a</sup> .....		Dec. 29, 1981.....	
<b>Community Services Administration:</b>			
Frankie M. Freeman.....	June 14, 1979.....	Oct. 5, 1979.....	Jan. 20, 1981.
K. William O'Connor.....	June 9, 1981.....	July 10, 1981.....	( <sup>a</sup> ).
<b>Environmental Protection Agency:</b>			
Inez Smith Reid.....	Sept. 20, 1979.....	Dec. 9, 1979.....	Jan. 20, 1981.
Matthew M. Novick.....	July 23, 1981.....	Oct. 14, 1981.....	Feb. 24, 1983.
John C. Martin.....	Sept. 20, 1983.....	Oct. 26, 1983.....	

Department or agency and appointee	Nominated	Term of service—	
		From	To
<b>General Services Administration:</b>			
Kurt W. Muellenberg.....	Mar. 1, 1979.....	Apr. 11, 1979.....	Jan. 20, 1981.
Joseph A. Sicken.....	June 1, 1981.....	Aug. 5, 1981.....	Aug. 3, 1984.
William R. Barton.....	Sept. 7, 1985.....	Oct. 29, 1985.....	
<b>National Aeronautics and Space Administration:</b>			
Eldon D. Taylor.....	Mar. 7, 1979.....	July 30, 1979.....	Dec. 31, 1980.
June Gibbs Brown.....	June 10, 1981.....	July 17, 1981.....	Mar. 10, 1985.
Bill D. Colvin.....	July 23, 1985.....	Oct. 16, 1985.....	
Railroad Retirement Board: William J. Doyle, III.....	Oct. 10, 1985.....	Dec. 18, 1985.....	
<b>Small Business Administration:</b>			
Paul R. Boucher.....	Mar. 7, 1979.....	June 27, 1979.....	Jan. 20, 1981.
	May 12, 1981.....	June 19, 1981.....	July 4, 1982.
Mary F. Wieseman.....	Mar. 16, 1983.....	May 6, 1983.....	Sept. 6, 1986.
Charles R. Gillum.....	Sept. 23, 1986.....	Apr. 6, 1987.....	
United States Information Agency: Anthony J. Gabriel.....	Apr. 8, 1987.....	July 15, 1987.....	
<b>Veterans' Administration:</b>			
Allan L. Reynolds.....	Feb. 28, 1979.....	May 10, 1979.....	Jan. 20, 1981.
Frank S. Sato.....	May 29, 1981.....	July 29, 1981.....	Jan. 8, 1988.
Reynald Morani.....	July 27, 1988.....	Pending confirmation.	

<sup>1</sup> Sources of information. This table uses a number of sources. The primary source is an appendix to H. Rept. 97-211 at p. 37. Other sources include (1) "Federal Inspectors General, An Historical Listing," prepared for the President's Council on Integrity and Efficiency, Apr. 17, 1985; and (2) information supplied by Mr. Jack Ticer, Office of Inspector General, Department of Defense. Where there was disagreement among the sources, the most senior data source was selected for presentation.

<sup>2</sup> The Senate never considered the nomination of Richard D. Lowe.

<sup>3</sup> Agency for International Development's inspector general became a statutory position on Dec. 29, 1981 and by statute, Mr. Beckington was continued in the position he had held since Sept. 1, 1977. Thus, Mr. Beckington was not appointed to this position by the President nor has he been confirmed by the Senate.

<sup>4</sup> Service terminated when agency abolished.

## APPENDIX 5.—INSPECTOR GENERAL STAFFING

(FTE by fiscal year)

Agency	Actual							Estimate 1988
	1981	1982	1983	1984	1985	1986	1987	
Agriculture .....	900	872	897	879	891	820	818	818
AID .....	179	171	160	179	192	175	183	205
Commerce .....	171	176	200	215	208	206	192	206
Defense <sup>1</sup> .....	385	496	937	900	1,081	1,080	1,334	1,380
Education .....	284	269	283	299	304	272	278	320
Energy .....	125	153	178	180	178	178	178	178
EPA .....	142	174	180	229	256	260	256	280
GSA .....	531	483	404	419	400	361	364	452
HHS .....	867	922	1,280	1,317	1,307	1,225	1,204	1,236
HUD .....	481	499	499	488	498	472	469	493
Interior .....	189	206	278	317	314	289	278	300
Labor .....	439	430	471	528	524	562	519	530
NASA .....	100	100	102	100	97	98	111	131
RRB .....	<sup>2</sup> NA	NA	NA	NA	NA	NA	22	45
SBA .....	124	140	133	124	124	120	125	132
State .....	67	67	69	82	88	98	149	181
Transportation .....	448	445	436	434	462	457	456	451
Veterans .....	330	342	345	356	385	385	381	381
USIA .....	NA	NA	NA	NA	NA	36	36	44
<b>Total .....</b>	<b>5,762</b>	<b>5,945</b>	<b>6,852</b>	<b>7,046</b>	<b>7,309</b>	<b>7,094</b>	<b>7,353</b>	<b>7,763</b>

<sup>1</sup> DOD figures reflect the staffing of the Office of the Assistant to the Secretary for Oversight and Review and the statutory DOD OIG (created in 1983) and do not include the inspector general functions housed in the military departments.

<sup>2</sup> NA means data are not available.

Source: PCIE.