

# IMPROVING IG FUNCTIONALITY AND INDEPENDENCE: A REVIEW OF LEGISLATIVE IDEAS

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## HEARING

BEFORE THE  
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY  
AND FINANCIAL MANAGEMENT

OF THE

COMMITTEE ON  
GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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## CONTENTS

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	Page
Hearing held on July 14, 2004 .....	1
Statement of:	
George, J. Russell, Inspector General, Corporation for National and Community Service .....	19
Gianni, Gaston L., Jr., Inspector General, Federal Deposit Insurance Corporation .....	3
Snyder, Barry R., Inspector General, Federal Reserve Board .....	22
Letters, statements, etc., submitted for the record by:	
Cooper, Hon. Jim, a Representative in Congress from the State of Tennessee, prepared statement of .....	36
Gianni, Gaston L., Jr., Inspector General, Federal Deposit Insurance Corporation, prepared statement of .....	6
Platts, Hon. Todd Russell, a Representative in Congress from the State of Pennsylvania, prepared statement of .....	2
Towns, Hon. Edolphus, a Representative in Congress from the State of New York, prepared statement of .....	42



# IMPROVING IG FUNCTIONALITY AND INDEPENDENCE: A REVIEW OF LEGISLATIVE IDEAS

WEDNESDAY, JULY 14, 2004

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY AND  
FINANCIAL MANAGEMENT,  
COMMITTEE ON GOVERNMENT REFORM,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:35 p.m., in room 2247, Rayburn House Office Building, Hon. Todd R. Platts (chairman of the subcommittee) presiding.

Present: Representatives Platts, Towns, and Blackburn.

Also present: Representative Cooper.

Staff present: Mike Hettinger, staff director; Larry Brady and Tabetha Mueller, professional staff members; Amy Laudeman, legislative assistant; Mark Stephenson, minority professional staff member; and Cecelia Morton, minority office manager.

Mr. PLATTS. The Subcommittee on Government Efficiency and Financial Management will come to order.

Because of our delay in getting started with the votes on the floor, I am going to dispense with the opening statement and others if they would like to submit them for the record, that would be great.

I appreciate our three witnesses being here today as kind of a followup to our hearing last October on the 25th anniversary of the Inspector General Act as we further explore how we can strengthen that act and better empower each of you and your colleagues in the 57 agencies and the IG offices to well serve the American public. Thank you for being here and I also want to thank each of you for your work day in and day out in very important roles in essence safeguarding American taxpayer dollars and ensuring the efficient and effective operation of the Federal Government.

The insights that you shared in your written testimony certainly is appreciated both on the general premise of how we can improve the Inspector General Act and also our colleague, Congressman Cooper's proposed legislation. We look forward to your testimony here today and a chance for Q&A.

[The prepared statement of Hon. Todd Russell Platts follows:]

**COMMITTEE ON GOVERNMENT REFORM**  
**SUBCOMMITTEE ON GOVERNMENT EFFICIENCY AND FINANCIAL MANAGEMENT**  
**TODD RUSSELL PLATTS (R-PA.), CHAIRMAN**



**OPENING STATEMENT**  
**OF**  
**REP. TODD RUSSELL PLATTS**  
**JULY 14, 2004**

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When Congress passed the Inspector General Act in 1978 in response to major management scandals within the federal government, we added an important balance to our system of separation of powers. Congress envisioned IGs as permanent, independent, non-partisan, and objective.

This Subcommittee commemorated the 25<sup>th</sup> Anniversary of the IG Act with a hearing last year. We talked about the results we've seen through the work of IGs government-wide: billions of dollars in savings, thousands of successful criminal prosecutions, and agencies and IGs working together to make government more effective and more accountable.

We also talked about the future and what changes we might need to make IGs even more effective. At that time, we were joined by my esteemed colleague, Mr. Cooper of Tennessee, who has spent considerable time on this issue. Mr. Cooper has introduced legislation that would grant IGs more autonomy and independence by limiting arbitrary or political dismissal of IGs by creating a fixed term of office and defining reasons for removal; freeing IGs from the agency appropriations process; creating a statutory basis for the government-wide IG councils, which now operate under executive order; and providing human capital management flexibility to IG offices.

Mr. Cooper, thank you for joining us again today. We look forward to discussing these options and other considerations that would enhance the effectiveness of IGs across the federal government.

At our last hearing to discuss this issue, we were also pleased to have Mr. Gianni and Mr. Snyder, both of whom are here with us again today. Mr. George joins us as well, and we are pleased to welcome him back to the Subcommittee for which he served as Staff Director.

All of you offer very important perspectives on the effect of any legislative proposals, both from your role as an Inspector General and from your leadership positions within the IG Councils. Thank you for testifying today.

Mr. PLATTS. We are going to go right into your statements, so will you stand so you can be sworn in.

[Witnesses sworn.]

Mr. PLATTS. We have a general 5 minute guideline. We will run the clock to give you some guidance but as we discussed before, we understand you have some substantive knowledge to share and may run over your time limit and we won't be cracking the gavel down on you.

We are honored to have three of our IGs with us. We will go in order, Mr. Gianni first, then Mr. Snyder and Mr. George in their opening statements.

We will begin with you, Mr. Gianni.

**STATEMENT OF GASTON L. GIANNI, JR., INSPECTOR GENERAL,  
FEDERAL DEPOSIT INSURANCE CORPORATION**

Mr. GIANNI. Thank you, Mr. Chairman.

Mr. Chairman, members of the subcommittee, on behalf of the Inspector General community, we thank you for your support of the Inspectors General over the years. We appreciate your interest in our work and your leadership in seeking ways to enhance our efforts. My colleagues and I are pleased to be here today to discuss IG functionality and independence and the importance of the IG Act.

As you know, last October marked the 25th anniversary of the IG Act. At that time and many times over the past 25 years, the IG community has explored opportunities for improvement. In fact, we are here today to offer our impressions of the bill, "Improving Government Accountability Act" introduced by Representative Jim Cooper last fall. Representative Cooper's bill, H.R. 3457, serves as an excellent starting point to begin a discussion of improvements and enhancements to an already effective law. In general, we support the thrust of the bill and have some refinements and additional ideas we would like to share with you today. We sincerely appreciate the Congressman's leadership and support in this area and look forward to continuing this dialog.

At this time, I would like to take this opportunity to briefly introduce myself and my colleagues. I am the IG at the Federal Deposit Insurance Corporation. I have served in that capacity since April 1996. I am 1 of 29 Presidentially appointed, Senate-confirmed IGs who are members of the President's Council on Integrity and Efficiency. Created by an Executive order in 1981, the PCIE provides a forum for IGs, OMB, and other Federal officials to work together and coordinate their professional activities. I have also served as Vice Chair of this Council since May 1999.

At the far end of the table is Russell George, the IG of the Corporation for National and Community Service, and he has served in that capacity for the past 2 years. He is currently the administration's nominee for the Treasury IG for Tax Administration. Mr. George is a member of the PCIE and began serving as the PCIE Legislative Committee Chair in January of this year. Prior to that time, Mr. George served as staff director for Representative Steve Horn who, while he was here, was chairman of this subcommittee.

To my immediate left is Barry Snyder. Since 1998, Mr. Snyder has served as the IG for the Board of Governors of the Federal Re-

serve System. He is 1 of 28 statutory IGs who are appointed by their agency head in certain designated Federal entities and are part of the Executive Council on Integrity and Efficiency. Similar to the PCIE, the ECIE was created by an Executive order in 1992 and provides the same forum as the PCIE. Mr. Snyder has served as the ECIE Vice Chair since October 1999.

As we discussed with members of your staff, while we are leaders within our respective councils, we are here today representing the views of the majority of the Federal IGs who comprise the two councils. We are not speaking on behalf of these councils. As such, each council includes individuals who are not IGs and have not endorsed the positions or views that we have taken today or will be taking.

Before we get into discussing our immediate business for being here, I would like to talk about the impact of the IG community. For the past 25 years, IGs have served as independent voices to their agency heads and the Congress by identifying opportunities and promoting solutions. The IG Act is a good law about good Government and has stayed the test of time. Since 1978, the basic tenets of the act have remained constant and strong.

The act creates an inherent tension between the executive and the legislative branches of government. Specifically, IGs must keep both the agency head and the Congress fully and currently informed about programs or operational deficiencies. This dual reporting requirement is critical and creates a fine line—balancing the needs and requests of two masters—but that is the beauty of the act and why it has served the Congress, the administration and the public so well for so long.

The act has had profound impact on our Government by improving operations of Federal agencies, focusing attention on governmentwide initiatives, providing continuity, and ensuring institutional knowledge and expertise. By virtue of our independence and non-partisan status, 57 IGs currently protect the integrity of the Government; improve program efficiencies and effectiveness; and prevent and detect waste, fraud, and abuse in Government agencies.

Each year OIG audits, inspections and evaluations identify billions of dollars in potential savings. Our investigations lead to thousands of prosecutions or other actions as well as billions of dollars in potential recoveries for violations of Federal criminal law. As evidenced in our fiscal year 2003 progress report to the President, which we are releasing today, we have continued that mission. We are reporting nearly \$18 billion in potential savings, over 6,600 successful prosecutions, 7,600 individuals or businesses suspended or debarred, more than 2,600 civil or personnel actions, and nearly 200,000 complaints received through our OIG hotlines. In addition, we have closed about 22,000 investigations and testified before Congress 80 times. Although impressive, these numbers do not tell the entire story. Success and impact can be measured in many different ways. These notable statistics are the successes which are tangible and easy to quantify.

However, another way to assess how successful the IG Act has been and will continue to be rests on the fact that IGs are repeatedly asked by their agencies and the Congress to make rec-



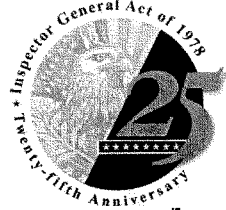
ommendations for improving agency performance and uncovering fraud, waste, and abuse. The impact and added value we bring to bear on important issues affecting our Government speaks to our success.

The Congress has seen fit to expand the duties of the IG beyond its original mission. Through general management laws originated in this committee, such as the CFO Act, the Reports Consolidation Act, and more recently the Federal Information Security Management Act, Congress has assigned new responsibilities.

The administration has encouraged us to get involved with assisting the agencies in implementation of the President's management agenda. We interpret this to mean that our work adds value. It is improving the efficiency, effectiveness, and integrity of our Government.

Mr. Chairman, that completes my opening remarks. Mr. George will go next with your permission and provide the perspectives of the IG community as to where we want to go legislatively.

[The prepared statement of Mr. Gianni follows:]



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July 14, 2004

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**Testimony of**

Honorable Gaston L. Gianni, Jr.  
Vice Chair, President's Council on  
Integrity and Efficiency

Honorable J. Russell George  
Chair, PCIE Legislation Committee

Mr. Barry R. Snyder  
Vice Chair, Executive Council on  
Integrity and Efficiency

**Before the**

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

**Regarding**

Inspector General Functionality  
And Independence

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

On behalf of the Inspector General (IG) community, we thank you for your support of the Inspectors General over the years. My colleagues and I are pleased to be here today to discuss IG functionality and independence and the importance of the IG Act in improving the efficiency and effectiveness of Federal operations and eliminating fraud, waste, and abuse in Federal programs.

As you know, last October marked the 25<sup>th</sup> anniversary of the IG Act. At that time, and many times over the past 25 years, the IG community has reflected on its accomplishments and explored opportunities for improvement. We are here today to share our accomplishments since we last appeared before this Subcommittee and offer our impressions of the bill, "Improving Government Accountability Act," introduced by Representative Jim Cooper last fall.

Representative Cooper's bill, H.R. 3457, serves as an excellent starting point to begin a discussion of improvements to and enhancements of an already effective law. In general, we support the thrust of the Representative's bill and have some refinements and additional ideas to improve the quality, effectiveness, and impact of our work that we would like to share with you today. We appreciate Representative Cooper's leadership in this area and his overall support of the IG community, and we look forward to continuing this dialogue.

At this time, I would like to take the opportunity to briefly introduce myself, my colleagues, and the community we represent.

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

To my left is J. Russell George. He is the IG for the Corporation for National and Community Service and has served in that capacity for the past 2 years. He is currently the Administration's nominee to be the Treasury IG for Tax Administration. Mr. George is a member of the PCIE and began serving as the PCIE Legislation Committee Chair in January of this year. Prior to becoming an IG, Mr. George served as the staff director for Representative Steve Horn while he was the Chairman of this Subcommittee.

To my right is Barry Snyder. Since 1998, Mr. Snyder has served as the IG of the Board of Governors of the Federal Reserve System. He is 1 of 28 statutory IGs who are appointed by their agency heads in certain designated Federal entities (DFE) and are part of the Executive Council on Integrity and Efficiency (ECIE). Similar to the PCIE, the ECIE was created by Executive Order in 1992 and provides a forum for IGs and Federal

officials to work together and coordinate professional activities. Mr. Snyder has served as the ECIE Vice Chair since October 1999.

As we discussed with your staff, while we are leaders within our respective Councils, we are here today representing our understanding of the views of the majority of the Federal IGs who comprise the two Councils. We are not speaking on behalf of these Councils, as each Council includes individuals who are not IGs and who have not endorsed these views.

Before we discuss possible modifications to H.R. 3457, we would like to briefly highlight the impact of IG work during fiscal year 2003.

### **The Impact of Inspectors General on Federal Government Operations**

For 25 years, IGs have served as independent voices to their agency heads and to the Congress by identifying opportunities and promoting solutions to improve the performance of government programs. The IG Act is a good law and has stayed the test of time. Since 1978, the basic tenets of the Act have remained constant and strong.

The IG Act creates an inherent tension between the Executive and Legislative branches of government. The IG must keep both the agency head and the Congress "fully and currently" informed about program or operational deficiencies.<sup>1</sup> This dual reporting requirement creates a fine line and one that involves balancing the needs and requests of "two masters."<sup>2</sup> But that is the beauty of the Act and why it has served the Congress, the Administration, and the public so well for so long.

The Act has had a profound impact on our government, which can be seen in improved operations in Federal agencies and added attention on governmentwide initiatives. Today, 57 IGs protect the integrity of the government; improve program efficiency and effectiveness; and prevent and detect fraud, waste, and abuse in Federal agencies. By virtue of our independent and nonpartisan status, we provide a measure of continuity and offer a wealth of institutional knowledge and expertise.

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

As evidenced in our fiscal year 2003 annual report, *A Progress Report to the President*, which we are releasing today, the IG community has stayed true to its mission. In fiscal

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<sup>1</sup> 5 U.S.C. Appx. § 2(3).

<sup>2</sup> See S. REP. NO. 95-1071, at 9 (1978).

year 2003 alone, IG community efforts accounted for nearly \$18 billion in potential savings from agency action on current and prior recommendations and through investigative recoveries. Further, the community was instrumental in about 6,600 successful prosecutions, suspensions or debarments of over 7,600 individuals or businesses, and over 2,600 civil or personnel actions. The community as a whole processed nearly 200,000 complaints, received primarily through OIG fraud hotlines; issued nearly 4,700 reports; closed about 22,000 investigations; and testified more than 80 times before the Congress.

Although impressive, these numbers do not tell the entire story. Success and impact can be measured in many different ways. The IG community publishes notable statistics, issues reports to agency management, works cooperatively with U.S. Attorneys, and testifies before the Congress—success which is tangible and easy to quantify. However, another way to assess how successful the IG Act has been and will continue to be lies in the fact that IGs are being repeatedly asked by their agency and the Congress to make recommendations to promote the agency's economy, efficiency, and effectiveness and uncover fraud, waste, and abuse.

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

At this time, we would like to discuss the specifics of H.R. 3457 and share our thoughts and views on this bill. As we previously mentioned, the opinions we express should not be considered official positions of the PCIE or ECIE. Rather, the opinions we are about to share have the support of the majority of the Federal IGs who comprise the two Councils.

### **Inspectors General Views on the Improving Government Accountability Act, H.R. 3457**

#### **Removal for Cause and Term of Office Protections**

Currently, most IGs do not have statutory terms of office.<sup>3</sup> The only condition on their removal is that, in the case of presidentially-appointed IGs, the President must notify the Congress of the reasons for their removal. The same holds true for IGs appointed by their respective agency heads.

<sup>3</sup> A few IGs have terms of office. For example, the IG of the U.S. Postal Service has 7-year term of office, and the IG of the Peace Corps has a term of office of 5 years, which can be extended to an overall term of 8 years.

The IGs reached a general consensus that instituting removal for cause criteria such as those in Representative Cooper's bill would enhance the independence of IGs. Removal for cause means that as a government official, an IG may be removed only for certain reasons, such as failing to perform the duties required by the IG Act. Removal for cause protection would enhance independence by shielding IGs from reprisal for conducting essential yet potentially unpopular investigations or audits.

We note that individuals occupying a number of other positions with identical or analogous oversight functions in the Executive branch may be removed only for cause. For instance, the Special Counsel and the Inspector General of the U.S. Postal Service may be removed only for cause. In the Legislative branch, the Comptroller General of the Government Accountability Office (GAO) possesses removal for cause protection. We believe that removal for cause criteria would further the Congress' intent to provide IGs with the independence needed to carry out our responsibilities and would better insulate IGs from undue influence.

Representative Cooper's H.R. 3457 lists the following five grounds for removal: permanent disability, inefficiency, neglect of duty, malfeasance, and conviction of a felony or conduct involving moral turpitude. These removal conditions strike the appropriate balance between giving the President or agency head the authority to remove IGs who have failed to fulfill their responsibilities and providing a degree of protection to IGs to perform their duties diligently without undue repercussion. While the IGs are generally supportive, we would welcome the opportunity to work with the Congress to clarify these removal conditions.

Representative Cooper also proposes amending the IG Act to establish a term of office of 7 years. The majority of IGs support a term of office because, like removal for cause protection, it would enhance independence. A fixed term would also serve to improve IG operations by facilitating long-range planning and increasing institutional memory. Moreover, the increased job security would facilitate recruitment and retention of well-qualified IGs, as well as provide more continuity during changes of administration.

A number of positions with analogous functions within the Executive branch have fixed terms of office. For example, the Director of the Office of Personnel Management (OPM) has a 4-year term. The Director of the Office of Government Ethics, the Special Counsel, and members of the Federal Labor Relations Authority all have 5-year terms. Merit Systems Protection Board members have 7-year terms. Other officials with similar duties but broader responsibilities, such as the Comptroller General and the Director of the Federal Bureau of Investigation, also have terms, 15 years and 10 years, respectively. Considering the similarities and differences of all these positions, the IGs support a 9-year term of office as opposed to the 7-year term proposed in H.R. 3457. We believe that a 9-year term would span administrations and be more consistent with other terms of office across the government.

#### Codification of the PCIE and ECIE into a Single Inspectors General Council

As noted, two councils of IGs currently exist: the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. Each council was established by executive order.<sup>4</sup> The basic mission, responsibilities, and authorities of the two councils are essentially the same. They provide a forum for IGs, OMB, and other Federal officials<sup>5</sup> to work together to address oversight issues that transcend individual government agencies.

Representative Cooper's bill, H.R.3457, would create a single, unified council of IGs that would include the current membership of the PCIE and ECIE. The proposed council would be authorized to receive an annual appropriation of \$750,000 to carry out its administrative functions. The IG community embraces the idea of creating an IG council that would be supported by a single, annual appropriation. This would eliminate our current funding arrangement where all funding of IG community-wide activities is borne by an individual OIG absorbing the costs or by contributions solicited from individual OIGs.

The benefits of a single, statutory council are numerous. Creating such a council would:

- enhance communications among the IGs and their staffs;
- improve the efficiency and effectiveness of joint activities between and among IG offices;
- increase the consistency of training for IG staff across the community; and
- centralize initiatives that benefit the entire IG community.

A codified IG council could also strengthen our relationship with the Congress. Such a council would provide an official forum for contact on an IG community-wide basis. Periodic oversight hearings of council activities would ensure that the council is accomplishing its designated purposes.

In testimony before this Subcommittee last year, Comptroller General David Walker supported the codification of the IG councils. The Comptroller General recommended strengthening the councils "by providing a statutory basis for their roles and

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<sup>4</sup> The President's Council on Integrity and Efficiency was established by Executive Order 12301 on March 26, 1981. The Executive Council on Integrity and Efficiency was created by Executive Order 12805 on May 11, 1992.

<sup>5</sup> The other Federal officials who are members of the PCIE and ECIE include the Assistant Director of the Criminal Investigative Division of the Federal Bureau of Investigation; Director of the Office of Government Ethics; Special Counsel of the Office of Special Counsel; and Deputy Director of the Office of Personnel Management.

responsibilities.”<sup>6</sup> He continued by testifying that through codification “the permanence of the councils could be established and their ability to take on more sensitive issues strengthened.”<sup>7</sup> Another benefit to establishing the councils by statute, according to Mr. Walker, is that the Congress could clearly establish the strategic focus of the councils to enhance coordination of Federal oversight with GAO.<sup>8</sup>

While the IG community strongly supports codifying the council, we recommend that the Congress consider several important refinements to the current bill:

First, after lengthy discussions on the role that OMB should play in a proposed IG council, we recommend that the Deputy Director for Management (DDM) of OMB serve in a leadership position on the proposed council. Currently, the DDM serves as Chairperson of both the PCIE and ECIE. Under H.R. 3457, the DDM would remain a member of the IG council, but an IG would be selected as chairperson. We believe that the DDM should remain in a leadership role to preserve the existing link between the IGs and the administration.

Second, we suggest that the proposed IG council maintains academies designed specifically to train OIG personnel and provides support for a criminal forensic laboratory. Carrying out the proposed council’s functions would also require a small council staff. We expect that maintaining training academies and hiring a small council support staff would necessitate an appropriation.

Third, we recommend that the Integrity Committee, which is currently a committee of the PCIE, also be codified as part of the proposed IG council. Since its creation by Executive Order in 1996,<sup>9</sup> the Integrity Committee has served as the independent investigative mechanism to handle allegations against IGs and senior OIG staff members. H.R. 3457 does not address this particular issue. We believe that establishing the Integrity Committee by statute would better formalize its functions to ensure that administrative allegations against IGs and certain staff members are investigated and resolved equitably and expeditiously.

Fourth, H.R. 3457 does not include the OIGs for the Central Intelligence Agency (which is part of the PCIE) and the Government Printing Office (which is part of the ECIE). These two offices were not established by the IG Act or any of its subsequent amendments, but have long participated in IG community activities.

#### Personnel Flexibilities for IGs

The IGs join the chorus of other Executive branch voices that have expressed interest in more flexible personnel management authorities. The IG Act currently authorizes IGs to

<sup>6</sup> INSPECTORS GENERAL: *Enhancing Federal Accountability*, Statement of David M. Walker, Comptroller General of the United States, October 8, 2003 (GAO-04-117T).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> The Integrity Committee was established by Executive Order 12993.



“select, appoint, and employ such officers and employees” as necessary to carry out their duties. As the role of the IG has expanded in both mission and complexity, it has become clear that additional personnel authority is needed.

Human capital management flexibilities would allow IGs to cultivate an office that more effectively and efficiently carries out its responsibilities. Enhanced personnel management authorities would allow each OIG to improve financial and information technology capabilities, and develop critical audit and investigative expertise through hiring, retention, and leadership development. These authorities would make OIGs more agile and responsive organizations.

The Improving Government Accountability Act, H.R. 3457, provides personnel flexibilities by creating a personnel management system under title 5 for all OIGs under the IG Act. While the IG community supports personnel flexibilities, we disagree with the title 5 approach. Many OIGs are not covered by title 5 and already possess certain personnel authorities that would be relinquished under the current language of the H.R. 3457.

As an alternative, the majority of the IGs support a proposal that authorizes individual OIGs *to apply* to OPM for certain personnel authorities. The decision to apply for personnel flexibilities would be left to the discretion of the individual IGs.

After extensive discussion and research, the IGs believe that the following authorities would greatly enhance our management of human capital and result in an even more highly skilled and effective workforce:

*Pay Authorities – Pay Banding, Merit-Based Pay, and Market-Based Pay*

Pay banding is a compensation and classification framework that reduces the 15 existing General Schedule pay grades into fewer (typically four to six) pay bands based on career paths and occupations. Pay banding potentially serves as a recruitment tool by simplifying and expediting the hiring process. Such authority would enable OIGs to better compete with the private sector in attracting high-quality candidates, especially for positions requiring technical expertise.

Merit-based pay would allow OIGs to compensate employees based on their performance or their specific contribution to the OIG’s mission. A merit-based pay system eliminates the automatic pay increases civil servants typically receive and replaces it with a system where job performance determines salary increases.

Market-based pay systems would enable OIGs to set salaries commensurate with the equivalent position in the private sector rather than with respect to specific skills and knowledge. This authority would assist IGs in recruiting for positions that require a high level of technical skill, such as an auditor, attorney, or technology specialist.

*Critical Pay or Position Authorities*

Critical pay or position authorities would allow OIGs to more highly compensate individuals for a limited number of positions. Such positions must be critical to the OIG mission. For example, a position that requires both managerial skills and a high level of technical expertise might be designated a critical position. This tool would allow OIGs to attract superior candidates for key positions.

*Additional Recruitment and Retention Bonuses*

The IGs would benefit from increased flexibility when awarding recruitment and retention bonuses. Such flexibility might include allowing OIGs to structure bonus payments in a variety of ways: as a lump sum paid at the beginning of a new employee's tenure, a bonus paid over time, or a lump sum paid at the end of an agreed-upon period. These tools would help OIGs retain employees who might otherwise consider leaving for another government job.

*Classification Flexibilities – Rank-in-Person and Categorical Ranking*

Rank-in-person classification systems recognize the personal contributions and capabilities of individual employees. Rank-in-person would allow OIGs to determine grade and pay level with reference to an individual's qualifications and assignments rather than the responsibilities and duties of the position. This type of system can serve as a more flexible hiring tool and also serve as a performance management tool.

Categorical ranking is a departure from the standard classification system of job applicants where three candidates are selected. Under a categorical ranking system, an OIG could develop two or three categories of candidates, taking into consideration the veterans' preference within each category, and then select a candidate from the highest quality grouping. This tool simplifies hiring, involves managers more directly in the hiring process, and provides larger pools of candidates from which managers may choose.

*Performance Management*

Giving the IGs flexibility to create performance management systems for their individual offices would benefit the community. Unique performance management systems could better align OIG organizational goals with an individual employee's performance and provide incentives for employees to excel.

*Flexible Probationary Periods*

Many IGs believe that the current one-year probationary period is inadequate to assess a new employee's performance, especially for employees engaged in long-term projects or scientific research. Providing IGs the authority to extend probationary periods in limited situations could serve as a valuable hiring and performance management tool.

#### Other Personnel Issues

A few other personnel issues exist that are unrelated to personnel flexibilities. Representative Cooper identified one of these issues in his bill. H.R. 3457 includes a provision that empowers IGs to deal directly with OPM on the allocation of Senior Executive Service positions within OIGs. This proposal seeks to correct an anomaly that resulted from the 1988 amendments to the IG Act. The 1988 amendments clarified that IGs are the appointing authority for the hiring, performance management, and retention of senior executive employees. However, these amendments neglected to give the IGs the ability to control allocations of senior executive positions. Correcting this anomaly would make the existing statutory authorities more meaningful, better recognize the independence of IGs, and eliminate an unnecessary source of conflict between IGs and their agency heads.

Along similar lines, we also suggest that the proposed IG council be given the authority to make initial recommendations to OPM for career senior executives to receive Presidential Rank Awards. Currently, agencies make recommendations for these awards to OPM, which forwards its recommendations to the President. The proposed IG council would be in a more appropriate position, and likely have more expertise, to identify those senior OIG executives who have exhibited sustained superior achievement. Under this authority, OPM would retain its role in approving and forwarding nominations to the President.

In Representative Cooper's bill, he proposes authorizing IGs to apply directly to OPM for the authority to enter into voluntary separation agreements within OIGs. The IG community supports this proposal. Voluntary separation agreements, commonly referred to as buyouts, are an important workforce reshaping tool that should be wielded directly by the IG, since he or she is most familiar with the office's workforce and unique mission.

In addition to the buyout authority in H.R. 3457, the IGs believe they would benefit from the authority to enter into voluntary early retirement agreements. We recommend that the Congress consider allowing the IG, instead of the agency head, to apply directly to OPM to offer voluntary early retirement. The IG, rather than the agency head, is in a better position to determine the availability and appropriateness of using this workforce reshaping tool within an OIG.

Finally in the area of personnel, we have identified an area of particular importance to the DFE IGs. Unlike the presidentially-appointed IGs, the IG Act does not address the issue of grade and compensation for DFE IGs. Currently the head of a DFE agency has the discretion to staff the IG position at a grade inferior to other management officials, causing at least the perception of unequal status between these IGs and the senior management officials with whom they work. Because the head of the DFE can define the grade of the IG position, this can hamper the IGs ability to command the requisite agency attention on findings and recommendations. To remedy this situation, we suggest that the

Congress consider an amendment to the IG Act that requires the DFE IGs to be staffed at a grade and level comparable to the most senior staff members of the respective DFE.

#### Submission of Budget Requests to the Congress

Representative Cooper's H.R. 3457 amends the IG Act to authorize each IG to transmit an appropriation estimate and request directly to OMB and the Congress. The bill also would require the President's budget to include a separate statement of the amount requested by each IG, and a comparison of this amount to the amount requested for the OIG by the agency head.

The IG community supports this authority as long as it remains discretionary. The IGs would oppose requiring all IGs to submit their budgets directly to the Congress because such a requirement would interfere with the budget process of agencies that do not participate in an annual budget review.

#### Submission of Semiannual Report to the Congress

Twice each year, OIGs submit semiannual reports to the Congress, which provide updates on their work during the previous 6 months. The semiannual report details the findings of major investigations and audits, and provides statistical data on final audit reports and other matters. H.R. 3457 would change the submission dates of these semiannual reports from a fiscal-year basis to a calendar-year basis.

After careful consideration of this proposal, the IGs recommend that the submission of semiannual reports remain on a fiscal-year basis. Most of our offices, like the rest of the Federal government, operate using a fiscal year. Requiring the OIGs to submit semiannual reports on a calendar-year basis would essentially necessitate the use of two sets of records – one based on the fiscal year and one based on the calendar year. If the Congress needs information in the interim between the submissions of OIG semiannual reports, the OIGs are ready to work with the Congress to provide the information needed to conduct vigorous oversight.

However, the IGs recommend a separate modification relating to semiannual reports. As the role of OIGs has developed over the last 25 years, many OIGs have expanded their reviews to include inspections and evaluations of agency programs and operations. These reports of inspections and evaluations make recommendations to agency management that result in monetary savings. Such savings demonstrate the productive reform of various Federal activities and would be of particular interest to the Congress. We suggest that the IG Act be amended to allow OIGs to include the results of inspections and evaluations in semiannual reports.

#### Additional Recommendations to Assist OIGs

After considerable discussion, the IGs have developed a general consensus that two additional legislative changes would strengthen the ability of OIGs to eliminate waste,

fraud, and abuse. These changes are not included in H.R. 3457, but would be a valuable asset to the community.

First, the Program Fraud Civil Remedies Act (PFCRA)<sup>10</sup> should be amended to allow DFE OIGs to utilize its provisions. This issue is of great significance to the DFE IGs and would require only a minor adjustment to the Act. Congress enacted PFCRA in 1986 to enable agencies to recover small dollar losses resulting from false claims and statements that would not otherwise be recovered. This Act provides a mechanism for agencies to address false claims and statements where the loss to the government is less than \$150,000.

The authority to use this Act is currently granted to agencies with presidentially-appointed IGs and the United States Postal Service. However, the DFE OIGs, which were created after PFCRA was enacted, are frequently confronted with recovery amounts less than \$150,000 and would clearly benefit from inclusion in this Act. We believe that the Congress' intent when it enacted PFCRA was to provide all OIGs with a tool to address false claims where the dollar amount of loss is relatively small. Allowing DFE OIGs to use the Act would achieve the Congress' original intent and provide some of the smaller OIGs with an additional tool to recoup taxpayer losses resulting from fraud.

Second, the IGs recommend a minor adjustment to the IG Act relating to the scope of subpoena authority. Under current law, the scope of the subpoena power might be read by some to suggest that it is limited to documentary evidence. We recommend a technical amendment to the IG Act to clarify that IGs are authorized to subpoena physical evidence in addition to documentary evidence. When the IG Act was originally enacted in 1978, the best evidence of fraud, waste, and abuse was found in the books and paper records of agencies and the entities that conducted business with these agencies. In the last 25 years, the scope of matters reviewed by IGs has expanded and advances in information technology have exploded.

Considering these changed circumstances, the best source of evidence is not necessarily documentary evidence. Evidence critical to OIG investigations is no longer limited to traditional documentary form but is routinely found in non-documentary forms of real evidence including, but not limited to, computer hard drives, computer discs, transportable e-mail devices, videotape, and audiotape. Amending the IG Act to include physical evidence would ensure that all relevant evidence, no matter what particular physical form it happens to take, is accessible to the IGs as we perform our duties.

### **Closing**

In conclusion, a constant theme underlies most of the suggestions shared today: the theme of independence. In the legislative history of the IG Act of 1978, the Congress recognized that IGs would need an "unusual degree of independence."<sup>11</sup> More than 25

<sup>10</sup> 31 U.S.C. §§ 3801-12 (2004).

<sup>11</sup> See S. REP. NO. 95-1071, at 9 (1978).

years later, the need for independence still exists. The IG community believes that these legislative changes will further enable the IGs to be strong, independent voices for integrity, accountability, and transparency in the Federal government.

Mr. Chairman, this concludes our prepared statement. On behalf of my colleagues here today and the IG community as a whole, I would like to thank you and the Members of your Subcommittee for holding this hearing and allowing us to share our thoughts on H.R. 3457. As always, we appreciate your support of the IG community and our mission and look forward to continuing this dialogue. We would also like to again acknowledge Representative Cooper for his leadership in introducing legislative changes to the IG Act that would enhance our effectiveness as IGs. At this time, we would be happy to respond to any questions that you, Mr. Towns, or the other Members of the Subcommittee may have.

Mr. PLATTS. Thank you for your statement.

Mr. George, before you begin, I just want to recognize our ranking member, Mr. Towns, from New York, as well as our Vice Chair, Ms. Blackburn, from Tennessee and also we are glad to be joined by our colleague, Mr. Cooper from Tennessee, the sponsor of the legislation which we will discuss today.

Welcome back to the committee and we appreciate your great service with Chairman Horn in the previous sessions of Congress. I am certainly doing my best to try to fill his shoes as the new Chair here. Welcome.

**STATEMENT OF J. RUSSELL GEORGE, INSPECTOR GENERAL,  
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

Mr. GEORGE. Thank you, Mr. Chairman.

Mr. Chairman, Mr. Towns, Ms. Blackburn, Mr. Cooper, I really appreciate the opportunity to return to this committee. It was an honor serving with Chairman Horn for those many years and I am proud of the accomplishments that he achieved while serving in that capacity and am pleased to see that under your leadership, this committee is continuing to hold the Federal Government to account and helping to make it more efficient.

Either because of my prior experience or in spite of it, I was selected as chairman of a committee of IGs that has been considering what changes, if any, are needed to the Inspector General Act. IGs from both the President's Council on Integrity and Efficiency [PCIE] and the Executive Council on Integrity and Efficiency [ECIE] were involved in this process. I am here to discuss what the majority of IGs believe are positive aspects of Representative Cooper's bill and will also discuss possible modifications to it based on the consensus of the IG community.

As Mr. Gianni noted, these opinions should not be considered the official position of the PCIE or the ECIE, rather these are opinions of the majority of IGs in the IG community.

Representative Cooper's bill proposes to allow IGs to only be removed for specific reasons. It also creates terms of office for IGs. The IGs support these protections. Currently, most IGs do not have terms of office, the only condition on removal of an IG appointed by the President is that the President must notify Congress of the reasons for removal. The same holds true for an IG appointed by an agency head. The agency head simply has to notify the Congress of a reason for removing that person.

The IGs reached a consensus that adding removal for cause criteria to the IG Act would enhance our independence. Removal protections would shield the IG from reprisal for conducting essential but potentially unpopular investigations and audits. The IGs generally agree that the five grounds for removal listed in H.R. 3457 strike the appropriate balance between allowing substandard IGs to be replaced and protecting IGs from undue repercussions.

Representative Cooper also proposes amending the IG Act to establish a term of office of 7 years for IGs. The majority of IGs support a term of office because, like removal for cause protection, it would enhance our independence. A number of positions with analogous functions in the executive branch have fixed terms of office. We compared those positions to the role of IGs and determined that

a 9 year term of office would be most consistent with other terms of office across the Government.

As I mentioned, there are currently two councils of IGs, the PCIE and the ECIE. As Mr. Gianni noted, each council was established by Executive order. The basic mission, responsibilities and authorities for the two councils are essentially the same. These councils provide a forum for the IGs, OMB and other Federal officials to work together to address oversight issues that transcend individual Government agencies.

Representative Cooper's bill would create a single, unified council of IGs it would include the current membership of the PCIE and ECIE. The proposed council would receive an annual appropriation to carry out its administrative functions. The IGs support this idea very strongly. An IG Council that is codified and funded by an annual appropriation would enhance communications among IGs and their staffs and improve the efficiency and effectiveness of joint activities between IG offices. It would also increase the consistency of training for IG staffs, centralize initiatives that benefit the entire IG community, and strengthen our relationships with Congress by providing an official forum for contact for the entire IG community. In addition to Representative Cooper and the IGs, Comptroller General David Walker also expressed support for the codification of the councils, as he so testified before the subcommittee last year.

While the IG community strongly supports codifying the council, we would recommend some refinements to H.R. 3457. First, the bill replaces the Deputy Director for Management of OMB as the chairperson of the proposed council. The IGs believe that the Deputy Director should remain in a leadership role on the proposed council to preserve the existing links between the IGs and the administration. Second, we suggest the proposed IG council be given responsibility to maintain training academies for IG staff. Representative Cooper's bill does not include this responsibility as a council duty. The training academies provide a vital function for the IG community and should be maintained by the proposed council.

We also recommend a third refinement to H.R. 3457. The majority of IGs agree that the Integrity Committee which is currently a committee of the PCIE should be codified as part of the proposed IG council. The Integrity Committee serves as an independent body that investigates allegations against IGs and senior staff members. Establishing the Integrity Committee by statute would better formalize its functions to ensure that allegations against IGs and senior staff are handled appropriately.

Finally, H.R. 3457 does not include the Offices of Inspector General for the Central Intelligence Agency, which is part of the PCIE, and the Government Printing Office, which is part of the ECIE. These two offices have long participated in IG community activities and would like to be included in the proposed council. With these changes, the IGs strongly support a codified IG council.

Representative Cooper's bill also addresses the issue of personnel flexibilities for IGs. Like many other agencies, the IGs are keenly interested in more flexible personnel management authorities. As our role has expanded in both mission and complexity, it has become clear that additional personnel authority is needed. The bill



would create a personnel management system under Title 5 for all OIGs under the IG Act. While the IG community supports personnel flexibilities, we disagree with this approach. Many of the OIGs are not covered by Title 5 and already possess certain personnel authorities that would be relinquished under the current language of H.R. 3457.

As an alternative, the majority of IGs support a proposal that would authorize individual OIGs to apply to the Office of Personnel Management for certain personnel flexibilities. Such flexibilities include pay authorities such as pay banding, merit-based pay and market-based pay, allowing IGs to more highly compensate individuals for a limited number of critical positions, providing IGs more flexibility in hiring and performance management by expanding the use of recruitment and retention bonuses, and permitting IGs to extend probationary periods beyond 1 year. These flexibilities would allow IGs to recruit and retain an even more highly skilled and effective work force.

In addition to these flexibilities, several other personnel issues exist that should be mentioned. Representative Cooper identified one of these issues in his bill which permits IGs to deal directly with OPM on the allocation of Senior Executive Service positions. We support this provision. Along similar lines, we also suggest that the proposed IG Council be responsible for recommending Senior Executives to OPM for the Presidential Rank Award.

Mr. Cooper's bill proposes allowing IGs to apply directly to OPM for the authority to enter into voluntary separation agreements. The IG community supports this proposal. The community also believes that we would benefit from the authority to enter into voluntary early retirement agreements.

Finally in the area of personnel, we have identified an issue of particular importance to the Designated Federal Entity [DFE] IGs. The DFE IGs are part of the ECIE, as I stated before. Currently, the head of the DFE organization can staff the IG position at a grade inferior to other management officials, causing at least the perception of unequal status. We suggest that Congress consider a provision that would require the IGs of these agencies to be staffed at a grade level comparable to the most senior staff members of the respective designated Federal entity.

Quickly switching gears from personnel issues, Representative Cooper's bill also includes provisions on the submission of budget requests and the submission of semiannual reports. As for budget requests, the bill would permit each IG to transmit an appropriation request directly to OMB and the Congress. The IGs agree that such authority would be beneficial as long as it remains discretionary. On the issue of semiannual reports, the numerous Offices of Inspectors General submit semiannual reports to Congress twice each year. The reports provide updates on IG work during the previous 6 months. The bill would change the submission dates of the semiannual reports from a fiscal year basis to a calendar year basis. The IGs recommend that submission of semiannual reports remain on a fiscal year basis since most of our offices—like the rest of the Federal Government—operate using a fiscal year. If Congress were to require OIGs to submit semiannual reports on a calendar year basis, this would cause us to have to keep two sets of

records: one based on the fiscal year and the other based on the calendar year.

On a separate issue related to the semiannual report, the IGs suggest that the IG Act be amended so that the results of inspections and evaluations are included in the semiannual report. Many offices of Inspector General now conduct investigations, inspections and evaluations, and we believe the semiannual report is a useful way to inform Congress of the results of our inspections and evaluations.

In addition to the ideas put forward by Representative Cooper in his bill, the IGs have developed a general consensus that two additional legislative changes would strengthen our ability to curb waste, fraud and abuse. These changes are not currently included in H.R. 3457, but would be valuable to the IG community. First, we recommend an amendment to the Program Fraud Civil Remedies Act. Congress enacted this legislation to enable agencies to recover small dollar amounts resulting from false claims and statements that would not otherwise be recovered. Currently the designated Federal entity agencies, which are typically smaller agencies, cannot use the mechanisms provided in this act. We recommend allowing the DFE agencies to use the Program Fraud Civil Remedies Act so they can have an additional tool to recover taxpayer losses resulting from fraud.

Second, the IGs recommend a minor adjustment to the IG Act relating to the scope of our subpoena authority. When Congress passed the IG Act in 1978, the best evidence of fraud, waste and abuse was found in documentary evidence such as books and paper records. Now, however, evidence critical to the IG investigations can be found in physical evidence such as computer hard drives, computer disks, videotapes and other recording devices. Under current law, some contend that it could be argued that the scope of our subpoena authority is limited to paper records of documentary evidence. To address this issue, we recommend that Congress amend the IG Act to clarify that IGs are authorized to subpoena physical evidence in addition to documentary evidence.

In conclusion, Mr. Chairman, these legislative changes will further enable the IGs to be strong, independent voices for integrity, accountability and transparency in the Federal Government. I want to thank you for your indulgence and would like now to turn to my colleague, Barry Snyder, who will emphasize some of the areas I mentioned that are of particular importance to the Designated Federal Entity IGs.

Thank you, Mr. Chairman.

Mr. PLATTS. Thank you, Mr. George.

Mr. Snyder.

**STATEMENT OF BARRY R. SNYDER, INSPECTOR GENERAL,  
FEDERAL RESERVE BOARD**

Mr. SNYDER. Thank you.

Mr. Chairman, Ranking Member Towns and Congressman Cooper, I too appreciate the opportunity to meet with you today to discuss ways to improve the functionality and independence of the IGs. As Gaston mentioned earlier, I am the Inspector General of the Board of Governors of the Federal Reserve System and have

served in that position since 1998. I have also served as the Vice Chair of the ECIE for the past 4 years. My comments today reflect the consensus of the majority of the IGs on that council; but as stated earlier, they are not the official position of the ECIE.

The ECIE membership currently includes 28 statutory Inspector Generals who were appointed by their agency head in certain designated Federal entities [DFEs]. These agencies are somewhat unique. They are typically regulatory entities, Federal commissions, independent corporations and boards and foundations. They often have different funding, administrative and personnel authorities and practices, different congressional oversight processes, separate governance and oversight structures, and they often perform regulatory and other missions that have a significant impact on the private sector and the public.

In general, the DFE IGs support Congressman Cooper's bill with the additions that Russell has talked about and in my brief remarks today, I would like to highlight and amplify, from a DFE IG perspective, some of the points that have been raised.

With respect to the removal for cause and term limits, as you recall from last October's hearing, we discussed in some detail GAO's report on potentially consolidating many of the DFE IGs with those of larger Presidentially appointed IGs. I stated then, and the DFEs continue to believe today, that oversight of their respective agencies would be greatly diminished under that concept. However, we understand that there continues to be a perception that the DFE IGs' independence could be hampered because of the current appointment process. As I indicated last October, the DFE IGs strongly support adding a removal for cause provision to the IG Act to overcome this perception. Thus, the majority of the DFE IGs support the provisions in H.R. 3457 to strengthen IG independence by specifying the grounds for removal and establishing a term of office.

Regarding the PCIE/ECIE codification, the majority of the IGs believe that H.R. 3457's provisions to statutorily establish a single Inspector General Council would strengthen the efficiency and effectiveness of current council operations. In addition to suggested additions that Russell presented, there may be a need, however, to ensure that the issues that may be unique to DFE IGs that come up from time to time have a way of being represented in council deliberations. To ensure both Presidentially appointed and DFE IGs have a voice, we support adding a provision that if the Chair of the Council is elected from among the Presidentially appointed IGs, then the Vice Chair would be appointed by the Chair from among the DFE IGs and vice versa.

Regarding personnel flexibilities, given that the IG Act currently requires the DFE IGs to follow the personnel practices of their agency, many DFE IGs already possess some level of personnel flexibility such as pay banding, pay for performance, market-based compensation, and recruiting and retention incentives. As a result, the DFE IGs support an alternative proposal that authorizes individual IGs to apply to OPM for certain personnel authorities should their agency not already possess them.

As Russell mentioned, Congress may also want to consider adding another personnel-related change to the IG Act that would in-

crease the stature of some DFE IGs by bringing their positions in line with other officials who report to the agency head such as the general counsel or senior program or administrative officials. With such a provision, many of the DFE IGs believe that their ability to command the requisite agency attention on findings and recommendations would be enhanced.

Last, with respect to extension of the Program Fraud and Civil Remedies Act [PFCRA], it is our understanding that Congress intended to provide all IGs with the authority when PFCRA was enacted in 1986. However, since the DFE IGs were created 2 years later by the 1988 amendments to the IG Act, they are not currently covered. Many of the DFE IGs would clearly benefit from using PFCRA to recoup taxpayer dollars because they often are confronted with recovery amounts less than \$150,000. This proposal has virtually unanimous support from the entire IG community and could be achieved with a very simple adjustment to that act.

In closing, Mr. Chairman, this concludes our statement. On behalf of my colleagues here today and the IG community as a whole, we would like to thank you and the members of your subcommittee for holding this hearing and allowing us to share our thoughts on H.R. 3457. Once again, we appreciate your support for the IG community and our mission, and look forward to continuing this dialog.

We would also like to again acknowledge Congressman Cooper for his leadership in introducing legislative changes to the IG Act that would enhance our effectiveness as IGs.

At this time, we would be happy to respond to any questions that you, Mr. Towns or Mr. Cooper may have.

Mr. PLATTS. Thank you, Mr. Snyder.

My thanks to all three of you for your comprehensive written testimony and your highlighting of that testimony here today.

We will begin with questions and do roughly the 5 minute rule but I am not going to be real strict on that but just to give a rotation of opportunities here.

The various proposals about strengthening the IG Act and the independence, one aspect of that, the structure of how IGs are appointed, you all kind of touched on as part of your testimony whether how they are appointed or the term of office, removal for cause. What would you suggest be Congress' guidelines as far as looking at perhaps some changes with whether an agency IG is a Presidential appointee with Senate confirmation or an agency head appointee? What should we specifically look at in the sense of the type of work involved, the size of the entity? There is consideration with Amtrak, with the Postal Service, the National Science Foundation that perhaps IGs should be at the Presidential level. What criteria would you advise we most importantly consider?

Mr. GIANNI. We probably have three different positions here as to how to approach this. Let me take a crack at it from my perspective. My office at one point in time was a DFE. It was created in 1988 and at the same time the Congress created the Resolution Trust Corporation and it had a Presidentially appointed IG. When the Resolution Trust Corporation went into sunset under the RTC Completion Act, the Congress decided that given the nature of the issues that were being dealt with by the FDIC and the holdover

from the RTC, this position needed to be elevated to a Presidential appointment.

As I look at this, I think if I were where you are, I would be looking at the risk involved with the agency in question and think about whether there were conflicts between the IG and the agency. I would also take into consideration the very things you said, the size and the responsibility of the agency and the dollars that are being overseen by the Inspector General. That would be my first take on that issue.

Mr. SNYDER. I come at it a bit differently. Obviously, we sit at different points of view here. I think the criteria is not as fixed as one might say on this. Gaston talked about three that are possibilities. There have been a number of situations where IGs have moved from being DFEs to Presidentially appointed often because of Gaston's specified second criteria, that there has been some conflict associated with the IG and the DFE.

I am not sure that conflict would be there if we had a removal for cause provision to deal with the independence issue. While GAO has, for several years, talked about elevating some of the existing DFE IGs, we are not quite sure whether the problem needs to be addressed that way or through the provisions that are in Congressman Cooper's bill related to removal for cause.

As far as duties and responsibilities, all 57 of us have the same duties and responsibilities, authorities and what have you. There is a slight change now with the Presidentially appointed IGs having direct law enforcement authority but many of us on the DFE side obtain that authority on a case-by-case basis as we need it. The frequency of our need is not necessarily as great as it is on the Presidentially appointed side. Aside from that difference, we all are essentially doing the same work focused on our individual agencies.

GAO has talked about size as a criteria. They have used the size of the IGs' Office in comparison between DFEs and Presidentially appointed. One can also look, as Gaston said, at the size of the agency. I think you would get a different mix potentially on how many of those you might want to make Presidentially appointed.

I think history shows that the Congress started with the Cabinet level departments as their first criteria and when the 1988 amendments were passed establishing the DFE IGs, the Congress recognized that given the makeup of the DFE agencies themselves, the independence of their corporations, boards and what have you, maybe it would be better for the agency head to make those selections. Nevertheless, having a provision that would also ensure their independence, like the removal for cause, would be a good thing.

Mr. GEORGE. Mr. Chairman, I want to associate my comments with those of the other two individuals, but I would just add that my office also had its status changed from ECIE to PCIE. One thing I would note is that any decision along these lines implicates GAO's position—is too strong a word—but at least conclusion in the report last year discussing the need to perhaps consider consolidating Offices of Inspectors General, so that would be a factor that I would suggest Congress look at before rendering any changes to NSF or Amtrak.

Mr. PLATTS. It seems if we are after independence, if we are not going to have a fixed term of office, removal for cause, then getting

away from agency head appointment is more necessary. If we have that fixed term, that helps establish that independence because you know they are there has to be substantive reason.

Mr. SNYDER. I would agree in part. I would also say that oftentimes this comes down to not so much the appointment as the operation. To the extent that agency heads understand, appreciate, and grasp how the IG concept should work, then the relationships are usually there and the independence question is not that strong. They want the objective, third-party opinion about how things are going. To the extent that DFE heads might get defensive about any criticism that we might come forward with, then you could potentially run into the problem. So it may not be so much the appointment as it is the operational respects that come into play.

Mr. PLATTS. Thank you.

Mr. Towns.

Mr. TOWNS. You made the point that Mr. Cooper's bill was a good starting point. What do you think needs to be done to strengthen it or make it a much more effective piece of legislation?

Mr. GIANNI. Clearly we support the thrust of the bill and the areas that are being addressed. I would say we are making suggestions for some refinements rather than changing the nature and scope in some areas. Clearly, I think terms of office removal for cause are going to be the most controversial parts of this bill. I am not here representing the administration but have been informed by the administration that this is a very sensitive matter and I believe Mr. Johnson indicated that the last time he was here testifying, that any administration, I believe, is going to be leery of giving up some of their authority over selecting the leaders for our Government. So having said that, I also raise the issue that the only reason that the IG Act came into existence is because the Congress thought it was important to have an independent Inspector General and that it is the Congress that took the initiative to create this kind of an organization. It was not the administration coming forth saying it wanted an independent Inspector General. I don't look for the administration, to come forward, any administration to come forward to suggest strengthening the powers or authorities of the Inspectors General.

Personally, having lived in this position for over 8 years and embracing the IG concept and what we can contribute to our Government, anything that the Congress can do to further strengthen the position of the Inspector General would be appreciated.

Mr. TOWNS. Mr. Snyder, at the hearing we had on the IG last year, David Walker, the Comptroller General made a comment about the fact that the DFE IGs were appointed could be removed by the agency head creating at minimum an appearance of a conflict of interest. I wonder if you would like to respond to that observation?

Mr. SNYDER. Yes. I think in some instances, that perception is there, but as I said earlier, a lot of these designated Federal entities were boards, corporations, and councils, if you will. The appointment may be made by a single individual, or it may be made by all the board members. Sometimes that can be up to 25 different members of the board. Removal, I doubt seriously, would be made in those situations by one individual; it would probably take a con-

sensus of the board to do that. I think as GAO Comptroller General Walker said, there may be instances, and I think he mentioned the Postal Service, where there is a board involved and then the situation may not be as severe as might be on the surface when there is just a single agency administrator that is appointing the DFE IG. But as I have stated here today, I think we can overcome some of this with a removal for cause provision such as the one that has been proposed.

Mr. TOWNS. Mr. George, you have been on both sides, you have been up here and over there and I have checked your background and you have been elsewhere too. Let me ask, what do you think we need to do on this side to really strengthen this because I think we all agree there should be some changes. What changes do you think should happen?

Mr. GEORGE. That is very good question, Mr. Towns, and I may request an opportunity to further elaborate on this response afterwards. Let me just say to preface my answer, I truly, truly wish I had this experience before coming to the Hill because there are really so many areas where I think Congress could make changes to better enable IGs to do their jobs. A lot of them have to do with reporting requirements. In many, many instances, the issue is resources. I have an office of approximately 25 individuals which must oversee an agency that is expanding daily and has offices, or at least beneficiaries, nationwide. I think, given the opportunity to respond in writing, I will give a more thorough response if that is OK.

Mr. TOWNS. I encourage the chairman in getting that in writing because the fact that he has had experience on both sides, I think he could really be very helpful to us in making certain that we really take it to the level that it should go.

I also want to commend my colleague, Congressman Cooper, for his insight in terms of recognizing the fact there is a problem that we need to address because many of us have heard stories where the IG starts to do something and the next thing he knows, he is fired. There have been situations like that, so I think no IG should have to work in that atmosphere and climate. He should have flexibility and authority to move, so I would welcome your comments and suggestions.

On that note, Mr. Chairman, I yield.

Mr. PLATTS. Thank you, Mr. Towns. We would welcome that followup from you, Mr. George or all of you if you have followup items you want to share with us, we will keep the record open for 2 weeks.

Mr. Cooper. I also would like to recognize Representative Cooper for his work on this and for participating both last year and again today as we try to move forward on developing a consensus of what legislation we can embrace and try to act on.

Mr. COOPER. Thank you, Mr. Chairman. I appreciate your leadership on this issue and on many other issues as well. I appreciate your kind words and the words of my friend from New York, Mr. Towns.

First, let me say it shouldn't be called the Cooper bill. It has always been the Cooper-Shays or Shays-Cooper bill but our friend from Connecticut has played a very vital role in this process. It was

intended from the start to be completely bipartisan and completely good government. I am grateful for the work that our IG friends have done over the years in saving the American taxpayer money and catching the bad guys. This is a part of government that we should all be proud of and we should be here helping you do your mission. That has always been my intention and I would like to offer here and now, let us accept all your amendments wholesale, without objection and let us move this bill because I am afraid we are all going to die of old age before anything happens.

The chairman mentioned holding the record open for 2 weeks. That is almost the legislative time left in this session, so I would urge us to incorporate these amendments and at the beginning of the next Congress, let us move the bill.

I think the main caveat I would have is that any executive branch, Republican or Democrat or whatever other parties may develop, will not necessarily be enthusiastic about this bill. The impetus has to come from Congress. We have to exercise the oversight and have the push to get this through. Having fixed terms and having independence should not be objectionable to anybody of any political persuasion. All we are trying to do here is the right thing.

We haven't sought co-sponsors on this. So far it has been more or less a trial balloon as we awaited the maturing of the opinion of the IGs and let it float out there. I would like to state my intention that early in the next Congress that we move this and move this rapidly so that we can all be proud of our role in helping the IGs have an even more successful second 25 years than they did in their first 25 years because it is a record of terrific accomplishment, a record of terrific excitement, although sometimes that excitement isn't conveyed in hearings like this. I was thinking I was grateful there were no cameras here because we have made a great topic look so boring that I am not sure the average taxpayer would appreciate the billions of dollars saved and the fraud that has been caught.

Let us celebrate their accomplishments and the next 25 years can and should be even better if we go ahead and agree on these proposed amendments, redraft the bill, let us get it out there and it will have a lower number next year, it won't be H.R. 3457. Let us get the Government Reform Committee to move this thing.

Thank you, Mr. Chairman.

Mr. PLATTS. Thank you, Mr. Cooper.

There is often the sentiment that the work of this subcommittee is such important work. When we talk about billions of dollars of our constituents' funds, it certainly is important. I look forward to getting the feedback today and both the PCIE and ECIE recommendations and positions and incorporating those in the work you have already done in your legislation as we kind of hammer out what that consensus, as you said, bipartisan, good government piece is and I know Mr. Towns hopes he is in this seat and I am in his seat come January, and I want to assure you that I will continue to be kind to you when I remain in this seat.

This is about good government and not about one party or the other, but just doing right by our citizens. I think where Mr. Cooper's bill has begun and some great feedback here and some follow-up that I have, some other questions, we can develop very strong



bipartisan consensus legislation that I will share your excitement for moving in the 109th and just get the job done and move forward.

I do want to followup. One of the things we agree on is removal for cause and the importance of that for the independence. In your written testimony you talk about the general support for the five criteria identified in the gentleman's bill but you say you would like to further discuss how to clarify those removal conditions. What do you mean or envision by clarifying? Is that adding some other specific or how we define those five? If you could expand on that from your written testimony, that would be great.

Mr. GEORGE. Part of it is most definitely a definition expansion, Mr. Chairman.

Mr. GIANNI. I think we would like to work with the committee to bring some further clarity to the terms. We find that when the terms aren't as clear or putting it another way, they may be clear but subject to interpretation and that is where we may get into some difficulty. To the extent we can work with the subcommittee staff and put some clarification or parameters as to what the terms mean, the intent of the Congress in using those terms would be cleaner.

Mr. PLATTS. For example, inefficiency being one of them, that there be something concrete so it doesn't leave kind of a loophole that removal for cause really could be you used one too many pens in doing your work, so you are inefficient and you are gone but something more specific and concrete is what you are envisioning?

Mr. GIANNI. Yes, sir.

Mr. SNYDER. Yes.

Mr. GEORGE. That is exactly right. The other factors are quite clear but that one, as you noted, does provide ambiguity in terms of giving assurance to the IGs as to what he or she should or should not be doing.

Mr. PLATTS. Mr. Cooper, what about what you envisioned and how that was to be acted upon, the inefficiency part of the definition?

Mr. COOPER. I think the real question here is whether we let the best be the enemy of the good. We could work for months, maybe years on the perfect definition but what we did was copy the grounds for removal for the GAO Comptroller General of the United States. If it works for him, it will probably work here too. My sense is that the English language is incapable of achieving the level of precision that some of our IG friends would like to see. Sometimes the more you define something, the more loopholes are created. I don't think anybody would try to remove an IG without some good hard evidence, a lot more than using extra ink pens. To me we have to face a choice here of inventing a new definition or copying an old one. If someone can find a better one than for the Comptroller General, let me know and I will consider putting it in there but in the interest of speed and clarity, and also using precedents that may have been established in other situations, that is the fastest way to achieve the goal.

Mr. GEORGE. Just to touch on that point, that may be the best solution, Mr. Cooper, maybe to leave the language but perhaps the committee report or a statement on the floor could provide exam-

ples or maybe even admonitions to people in terms of how that should or should not be used.

Mr. PLATTS. Mr. George, with you and I both having law degrees, looking for specifics and you are right, it may be too exact sometimes. They drill that into you to try to cover all bases in that definition.

It would be helpful if there are others that go beyond the Comptroller General definition for removal of cause you believe should be in there, you are communicating that to us individually or through the councils would be helpful as we try to work as a team here in putting together a consensus piece of legislation.

Mr. GIANNI. We will do that, sir.

Mr. PLATTS. One of the proposals about the council and from a structural standpoint, having one council and I think Mr. Snyder, you mentioned if the Chair is a Presidential appointee and the Vice Chair, where does the Deputy Director of Management at OMB fit in as far as the structure of the one council if they combine the two?

Mr. SNYDER. I think Russell has the specifics but we were looking at more of an executive chair, if you will, for that position and having the day-to-day operations being done by the Chair or Vice Chair.

Mr. GEORGE. The IGs envision the Deputy Director for Management in a leadership position because of the impact or influence that individual generally has within the executive branch, within the administration. It is helpful that, if problems arise in the IG community, the IGs have access to an individual with a direct voice in the decisionmaking process at OMB at the highest levels. The basic fact is that if there is a problem, the Deputy Director of Management is somebody who could help resolve it, as opposed to having to run a process that could go on forever and perhaps never actually reach a decisionmaking individual.

Mr. PLATTS. So it is beneficial to keep him in the loop in some fashion because of his role within the administration?

Mr. GEORGE. Exactly.

Mr. PLATTS. His or her role?

Mr. GEORGE. Yes.

Mr. PLATTS. On the law enforcement, you mentioned the Presidential appointee having the authority case by case on the DFE and it kind of relates to other issues where you kind of get an option like with the personnel policies. From the DFE perspective, is that something you would rather keep as an option or is there a benefit to having that same up front authority and if you can walk me through how you seek the authority on that case by case, make sure I understand that and which you think is most beneficial or would be best.

Mr. SNYDER. I think because of the nature of the programs that the DFEs are dealing with, the larger Presidentially appointed agencies or departments have a lot of grants, entitlements, procurements, if you will, whereas a lot of the other DFE agencies are regulatory in nature and may not have the same volume of those kinds of activities. So the opportunity or risk, as Gaston talked about, for potential wrongdoing, may be less in those entities or a different type of potential wrongdoing could occur there.

The frequency with which we often go out and do investigations related to program activities may be different, so I think what we have done is when we need to have those authorities, then we make an application to the Department of Justice to get those and become Deputy U.S. Marshals in that process.

As the FBI has changed its emphasis since September 11, all the IGs have been asked more and more to take on more investigative work than we have in the past. So the need for those authorities could change over time to be more on a recurring basis than what they are today.

Mr. PLATTS. I take it there has never been much of a problem or an inconsistent approach to granting the authority once it is requested from Justice?

Mr. SNYDER. I can only speak from my own position on that. We have not recently had any issues along those lines given the nature of the allegations that we are dealing with. Others may have different stories to tell, and if you like, we could attempt to get some feedback on that and submit it to you later on.

Mr. PLATTS. We would welcome that.

On the proposal, and I would be interested from all three of you coming from both perspectives, on Postal Service, NSF, Federal Reserve about being elevated, your individual opinions on whether that is a wise idea and related to that is the fact that CIA and GPO are not statutorily included in the act and is that something we should be correcting even though they have their IGs and participate in the councils, is that something we should be looking at including in the legislation?

Mr. GIANNI. I spoke to my colleague at the Postal Service who at one point in time served in a number of positions within the PCIE and had been confirmed a number of times, been in a number of IG offices. He certainly would not be opposed if the Congress chose to make his position Presidentially appointed. He certainly is the largest IG office at the Executive level. As it relates to the others, I think Barry can talk to that.

Mr. PLATTS. At the Postal Service, although he is not a Presidential appointee, he has removal for cause and a fixed term?

Mr. GIANNI. Seven year term, right.

Mr. PLATTS. So he has some of that independence through other means?

Mr. GIANNI. That is correct.

Mr. SNYDER. That is correct. The Postal Service already has those two provisions and the Postal Service works with a 12 member board.

Mr. PLATTS. And that kind of relates to many of the DFEs, they are reporting to boards and commissions?

Mr. SNYDER. That is correct. It is not necessarily just one person that we are dealing with. As far as the position itself, oftentimes I think this might also come down to the nature of the agency, the Federal Reserve being one of those that is a very independent agency because of the nature of its work in trying to keep monetary policy free from political influence if you will. How they would react to having another appointment from the administration potentially related to that independence of the agency could be a concern to them. I think they have expressed it in the past as these questions

have come up. I think that may hold true with other independent agencies that make up the DFEs. So it is not just a question of elevating to try to resolve a problem or anything like that. I think the intent here was to recognize these agencies were independent entities and therefore, needed to make sure they sustained that level of independence and to not look for other areas where that independence might be threatened. This is probably analogous to any administration not wanting to have a term of office. The administration might feel the same way about losing control or not having input on who is going to be the Inspector General.

Mr. GEORGE. As it relates to GPO, its status as a legislative branch entity might be a factor one would want to consider before changing its status.

Mr. PLATTS. Right. Good point. It kind of relates to another question of relinquishing authority.

Jim, did you have any other questions or anything you wanted to raise?

Mr. COOPER. I wanted to ask about the term consideration.

Mr. PLATTS. Mr. Cooper.

Mr. COOPER. We had in our bill a 7 year term. I think you are suggesting 9 year terms. I don't really care, just so that it is fixed and there is removal for cause. Depending on the temperature of our friends on the other side of the aisle, if they felt a little more comfortable with a slightly shorter period of time, is that going to cause you to withdraw your support from the bill?

Mr. GIANNI. I don't believe so, sir.

Mr. SNYDER. I don't either.

Mr. GIANNI. This was the hardest issue on which to get a consensus among the members of the IG community. We were discussing this issue several years ago when Senator Collins had a bill and it has taken us this long to get to a point where people agree that we should have a term of office and longer was felt to be better than shorter. A renewal phase always has implications, if you will, because as an IG I may to have to behave in my last year, not necessarily behave but not issue any controversial reports or sensitive reports because I could be worried about getting reconfirmed or re-nominated.

Mr. COOPER. That's the way U.S. Senators feel.

Mr. GEORGE. I just want to note I was part of those discussions as to the length and I have to admit I was on the side for a much shorter term of office. I believe that fresh ideas and new blood sometimes is healthy for an organization, but with the option of being reappointed. But again a lot of consideration was taken into this in terms of looking at other positions as I noted in my written statement to you. So the consensus has been achieved at the 9 year level and we could elaborate on that further if need be.

Mr. COOPER. I would be curious about the chairman's reaction. Do you think it is easier to sell 7 versus 9 years on your side of the aisle or is there much difference?

Mr. PLATTS. My gut instinct would be shorter is easier but I do like the 9 because you are getting through what is two administrations whether it is the same 8 years or two different ones but from the sense of carrying further, that is something we can look at as we try to develop a consensus we truly can move. If I am given the

privilege of continuing the Chair come January, and moving some of the things you say you have been working on for years, I know, Jim, you have been long pursuing this so if we get action on it.

Mr. COOPER. I would like to remind my colleagues that there have only been two successive Presidential terms since Dwight D. Eisenhower, so it is an increasingly rare thing in modern American politics. Regardless of whether it is 7 or 9, just so we get consensus and move the bill, I will be a happy man.

Mr. PLATTS. On the personnel issue and have that opt-in approach about flexibility, I want to make sure I understood how you are envisioning that, that each of the individual IG offices would have the flexibility to have under statute say DOD which has some additional flexibility today, Homeland Security, that any additional flexibility beyond what they have, that individual IG office could petition OPM for that authority? That is how you envision that?

Mr. GIANNI. That is correct. We are going individual IG by IG office as opposed to a collective for the whole community.

Mr. PLATTS. That is why I think there are strong merits in the proposal. Congressional support is one of the areas because it is Congress kind of giving up the authority of what will be personnel procedures to OPM as opposed to saying no, you have to do it through legislation each time, so that is something we will probably need to weigh. House and Senate in total would be that additional discretion or giving up that authority.

Mr. GIANNI. There are a number of pilots currently ongoing within our Government now where OPM has granted authority to agencies who have come forward, but the issue is unless an agency has come forward and sought that authority, it doesn't apply to the Inspector General Office. What we are suggesting is that many of us would like to have the opportunity to come forward and participate in those programs with those flexible authorities.

Mr. PLATTS. Where the agency head—

Mr. GIANNI. Exactly. Not relying on our agency head. Quite frankly, if we are doing our job right, we are supposed to be models. If we can make it work and demonstrate that it has a benefit, then perhaps our agencies themselves will move in that direction.

Mr. PLATTS. That is one more example of the independence issue?

Mr. GIANNI. Yes, sir.

Mr. PLATTS. That you can do that on your own.

The final issue I wanted to touch on was the Integrity Committee created with PCIE. There is not a separate forum for the ECIE?

Mr. GIANNI. No, sir.

Mr. SNYDER. There is an ECIE member on the PCIE Integrity Committee. In fact, all of the PCIE committees have ECIE members on them, they are interlocking. It sort of argues for the one council, if you will, because we have interlocking membership today on our committees.

Mr. PLATTS. How does the Integrity Committee work?

Mr. GIANNI. The Integrity Committee was created by Executive order, and is headed by an Assistant Director at the Federal Bureau of Investigation, the Assistant Director for Criminal Investigative Division. The head of the Office of Government Ethics, the head of the Office of Special Counsel, the head of the Office of Pro-

fessional Responsibility in the Department of Justice, and three Inspectors General—two from the PCIE, one from the ECIE—comprise the committee.

The Executive order says when allegations are brought against Inspectors General or senior staff within the Inspector General Office, and the Inspector General feels that he or she can't adequately and independently review them, these matters are turned over to the Integrity Committee. The Integrity Committee does not operate through the PCIE, it is independent but it is made up, in part, of members from the PCIE and reports directly to the Deputy Director for Management in OMB. The committee's findings go directly to the Deputy Director for Management, and the Deputy Director for Management then determines whether action is warranted on the part of an agency official, agency head, or the President.

Mr. PLATTS. And as far as criminal law enforcement?

Mr. GIANNI. If it is determined that criminal wrongdoing has been done, then the Justice Department takes that over and it is no longer a part of the Integrity Committee.

Mr. PLATTS. OK. You would rather see that statutory rather than Executive order be included in the legislation?

Mr. GIANNI. We are not suggesting to change the process. However, we think it gives it more credibility.

Mr. PLATTS. The permanence of it?

Mr. GIANNI. The permanence and visibility of Congress. Again, I want to keep stressing when it gets into law, there is greater visibility from the Congress. As I said before, we are a creature of the Congress and we are very grateful for your interest and those who have gone before who have shown an interest in the IG community.

Mr. PLATTS. I misspoke, I do have one more area that staff wanted me to highlight and that is the importance of the budgeting process and your ability to go directly to OMB which to me I think we talked at length in October, and it is so crystal clear how the independence is eroded when you have to go through your department head, agency head to work with your budget as opposed to having a direct link. Am I accurate in my statement that is a critical part of your independence?

Mr. SNYDER. I think it can be, particularly in some of the DFEs where their budgets are within the agency because it is much smaller in terms of the overall budget of the United States. I think having the opportunity to make their case separately from their agencies, particularly when they are under pressure, would be a wise thing to have.

Mr. GIANNI. I would like to get this on the record. When I was confirmed for my position, the FDIC budget for the IG office was submitted to the board of directors for approval and that was the extent of it. The chairman at the time raised the question and concern that under those circumstances, he was concerned about my independence and asked me how we could possibly address this issue. We offered some options and as a Presidentially appointed IG, we are supposed to have a separate line item for our budget. It is supposed to come before the Congress. In my case, it wasn't coming before the Congress, and we made a provision that it would, so only my budget within my agency comes before the Congress.

In my opinion, that is a strength and a protection to my position because the Congress gets to see what money I am getting allotted or asking for and what the results of the investment are, I think that outside look gives strength to my position.

Mr. PLATTS. Even though it is a line item, the request for the amount in that item is still by the department head, not by you directly?

Mr. GIANNI. That is right. We reach agreement, it goes to OMB and then there is a discussion with OMB on that. Then through the congressional oversight, there are opportunities to talk about the adequacy of that budget.

Mr. PLATTS. Mr. George.

Mr. GEORGE. In the past, there have been some instances where agency heads and IGs have butted heads on budget requests and the like. So I guess my recommendation would be that perhaps giving as an option that the Inspector General could exercise or not exercise might be a better way to approach it, especially if we are seeking the support of the administration on some of these changes because that would be a very big change and would affect OMB in many, many ways.

Mr. SNYDER. I might add that in dealing with the DFEs, because of the uniqueness, there are several that are nonappropriated, so you would have to deal with the differences that might be there. I think there is even one, the Smithsonian, that is partially appropriated and non-appropriated, so I think we may have to deal with some nuances.

Mr. PLATTS. Account for some of those exceptions?

Mr. SNYDER. Exactly.

Mr. PLATTS. Again, I appreciate all three of you participating and the clear leg work that you have put in not just for this hearing but in strengthening the IG community, the independence and allowing you and your colleagues to even more effectively fill the charges you have been given. Again, I appreciate Representative Cooper's great work on this and do look forward to getting consensus with the IG community and with bipartisan effort here on the Hill to get legislation in final form to move forward. Hopefully because of time running out with the 108th but to as early as possible move some legislation in the 109th and get this job done not once and for all but once again because it is always going to be a work in progress I imagine as new things come up.

We will keep the record open for some of that followup information and thank you in advance for those additional submissions. Otherwise, this hearing stands adjourned.

[NOTE.—The President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency report entitled, "A Progress Report to the President, Inspector General Act of 1978, Twenty-fifth Anniversary," may be found in subcommittee files.]

[Whereupon, at 3:50 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[The prepared statements of Hon. Jim Cooper and Hon. Edolphus Towns, and additional information submitted for the hearing record follows:]

**Opening Statement of  
The Honorable Jim Cooper**

**Before the**

**Subcommittee on Government Efficiency  
and Financial Management  
Committee on Government Reform  
United States House of Representatives  
July 14, 2004**

Good afternoon Chairman Platts, Ranking Member Towns and members of the Subcommittee. I want to thank the Chairman for calling this hearing, and I thank my colleagues for allowing me to join this subcommittee's hearing on H.R. 3457, the Improving Government Accountability Act, which I introduced last fall. I believe this an important issue, and hope we can come to some agreements today to move this legislation forward.

The Inspectors General created in 1978 were charged with two basic missions: (1) to conduct independent investigations and audits into agency performance and report on the problems they discover and (2) to generally foster integrity, accountability and excellence in government programs.

Since their creation, the Inspectors General have earned a solid reputation for carrying out these two missions effectively.



They now serve an indispensable and increasingly visible role as the principal watchdogs of the nation's major federal agencies. In 2002 alone, audits by IG offices resulted in total savings to the federal government of nearly \$72 billion. In addition, IG-led investigations resulted in more than 5,700 criminal indictments and nearly 2,200 civil or personnel actions.

I believe that Congress has a responsibility to support the IGs in their mission and to provide them with the tools they need to work effectively. This is why I introduced legislation that would help the Inspectors General in their continuing efforts to improve government performance and efficiency.

My bill, the Improving Government Accountability Act (IGAA), seeks to strengthen the institutional stature of the Inspectors General, enhance their independence and provide them with additional resources to carry out their mission.

First, my bill would increase the independence of each IG by creating a fixed term of office and eliminating the possibility of arbitrary or politically motivated dismissals. Currently, IGs now serve at the pleasure of the appointing authority; whether it be the agency they serve or the President. While it does not happen often, IGs have occasionally been dismissed because of their

views or because of an embarrassing audit or report. The fear of arbitrary dismissal could also inhibit some IGs from speaking freely. My bill would set a seven-year term for every IG and allow their removal only for “cause.” The standard for removal would be the same as the one that applies currently under statute to the Comptroller General: permanent disability, malfeasance, inefficiency, neglect of duty, conviction of a felony or conduct involving moral turpitude

Second, my bill will help ensure that IG offices have access to sufficient resources from Congress. Although funding for IG offices is ultimately determined by Congress through the appropriations process, IG budget requests are submitted as part of an agency’s overall budget request. Anecdotally, there have been several reports of agencies “punishing” their IG offices by submitting a budget request significantly lower than what the IG office originally asked for.

My bill would also allow IGs to submit copies of their funding requests directly to Congress. It would also require the President’s budget to provide a comparison of the budget requests submitted by IGs and the budget requests submitted by

the agency involved. This provision would partially free the IGs from being captured by the agency appropriations process. At the very least, it would also provide some more transparency.

Third, the bill contains several provisions to help ensure that IG offices maintain high professional standards.

To enable IG offices to attract and retain top-notch employees, the IGAA includes provisions which revamp hiring procedures and bring them in line with current personnel practices at the GAO. This will enable IG offices to have greater flexibility in hiring and pay.

The bill would also codify the current governing councils for the IGs, which work to disseminate “best practices” and to provide a unified institutional voice for the IGs. These councils, the President’s Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency, now exist only by executive order and receive no independent funding. My bill would combine both councils into a single council, the Council of the Inspectors General on Integrity and Efficiency, codify the

council to ensure its continuity and authorize \$750,000 in operating funds each year through 2009.

Finally, my bill would improve the direct access of IGs to Congress. Under current law, IGs submit semi-annual reports to their agency heads, who then have 30 days to transmit the report to Congress. Many IGs have argued that this process diminishes their access to Congress and undermines their ability to draw attention to agency concern. The IGAA would allow IGs to submit reports directly to Congress and bypass agency intercession in the reporting process.

My bill would also shift the date of the semi-annual reporting periods, when IGs submit their reports to Congress. Currently, the reporting periods end in March and September, which means that IG reports often arrive in Congress when it's not in session—either right before August recess or after adjournment. My bill will make the reports more timely by shifting the due dates for IG reports to January 31 and July 31.

By strengthening the Inspectors General Act, Congress can take an easy step toward increasing government accountability,

while also reducing waste, fraud and abuse. I hope my bill can be a starting point for the discussion of these changes.

In drafting this legislation, my office worked with a number of IG offices, including some of the witnesses testifying here today. I hope to continue to work with the IG offices along with the members of this committee to ensure the best possible bill. It is my hope that this legislation will be enacted in the 108<sup>th</sup> Congress. Again I appreciate the Subcommittee taking a look into this issue today and look forward to working with you.

Statement of Rep. Ed Towns

Ranking Member, Government Efficiency Subcommittee

Hearing on “Improving IG Functionality and Independence –  
A Review of Legislative Ideas”

July 14, 2004

Thank you Mr. Chairman. This is the Subcommittee’s second hearing on potential improvements to the Inspector General Act. At our previous hearing last October, we heard from the Comptroller General David Walker, OMB’s Clay Johnson, as well as the IG community with their views on some suggested changes to the Act. That hearing was helpful in clarifying the views of the participants, and hopefully, this hearing will build on that work.

The long history of the Government Reform Committee working with the Inspectors General to eliminate waste, fraud and abuse in federal programs began when our Committee drafted the original statute establishing Inspectors General in the executive branch twenty-five years ago. Since that time, IGs have become one of Congress’s principle watchdogs in the executive branch.

I have come to realize that there is much we can learn from each other as we work to ensure that our government operates in the most effective and efficient manner possible.

The IGs have proved to be a very worthwhile investment. During fiscal year 2002, IGs returned over \$4.5 billion to the federal government in restitutions and recoveries, and their audits identified another \$72 billion in funds that could be used more effectively. They also had more than 10,000 successful criminal prosecutions. Similar accomplishments are made year after year. The IGs have more than proven their usefulness to Congress and the American public.

Rep. Cooper has introduced H.R. 2457, the Improving Government Accountability Act, which seeks to improve the independence of the IGs. Among other things, the bill would creating a fixed 7-year term for IGs, provide for termination only for cause, and improve Congressional visibility over the IG's budget requests. Many of these proposals are ones which many IGs themselves seem to support.

Thank you Mr. Chairman, and I look forward to hearing from our witnesses.



**PRESIDENT'S COUNCIL on INTEGRITY & EFFICIENCY**  
**EXECUTIVE COUNCIL on INTEGRITY & EFFICIENCY**



**FOR IMMEDIATE RELEASE**  
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**The Inspector General Community Reports Its FY 2003 Accomplishments and Contributions Toward Good Government**

Today, the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) issued *A Progress Report to the President*, for Fiscal Year (FY) 2003. This report emphasizes the accomplishments of the Federal Inspectors General (IG) community and the role the community has played in focusing attention on the various management challenges facing the Federal government. In addition, this annual report discusses the collective performance of the Councils against their strategic goals, highlights the community's statistical accomplishments over time, and lists selected work of individual Offices of Inspector General (OIG) by management initiative.

*A Progress Report to the President* highlights the work of more than 11,000 OIG employees across government. Through thousands of objective audits, evaluations, inspections, and investigations of Federal programs and activities, the IG community has advised agency leaders on ways to address such key management challenges as information technology management and security, financial management and program performance, human capital procurement and grant management, and homeland security during FY 2003. Statistically, the community identified potential savings of nearly \$18 billion and was instrumental in nearly 6,600 successful prosecutions, suspensions or debarments of over 7,600 individuals or businesses, and over 2,600 civil or personnel actions.

Of special significance, October 12, 2003, marked the 25<sup>th</sup> anniversary of the IG Act. Enacted in 1978, the Act created independent audit and investigative offices within 12 Federal agencies. Over the years, the IG concept has been expanded and during FY 2003, 57 OIGs provided audit and investigative oversight across government. This commemorative report features a look back at the history of the IG Act and how the community acknowledged its silver anniversary.

As written by the PCIE Vice Chair and ECIE Vice Chair in the foreword of the report, "we look forward to continued cooperation with the Administration and the Congress and welcome the opportunity to actively fulfill our roles as 'agents of positive change.'" The PCIE, created in 1981 and the ECIE, created in 1992, were established to coordinate and enhance governmental efforts to promote integrity and efficiency and to detect and prevent fraud, waste and abuse in Federal programs. For access to this report and a more in-depth look into the IG community, visit <http://www.ignet.gov>.

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**Barry R. Snyder's Response to Question on Law Enforcement Authority from Chairman Todd Platts, Subcommittee on Government Efficiency and Financial Management, House Committee on Government Reform**

During the hearing entitled, "Improving IG Functionality and Independence—A Review of Legislative Ideas," held on July 14, 2004, you expressed interest in the perspectives of IGs at designated federal entities (DFEs) regarding the process for obtaining law enforcement authority. Given the diversity of the DFE agencies, the DFE IGs' need for and experience with law enforcement authority varies with the nature of their agencies' programs and operations, and the specifics of their investigations.

Under the IG Act of 1978, as amended, the DFE IGs, like the IGs appointed by the President by and with the advice and consent of the Senate (PAS IGs), have the authority to conduct criminal investigations. However, the DFE IGs have not been granted full statutory law enforcement authority to make arrests, obtain and execute search warrants, and carry firearms in the course of their official duties like their PAS IG counterparts, under the Homeland Security Act of 2002 (which amended the IG Act). Currently, DFE IGs' law enforcement authority falls into two broad categories:

- **Law enforcement authority obtained through specific statutory grants or through delegations from the designated entity.** The DFE IGs at the Government Printing Office (GPO) and the U.S. Postal Service fall into this category.
- **Law enforcement authority obtained through temporary, case-by-case deputation granted by the U.S. Marshals Service (USMS) in the Department of Justice.** The remaining DFE IGs would generally fall into this category should they need to request law enforcement authority.

Under the latter process, the OIG must apply for deputation to the USMS for each criminal investigator in a specific case on an "as needed" basis. Upon completion of the case, the deputation and its associated law enforcement authority expires. While the number of DFE IGs that have requested this type of deputation has been limited, IGs note that the process for obtaining case-by-case deputation can be paper-intensive and time consuming, and so limit their ability to quickly and decisively respond to investigative allegations (such as thefts or threats) or effectively pursue time-sensitive leads. In addition, the authority extends only to a specific case and the particular agents who are working on that specific case.

Discussions with DFE IGs subsequent to the hearing reflect general support for having the option to apply for and obtain full statutory law enforcement authority from DOJ. As the role of the DFE IGs continues to evolve, the frequency and nature of their investigations may also demand increased law enforcement powers. Having a statutory mechanism that would allow the DFE IGs to apply for and obtain full law enforcement authority would help ensure that they can carry out their responsibilities efficiently and effectively.