

GAO

Report to the Chairman and Ranking
Minority Member, Committee on
Governmental Affairs, U.S. Senate

October 1996

INSPECTORS GENERAL

Handling of Allegations Against Senior OIG Officials



Office of Special Investigations

B-274729

October 15, 1996

The Honorable Ted Stevens, Chairman
The Honorable John Glenn, Ranking Minority Member
Committee on Governmental Affairs
United States Senate

This report responds to your letter of May 9, 1996, and subsequent discussions, in which you asked us to review the handling of allegations of misconduct made against senior officials between 1990 and 1995 at the 28 Offices of Inspector General (OIGs) with a presidentially appointed Inspector General (IG) (see app. I). You were concerned about the effectiveness of the President's Council on Integrity and Efficiency's (PCIE) and the OIGs' handling of allegations against senior OIG officials—IGs, Deputy IGs, and Assistant IGs. Specifically, you asked that we determine whether the PCIE or OIGs had policies and procedures for handling such allegations and whether the allegations, and resultant investigations, were handled according to these policies and procedures. In addition, Executive Order No. 12993, "Administrative Allegations Against Inspectors General" (see app. II), was signed on March 21, 1996; and we noted its effect on the handling of allegations made against IGs and their senior staff.

Results in Brief

During the period of our review (1990-95), the PCIE had not formally adopted written policy or procedures for handling allegations against IGs and Deputy IGs but did adhere to October 1, 1982, draft procedures ("President's Council on Integrity and Efficiency Procedures for Investigating Allegations Concerning Certain Senior Administration Officials") and a 1994 description on how PCIE processed allegations. The role of PCIE's Integrity Committee was to review allegations and refer them, when deemed appropriate, to the Department of Justice, Public Integrity Section; an appropriate investigative agency; or the affected agency head for disposition and resolution.

Half of the 28 OIGs in our review had written procedures for handling allegations of wrongdoing by OIG employees; 12 had informal procedures; and the remaining 2 were developing written procedures.

In the review period, the 72 allegations that the PCIE received and closed resulted in 14 investigations.¹ None of the investigations resulted in

¹For purposes of this report, we considered all audits, reviews, inspections, or investigations by the OIGs or other entities to be investigations. PCIE did not conduct investigations. Instead, it referred the allegations that it received to the Federal Bureau of Investigation, the Office of Special Counsel, the Equal Employment Opportunity Commission, or an uninvolved OIG for investigation.

criminal charges or administrative action. Of the 35 allegations against IGS, Deputy IGS, or Assistant IGS that OIGs received and closed, 21 resulted in investigations. Two of the 21 investigations resulted in letters of reprimand. Only 21.5 percent of the PCIE and OIG allegations directly involved an IG or Deputy IG. Most of the remaining matters alleged that the senior officials had condoned a lack of professional judgment or exercised improper management discretion.

Of the allegations that resulted in investigations, we found that most were conducted in a manner that met PCIE standards for independence, due professional care, objectivity, and thoroughness. However, before 1994, PCIE encountered problems that affected the timeliness of its work because of PCIE's lack of legal and investigative authority, minimal personnel resources, and limited record-keeping/case-tracking system. These problems decreased for the 1995 cases in our review.

Executive Order 12993, "Administrative Allegations Against Inspectors General" (Mar. 21, 1996), formally authorized the PCIE to review allegations, and the Federal Bureau of Investigation (FBI) to investigate noncriminal allegations, against IGS and certain staff members. According to the order, allegations against OIG staff must be referred to the PCIE's Integrity Committee if, among other reasons, the staff member is alleged to have acted with the knowledge of the IG or an objective internal investigation is not feasible. Absent such instances, the IGS have the discretion to investigate, or refer to the PCIE or other entities, allegations against their senior OIG staff. While the IGS we spoke with generally agreed that the order allows them to decide what entity should investigate allegations against senior OIG officials, several PCIE members believed that allegations concerning Deputy IGS or Assistant IGS should automatically be referred to the PCIE so as to preserve the appearance of independence.

Background

PCIE

The PCIE is an interagency council that is charged with promoting integrity and effectiveness in federal programs. It was established by Executive Order No. 12301 in 1981 and was comprised principally of the presidentially appointed and Senate-confirmed IGS. Executive Order No. 12805, signed in 1992, reflected changes that had been made in the 1978 Inspector General Act (P.L. 95-452), as amended. The 1992 Executive

Order primarily expanded the PCIE membership to include the Executive Council on Integrity and Efficiency (ECIE), which consists of the statutory IGS appointed by the heads of designated federal entities. The PCIE is chaired by the Deputy Director for Management of the Office of Management and Budget. The following are also members of the PCIE:

- Vice Chairperson of the ECIE;
- an FBI official, as designated by the Director, FBI;
- Special Counsel, Office of Special Counsel;
- Director, Office of Government Ethics;
- Deputy Director, Office of Personnel Management; and
- Controller of the Office of Federal Finance Management, Office of Management and Budget.

PCIE's Integrity Committee

In 1982, the PCIE established an informal working group to act as a clearinghouse for allegations against IGS and their staffs. The working group was formally recognized in 1990 as the PCIE Allegations Review Subcommittee under the Integrity in Law Enforcement Committee. The Allegations Review Subcommittee then became the entity for handling allegations against IGS and their principal deputies. Allegations against other staff, including Assistant IGS, were referred by the Subcommittee to the respective IGS.

Pursuant to the authority granted by the 1992 Executive Order, the PCIE established the Integrity Committee in January 1995 to succeed the Allegations Review Subcommittee. The Integrity Committee's responsibility was to receive, review, and refer for investigation allegations of wrongdoing against IGS and Deputy IGS. Although the 1992 Executive Order did not designate Integrity Committee membership, the March 1996 Executive Order No. 12993 stated that the membership would consist principally of the following:

- the FBI representative to the PCIE, who serves as the Chairperson of the Integrity Committee;
- the Special Counsel, Office of the Special Counsel;
- the Director, Office of Government Ethics; and
- three or more IGS, representing both the PCIE and the ECIE.

The Chief, Public Integrity Section, Criminal Division, Department of Justice, or the Chief's designee, serves as an advisor to the committee.

OIGs

The Inspector General Act of 1978, as amended, and one other act² established 28 independent IGS in all cabinet departments and larger federal agencies, as of December 31, 1995. (See app. I.) These IGS are presidentially appointed and subject to Senate confirmation. IGS conduct and supervise audits and investigations; recommend policies to promote economy, efficiency, and effectiveness; and prevent and detect fraud and abuse in their entities' programs and operations. They inform their agency heads and the Congress about agency problems, recommend corrective actions, and report suspected violations of federal criminal law found during their investigations to the Department of Justice. The independence of presidentially appointed IGS is protected in various ways, including removal by only the President who must notify the Congress as to the reasons for removal.

PCIE Policy and Procedures

Policy and Procedures for Handling Allegations

During the period of our review, the PCIE had not formally adopted written policy or procedures for handling allegations against IGS and Deputy IGS. However, informal procedures did exist during the period for initiating both criminal and noncriminal investigations; and the PCIE generally adhered to them. The informal procedures consisted of (1) the October 1, 1982, draft procedures, entitled "President's Council on Integrity and Efficiency Procedures for Investigating Allegations Concerning Certain Senior Administration Officials" and (2) a description, circulated to the OIG community in early 1994, on how PCIE processed allegations.

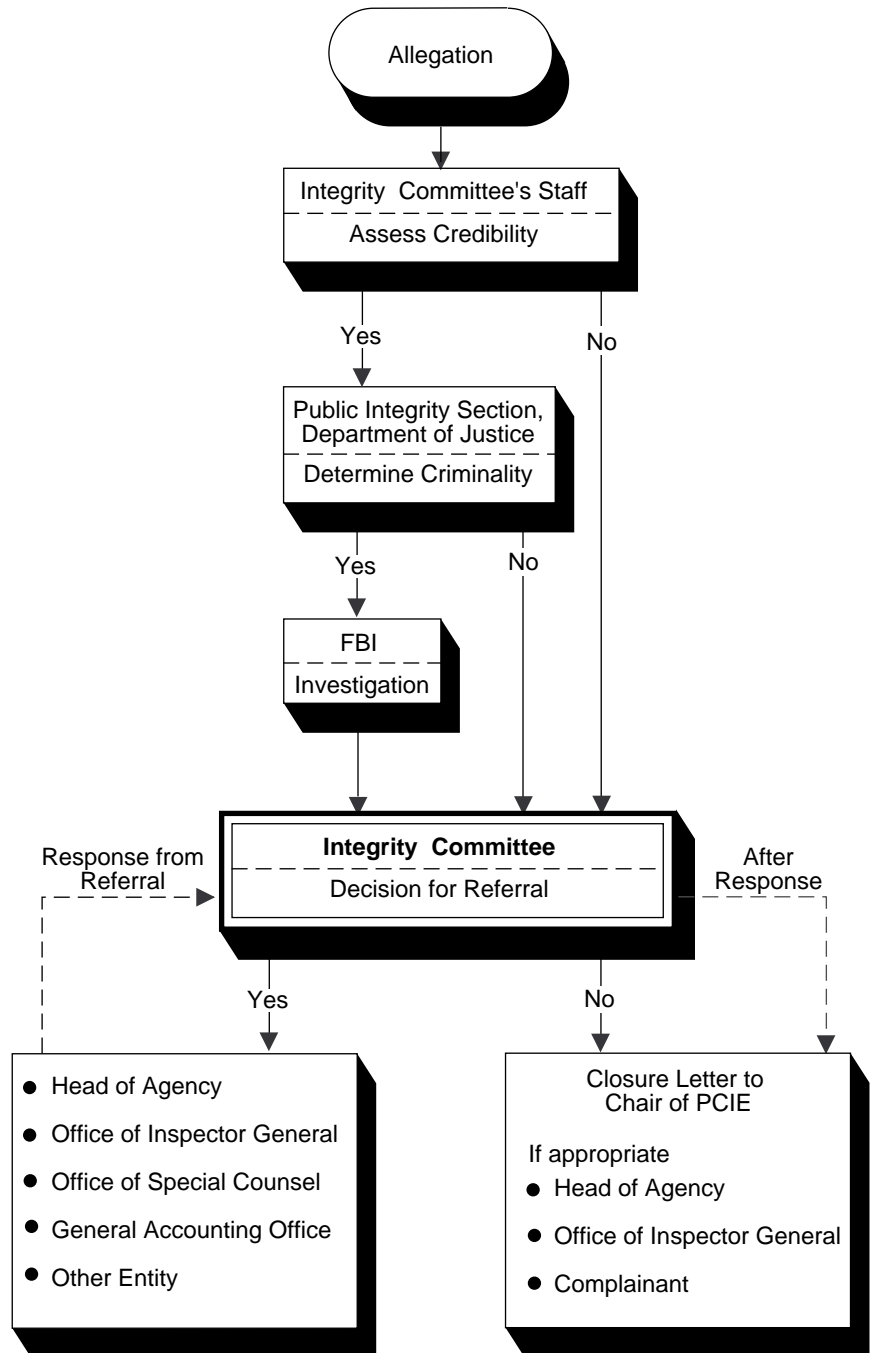
PCIE's Review Process for Allegations Received

According to PCIE officials, allegations received by PCIE were assigned to its Integrity Committee for processing and review. The committee staff assigned each allegation a sequential number and sent an acknowledgment letter to the complainant or referring agency. If the allegation lacked specificity or was perceived to contain no criminal or administrative issues, the committee closed the case and referred the matter to the affected agency for information only.

²The Intelligence Authorization Act of 1990 (P.L. 101-193) established the presidentially appointed Inspector General at the Central Intelligence Agency.

For allegations that warranted further review, the Integrity Committee referred the allegation to the Department of Justice, Public Integrity Section. The Public Integrity Section then determined whether the allegation, if proved, would constitute a violation of federal criminal law. If the Public Integrity Section determined that a criminal investigation was warranted, it could investigate the allegation itself or refer it to the FBI. Neither the Public Integrity Section nor the FBI was obligated to report the investigation's result to the Integrity Committee because of potential privacy issues. However, the committee would generally be advised informally concerning the status of the referral and investigation. If (1) it was determined that a criminal investigation was not warranted or (2) the Justice Department investigation substantiated misconduct but prosecution was declined, the allegation was presented at the next meeting of the Integrity Committee for an administrative review. (See fig. 1.)

Figure 1: Review Process for Allegations Received by PCIE



PCIE's Integrity Committee met quarterly to review allegations returned by the Public Integrity Section and investigations completed by the OIGs and other entities. The committee first determined whether to refer an allegation or investigative findings to a specialized agency or an OIG for consideration (see footnote 1) or close it with a letter to the PCIE Chairman and the complainant.

PCIE Referred Allegation

If the Public Integrity Section or the FBI had substantiated a criminal allegation against an IG/Deputy IG but the Public Integrity Section had declined to prosecute, the PCIE Chairman would refer the investigation's results to the affected agency head for consideration of administrative action. If a noncriminal allegation warranted referral, the Integrity Committee could (1) refer the allegation to the head of the affected agency for a response; (2) request an uninvolved OIG, or its staff on detail, to conduct an investigation; or (3) refer the allegation to an appropriate government-wide agency for review. For example, the Special Counsel, Office of Special Counsel, who as a member of the Integrity Committee participates in the review of all allegations, could ask that particular allegations be referred to that office for investigation.

Upon completion of the agency's follow-up, investigation, or review of an IG/Deputy IG, the agency head would notify the Integrity Committee of the results and what action, if any, would be taken against the subject of the allegation. If the committee concurred with the agency's findings, the matter was closed with a letter to the PCIE Chairman and others as appropriate. If the Integrity Committee did not concur with the investigation, the matter was to be referred back to the agency head, or to another agency, for appropriate action. The matter was not closed until the committee concurred with the agency's investigative findings. If an IG's offense constituted a removable violation, the PCIE Chairman would refer the matter to the President.

If the subject of an allegation fell below the IG/Deputy IG level, the Integrity Committee referred the allegation to the IG of the affected agency or to the agency having authority to conduct specialized investigations; e.g., an allegation involving a protected personnel practice (whistleblowing) was referred to the Office of Special Counsel. Upon referral, the Integrity Committee closed the matter with a letter to the PCIE Chairman and others as appropriate.

PCIE Closed Without Referral

If the Integrity Committee determined that an allegation did not warrant referral for response, it closed the matter with a letter to the complainant,

the PCIE Chairman, and others as appropriate. It then referred the allegation and its decision to the affected agency head for information or for action that the head deemed appropriate.

OIG Policy and Procedures

Fourteen of the 28 OIGs in our review had written procedures for handling allegations of wrongdoing by OIG employees. All but two of the remaining OIGs had informal procedures. The two exceptions were in the process of developing guidelines during our review.

The OIGs referred all but three allegations involving an IG to the PCIE. Those three matters were referred directly to the FBI, a U.S. Attorney's Office, or the agency's Office of General Counsel. Most of the OIGs referred allegations involving a Deputy IG to the PCIE. All but one of the allegations involving an Assistant IG were handled by either the affected IG or the Deputy IG. That one matter was addressed by the Office of Special Counsel.

Our review of the OIGs' cases showed that their investigations generally met their policies as embodied in the PCIE standards for independence and due professional care, including the aspects of objectivity and thoroughness. This was true even though in some instances the allegations made to the OIGs could not be verified because the information was nonspecific, the source or witness was unavailable, or a significant amount of time had elapsed between the alleged incident and the filing of the allegation.

PCIE/OIG Allegations Received and Closed in 1990-95 Period

PCIE Allegations Received/Closed

We assessed the 72 allegations that the PCIE had received and closed during the 1990-95 period: 69 against an IG or Deputy IG and 3 against an Assistant IG. Fourteen of the 72 allegations resulted in investigations conducted by the FBI (5), the Office of Special Counsel (3), and various OIGs (6). These matters included such allegations as criminal misuse of the telephone and sexual harassment. None of the investigations substantiated the referred allegation, and none resulted in an administrative action.

**OIG Allegations
Received/Closed**

During the 6-year period that we reviewed, the OIGs received and closed 35 allegations: 22 against an IG or Deputy IG and 13 against an Assistant IG. Of the 22 allegations against an IG or a Deputy IG, 14 were referred to PCIE in accordance with then existing procedures. The remaining eight were either referred to independent entities or reviewed within the affected agencies. Allegations involving Assistant IGs were handled by the affected OIG or referred to an independent investigative agency.

Of the 35 allegations, 21 resulted in investigations. Eight allegations against IGs or Deputy IGs were investigated by the agency head, the IG, or an outside entity.³ Twelve allegations lodged against Assistant IGs were investigated by the affected OIG. One allegation, also against an Assistant IG, was investigated by the Office of Special Counsel. Two of the 21 investigations resulted in letters of reprimand to the individuals against whom the allegations were made.

**Nature of Allegations
Involving Senior OIG
Officials**

Of the 107 allegations from the PCIE and the OIGs, 84, or 78.5 percent, were not directly attributed to an IG, a Deputy IG, or an Assistant IG. Instead, the allegations identified these officials as being responsible for alleged misconduct by OIG staff members in such matters as failure to conduct investigations or improper personnel actions. Further, those allegations usually involved the exercise of professional judgment, management discretion, and the allocation of investigative resources. Twenty-three, or 21.5 percent, of the allegations cited personal misconduct by a senior OIG official. Table 1 summarizes the types of allegations against senior OIG officials received by the PCIE and the OIGs in the 1990-95 period.

³The outside entities included the FBI, the Office of Special Counsel, the U.S. Attorney's Office, and unaffected OIGs.

Table 1: Summary of Allegations Made Against Senior OIG Officials

| General allegation | Number | Percent |
|--|---------------|----------------|
| Failure to investigate: e.g., inadequate investigation, cover-up of allegations | 23 | 21.5 |
| Improper investigation: e.g., abusive techniques, inaccurate reporting | 17 | 16 |
| Mismanagement: e.g., failure to disclose information, waste of government resources | 20 | 19 |
| Improper personnel action: e.g., discrimination in hiring/promotion, whistleblower retaliation | 24 | 22 |
| Subtotal | 84 | 78.5 |
| Personal misconduct: e.g., misuse of government resources, unethical conduct, conflict of interest | 23 | 21.5 |
| Total | 107 | 100.0 |

Problems PCIE Faced During Review Period

The PCIE and its Integrity Committee were generally an effective mechanism for the review of allegations. Further, in 1995, the last year we reviewed, PCIE improved its performance with regard to most of the problem areas—no legal or investigative authority, minimal personnel resources, and incomplete record-keeping/case-tracking practices—that had adversely affected its earlier work and its overall timeliness. Most of these problems have also been addressed with the March 1996 Executive Order.

Lack of Legal and Investigative Authorities

According to the then PCIE Chairman during 1992 testimony before the Senate Committee on Governmental Affairs,⁴ questions had been raised as to the “legal powers” of the Integrity Committee. In April 1990, some PCIE members had expressed concern over the legal standing of the Integrity Committee and noted that the committee had been handling allegations against IGS without a formal charter, policy, and procedures. The 1992 testimony also cited a PCIE internal review that had found that (1) the Allegation Review Subcommittee (the Integrity Committee’s predecessor) lacked authority to participate in any investigative process; (2) the subcommittee system of sporadic meetings for decision-making, under

⁴The Integrity and Effectiveness of the Offices of Inspector General, Hearing before the Senate Committee on Governmental Affairs, May 20, 1992.

which the Integrity Committee's predecessor had operated, was cumbersome and impeded the effective and timely resolution of allegations; and (3) the subcommittee system had led to a situation in which no one party was responsible for the effective investigation and resolution of allegations against IGS.

Further, the PCIE had no clear authority to review allegations—criminal and noncriminal—against IGS and make appropriate investigative referrals. In addition, no investigative agency had the authority to investigate administrative allegations against IGS who were outside the purview of specific executive branch agencies (e.g., Office of Special Counsel for alleged prohibited personnel practices). In some cases, this lack of clear authority caused the Integrity Committee difficulty in deciding how to handle noncriminal matters involving alleged mismanagement. They dismissed some allegations as being frivolous, as noted by a PCIE official; referred some to the head of the affected agency; and referred others to the affected IG.

In addition, according to the 1992 hearing, the FBI had no statutory authority to conduct noncriminal investigations for the PCIE. Current and former members of the Integrity Committee told us that the PCIE's lack of authority to deal with noncriminal issues had continued to be a problem. However, the March 1996 Executive Order clearly vests the authority to conduct all investigations requested by PCIE with the FBI.

In addition, in 1982 a Department of Justice counsel questioned whether one IG office had the authority to investigate another. Further, at the 1992 hearing, a PCIE official opined that the Inspector General Act authorized IGS to investigate allegations of misconduct only when the allegations involved fraud, waste, or abuse in their particular department or agency. However, according to a former Chairman of the Integrity Committee, nothing precludes OIG personnel from being detailed from one agency to another to investigate an IG on a reimbursable basis for noncriminal matters. An alternative consideration was to use investigative staff from an agency with government-wide authority, such as the Office of Personnel Management. The 1996 Executive Order authorizes the Integrity Committee, through its FBI representative, to request an OIG's assistance in an investigation.

Resources Problem Improved

Prior to 1994, an FBI agent, whose duties included part-time support to PCIE, reviewed incoming allegations, referred them to the Department of

Justice, and set the agenda for the Integrity Committee. This lack of sufficient support resulted in delays in processing, filing, and tracking the allegations. Currently, an FBI agent and an FBI analyst provide full-time support to the PCIE.

Record-Keeping and Case Tracking to Be Improved

As PCIE officials testified in 1992, the PCIE had no central, complete file on actions taken to resolve allegations. During our review, we found, for example, that when the Integrity Committee referred any matter to another agency without requesting a response, the committee generally closed its case file and lost oversight of the matter. The record showed that the Integrity Committee referred 43 of the 72 allegations we reviewed to various agencies and received agency responses regarding 8 of the allegations. Thus, the official PCIE files seldom reflected the final action taken by the agency, making it difficult for anyone who wished to determine the final outcome of an allegation.

However, according to the Chairman of the Integrity Committee, the PCIE's draft procedures to implement the 1996 Executive Order will require an affected agency to acknowledge all referrals and to report back to the committee, stating whether any action has been taken. In addition, we noted that the 1996 Executive Order requires that "[a]ll records created and received pursuant to this order are records of the Integrity Committee and shall be maintained by the FBI." In contrast to this requirement, the PCIE Chairman, in commenting on a draft of our report, stated that PCIE's draft procedures will require agencies that receive referred allegations to maintain the investigative files after providing the resulting investigative report to the Integrity Committee. However, with such a procedural requirement, the PCIE would still not have a central, complete file on actions taken to resolve allegations.

During our review of the records, we noted another possible problem related to the investigations of individuals who had left office and the lack of record-keeping regarding the allegations against them. In four cases, the Integrity Committee and/or the affected OIG declined to follow up allegations, according to OIG officials, because the subject of an allegation had left office and was not subject to any administrative or adverse personnel action. One IG stated the belief that such allegations should be investigated. Further, we determined that with no centralized record-keeping system to track the subjects of allegations, the PCIE had no effective way to determine who the subjects were, what the allegations were, or how long the allegations had been awaiting PCIE action. Further,

the allegations could not be chronicled for trend analysis or a reference check if an individual were to be considered for future federal positions. According to the Chairman of the Integrity Committee, the draft procedures for implementing the 1996 Executive Order will establish a system to identify PCIE-related documents maintained in the FBI's centralized record-keeping system.

Timeliness Problem Improved

Between 1990 and 1994, the PCIE, through its review committees, took an average of 18 months from receipt of an allegation to referral or closure. In 1995, after the Integrity Committee had received additional support, the average time was reduced to 5 months.

Between its inception in January 1990 and December 1995, PCIE's Integrity Committee and its predecessors received and closed a total of 72 allegations concerning the IGS and Deputy/Assistant IGS.⁵ Twenty-nine of the 72 cases were closed without a PCIE request for further investigation or review, after (1) the Public Integrity Section's determination that no criminal investigation was warranted and (2) a review by the Integrity Committee. We noted that in 33, or about 46 percent, of the cases, time lapses of over 12 months occurred between these steps in the PCIE review process.

The 1996 Executive Order

Executive Order No. 12993 was signed in March 1996. The order was promulgated to further define and strengthen the authority and responsibility of the Integrity Committee, which was established by the PCIE and the ECIE pursuant to the authority granted by Executive Order No. 12805, signed in May 1992. The 1996 order grants the Integrity Committee the authority to receive, review, and refer allegations of "wrongdoing [by] IGS and . . . certain staff members of the OIGs. . . ." to other executive branch agencies for investigation. Further, the order authorizes the Director of the FBI, through the Director's designee serving as Chairperson of the Integrity Committee, to investigate, as warranted, noncriminal allegations against the IGS and certain OIG staff members.

Under the 1996 Executive Order, responsibility for investigating allegations against OIG staff remains with the affected IG. However, the IGS must refer such allegations to PCIE's Integrity Committee if a senior staff member is alleged to have acted with the affected IG's knowledge or if the

⁵Thirteen additional allegations received during the same time period were still open and/or pending investigation. Thus, we did not include them in our review.

subject allegation is related to an allegation against the IG. In addition, the order provides that IGS shall refer allegations against a senior staff member to the Integrity Committee after determining “that an objective internal investigation of the allegation, or the appearance thereof, is not feasible” and that “review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter.”

According to the March 1996 Executive Order, the Integrity Committee, with the PCIE Chairman, shall establish the policies and procedures necessary to conduct investigations and report activities. Currently, the Vice Chairperson of the PCIE and representatives of the Integrity Committee are working to establish those policies and procedures.

IGs’ Perceptions Regarding 1996 Executive Order

The IGS we talked with expressed support for the 1996 Executive Order, stating that its provisions strengthened the position of the Integrity Committee. Generally, the IGS believed that the provision giving the FBI the authority to initiate inquiries into noncriminal allegations will provide the independence desired by all concerned.

The IGS generally agreed that it is critical that they retain the discretion, which they believed the order allows, to determine if an investigation of OIG officials can be done in-house, referred to the FBI, or done with the assistance of another IG. However, several PCIE members believed that allegations against OIG senior staff—the Deputy IG and/or Assistant IGS—should automatically be referred to PCIE for review to preserve the appearance to outside interests that any resultant investigation was independent. Others believed that their right of first refusal regarding such allegations was essential to their position. All IGS stated that if an allegation appeared to present a potential conflict, they would immediately refer it to the PCIE.

How to act on allegations of noncriminal wrongdoing by an IG involving mismanagement of an office or inappropriate/inadequate conduct of an investigation remains under debate within the IG community. The IGS generally agree that procedures for assessing such allegations, being developed to implement the 1996 Executive Order, must provide for a screening process to avoid pursuit of allegations that lack specificity or credibility.

Among other issues concerning the Executive Order's implementation that caused much IG discussion were (1) the dissemination of investigative reports about an IG to the head of the agency and (2) the notification of subjects of the investigation. Several of the IGs were concerned that notifying the agency head about investigations of the agency's IG may cause a strain in their relationship and may raise concerns regarding the IG's independence. The IGs were concerned that even though the allegations were unfounded, the agency head could use the information at a later date to seek the IG's removal. In addition, the IGs favored a procedure whereby (1) the IG being investigated is made aware of the investigation and (2) the IG and the complainant are made aware of the investigation's outcome. The IGs believed that such a procedure would both serve to protect an IG against unjust actions by the agency head and to defend an IG if allegations arose that the matter had not been reviewed and investigated.

Agency Comments

On October 8, 1996, PCIE members, including the Chairman, provided us with oral comments on a draft of this report. They were in general agreement with the contents of the draft but requested that we ensure that any restatement of the March 1996 Executive Order in the report be precise concerning the order's specific provisions. Where appropriate, to address PCIE concerns, we have clarified our discussions.

Methodology

We conducted our work between May and August 1996. We obtained information from the PCIE and the OIGs having presidentially appointed IGs regarding their formal or informal policies, procedures, and practices for reviewing and investigating allegations against senior OIG officials and reviewed the PCIE's and the OIGs' policies and procedures.

Although we did not evaluate all OIG policies and procedures, we noted certain common elements for those we reviewed. All shared, for example, the requirement that any allegations concerning IGs and Deputy IGs be automatically referred to the PCIE. They also all required that allegations involving the appearance of a conflict of interest for other senior OIG staff be referred to the PCIE for action.


Our review included all allegations that had been referred or reported directly to the PCIE or an OIG between January 1990 and December 1995. These included the 107 closed cases from this period that involved a senior OIG official.

We gathered data, including the number, types, and results of the reviewed allegations. We reviewed PCIE and OIG investigative files and activity logs to determine whether allegations presented had been properly documented and handled according to policies and procedures. We accessed all investigative materials to assess the thoroughness, objectivity, and independence of the overall investigative effort for each case.

We interviewed current and former members of the PCIE Integrity Committee; OIG officials and case agents; Department of Justice, Public Integrity Section staff; FBI staff assigned to support the Integrity Committee; senior officials at 15 judgmentally selected OIGs; and others with information relevant to our review.

We also assessed the status of the PCIE's draft guidelines to implement the 1996 Executive Order for handling allegations against senior OIG staff.

We are sending copies of this report to interested congressional committees and the Chairman of PCIE. We will also make copies available to others upon request. If you have questions regarding the information in this report, please call me or Assistant Director Barney Gomez of my staff at (202) 512-6722. Major contributors to this report are listed in appendix III.



Donald J. Wheeler
Acting Director

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Abbreviations

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| ECIE | Executive Council on Integrity and Efficiency |
| FBI | Federal Bureau of Investigation |
| GAO | General Accounting Office |
| IG | Inspector General |
| OIG | Office of Inspector General |
| OSI | Office of Special Investigations |
| PCIE | President's Council on Integrity and Efficiency |

Entities Having Presidentially Appointed Inspectors General, as of December 31, 1995

Agency for International Development
Central Intelligence Agency
Corporation for National Service
Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Department of Veterans Affairs
Environmental Protection Agency
Federal Deposit Insurance Corporation
Federal Emergency Management Agency
General Services Administration
National Aeronautics and Space Administration
Nuclear Regulatory Commission
Office of Personnel Management
Railroad Retirement Board
Small Business Administration
Social Security Administration
United States Information Agency

Executive Order No. 12993, March 21, 1996

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 22, 1996

EXECUTIVE ORDER

ADMINISTRATIVE ALLEGATIONS AGAINST INSPECTORS GENERAL

Certain executive branch agencies are authorized to conduct investigations of allegations of wrongdoing by employees of the Federal Government. For certain administrative allegations against Inspectors General ("IGs") and, as explained below, against certain staff members of the Offices of Inspectors General ("OIGs"), it is desirable to authorize an independent investigative mechanism.

The Chairperson of the President's Council on Integrity and Efficiency ("PCIE") and the Executive Council on Integrity and Efficiency ("ECIE"), in consultation with members of the Councils, has established an Integrity Committee pursuant to the authority granted by Executive Order No. 12805.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that administrative allegations against IGs and certain staff members of the OIGs are appropriately and expeditiously investigated and resolved, it is hereby ordered as follows:

Section 1. The Integrity Committee. (a) To the extent permitted by law, and in accordance with this order, the Integrity Committee shall receive, review, and refer for

investigation allegations of wrongdoing against IGs and certain staff members of the OIGs.

(b) The Integrity Committee shall consist of at least the following members:

- (1) The official of the Federal Bureau of Investigation ("FBI") serving on the PCIE, as designated by the Director of the FBI. The FBI member shall serve as Chair of the Integrity Committee.
- (2) The Special Counsel of the Office of Special Counsel;
- (3) The Director of the Office of Government Ethics;
- (4) Three or more IGs, representing both the PCIE and the ECIE, appointed by the Chairperson of the PCIE/ECIE.

(c) The Chief of the Public Integrity Section of the Criminal Division of the Department of Justice, or his designee, shall serve as an advisor to the Integrity Committee with respect to its responsibilities and functions in accordance with this order.

Sec. 2. Referral of Allegations. (a) The Integrity Committee shall review all allegations of wrongdoing it receives against an IG who is a member of the PCIE or ECIE, or against a staff member of an OIG acting with the knowledge of the IG or when the allegation against the staff person is related to an allegation against the IG, except that where an allegation concerns a member of the Integrity Committee, that member shall recuse himself from consideration of the matter.

(b) An IG shall refer any administrative allegation against a senior staff member to the Integrity Committee when:

- (1) review of the substance of the allegation cannot be assigned to an agency of the executive branch with appropriate jurisdiction over the matter; and
- (2) the IG determines that an objective internal investigation of the allegation, or the appearance thereof, is not feasible.

(c) The Integrity Committee shall determine if there is a

substantial likelihood that the allegation, referred to it under paragraphs (a) or (b) of this section, discloses a violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority and shall refer the allegation to the agency of the executive branch with appropriate jurisdiction over the matter. However, if a potentially meritorious administrative allegation cannot be referred to an agency of the executive branch with appropriate jurisdiction over the matter, the Integrity Committee shall certify the matter to its Chair, who shall cause a thorough and timely investigation of the allegation to be conducted in accordance with this order.

(d) If the Integrity Committee determines that an allegation does not warrant further action, it shall close the matter without referral for investigation and notify the Chairperson of the PCIE/ECIE of its determination.

Sec. 3. Authority to Investigate. (a) The Director of the FBI, through his designee serving as Chairperson of the Integrity Committee, is authorized and directed to consider and, where appropriate, to investigate administrative allegations against the IGs and, in limited cases as described in sections 2(a) and 2(b) above, against other staff members of the OIGs, when such allegations cannot be assigned to another agency of the executive branch and are referred by the Integrity Committee pursuant to section 2(c) of this order.

(b) At the request of the Director of the FBI, through his designee serving as Chairperson, heads of agencies and entities represented in the PCIE and ECIE may, to the extent permitted by law, provide resources necessary to the Integrity Committee. Employees from those agencies and entities will be detailed to the Integrity Committee, subject to the control and direction of the Chairperson, to conduct an investigation pursuant to section 2(c): Provided, that such agencies or entities shall be reimbursed by the agency or entity employing the subject of the investigation. Reimbursement for any costs associated with the detail shall be consistent with applicable law, including but not limited to the Economy Act (31 U.S.C. 1535 and 1536), and subject to the availability of funds.

(c) Nothing in the above delegation shall augment, diminish, or otherwise modify any existing responsibilities and authorities of any other executive branch agency.

Sec. 4. Results of Investigation. (a) The report

containing the results of the investigation conducted under the supervision of the Chair of the Integrity Committee shall be provided to the members of the Integrity Committee for consideration.

(b) With respect to those matters where the Integrity Committee has referred an administrative allegation to an agency of the executive branch with appropriate jurisdiction over the matter, the head of that agency shall provide a report to the Integrity Committee concerning the scope and results of the inquiry.

(c) The Integrity Committee shall assess the report received under (a) or (b) of this section and determine whether the results require forwarding of the report, with Integrity Committee recommendations, to the Chairperson of the PCIE/ECIE for resolution. If the Integrity Committee determines that the report requires no further referral or recommendations, it shall so notify the Chairperson of the PCIE/ECIE.

(d) Where the Chairperson of the PCIE/ECIE determines that dissemination of the report to the head of the subject's employing agency or entity is appropriate, the head of the agency or entity shall certify to the Chairperson of the PCIE/ECIE within sixty 60 days that he has personally reviewed the report, what action, if any, has been or is to be taken, and when any action taken will be completed. The PCIE/ECIE Chairperson may grant the head of the entity or agency a 30-day extension when circumstances necessitate such extension.

(e) The Chairperson of the PCIE/ECIE shall report to the Integrity Committee the final disposition of the matter, including what action, if any, has been or is to be taken by the head of the subject's employing agency or entity. When the Integrity Committee receives notice of the final disposition, it shall advise the subject of the investigation that the matter referred to the Integrity Committee for review has been closed.

Sec. 5. Procedures. (a) The Integrity Committee, in conjunction with the Chairperson of the PCIE/ECIE, shall establish the policies and procedures necessary to ensure consistency in conducting investigations and reporting activities under this order.

(b) Such policies and procedures shall specify the circumstances under which the Integrity Committee, upon review

of a complaint containing allegations of wrongdoing, may determine that an allegation is without merit and therefore the investigation is unwarranted. A determination by the Integrity Committee that an investigation is unwarranted shall be considered the Integrity Committee's final disposition of the complaint.

(c) The policies and procedures may be expanded to encompass other issues related to the handling of allegations against IGs and others covered by this order.

Sec. 6. Records Maintenance. All records created and received pursuant to this order are records of the Integrity Committee and shall be maintained by the FBI.

Sec. 7. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
March 21, 1996.

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