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1st Session }

SENATE

{ REPORT
114-36

INSPECTOR GENERAL EMPOWERMENT
ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 579

TO AMEND THE INSPECTOR GENERAL ACT OF 1978
TO STRENGTHEN THE INDEPENDENCE OF THE INSPECTORS
GENERAL, AND FOR OTHER PURPOSES.



MAY 5, 2015.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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Calendar No. 68

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INSPECTOR GENERAL EMPOWERMENT ACT OF 2015

MAY 5, 2015.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 579]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 579) to amend the Inspector General Act of 1978 to strengthen the independence of the Inspectors General, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

I. PURPOSE AND SUMMARY

The purpose of S. 579, the Inspector General Empowerment Act of 2015, is to strengthen the independence of inspectors general (IGs) and to provide them with the tools necessary to root out waste, fraud and mismanagement within the federal government. The bill would authorize IGs to write testimonial subpoenas for federal government contractors, federal grant recipients, and former federal employees, and perform computer matching of agency data and seek Paperwork Reduction Act approval without first going through the agency. The bill would also improve the way misconduct by Office of Inspector General (OIG) officials is investigated, and would promote more transparency to the public and cooperation between the offices and Congress.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The bipartisan Inspector General Act of 1978 (the IG Act) created OIGs within federal agencies and entities.¹ The IG Act represented a significant reorganization of the way federal agencies handled audit and investigative work to ensure these respon-

¹ 5 U.S.C. App. § 1, *et seq.*, (Public Law 95-452).

sibilities were prioritized,² passed in response to “clear . . . fraud, abuse and waste in the operations of Federal departments and agencies and in federally-funded programs [that is] reaching epidemic proportions.”³

Initially there were just twelve offices established, and the number has since grown to seventy-two.⁴ The IG Act and subsequent legislation created two types of inspectors general (IGs): establishment IGs and designated Federal entity (DFE) IGs.⁵ Establishment IGs are appointed by the President and confirmed by the Senate.⁶ DFE IGs are appointed by the head of the agency or entity.⁷

The IG Act established OIGs to be:

independent and objective units—(I) to conduct and supervise audits and investigations relating to the programs and operations of [government] establishments . . . (2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and (3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action⁸

IGs are statutorily guaranteed “direct and prompt access” to the agency head,⁹ access to all records available to their agency,¹⁰ and are directed to keep both Congress and the agency “fully and currently informed.”¹¹

The value IGs add to the federal government cannot be overstated. An IG works as the agency’s watchdog. The amount IGs can save the taxpayer in identifying and recovering improper payments, ferreting out abusive or wasteful practices, and identifying troubled programs is well-documented.¹² Michael E. Horowitz,

²S. Rept. 85–1071, Report of the Committee on Governmental Affairs United States Senate to Accompany H.R. 8588, 7 (Aug. 8, 1878) (“Passage of this legislation will upgrade the auditing and investigative functions in the executive agencies by making it clear that Congress takes the problem and responsibilities seriously.”).

³*Id.* at 4.

⁴Council of the Inspectors General on Integrity and Efficiency, *The Inspectors General* (July 14, 2014), available at https://www.ignet.gov/sites/default/files/files/IG_Authorities_Paper_Final_6-11-14.pdf.

⁵5 U.S.C. App. §3(a) and 8G(c).

⁶*Id.* at §3(a).

⁷*Id.* at §8G(c).

⁸5 U.S.C. App. §2; see also S. Rept. 85–1071 at 7, *supra* note 2 (“Above all, the Inspector and Auditors General created in this legislation would have the requisite independence to do an effective job. . . . [T]he audit and investigative functions should be assigned to an individual whose independence is clear and whose responsibility runs directly to the agency head and ultimately to the Congress.”).

⁹5 U.S.C. App. §6(a)(6).

¹⁰*Id.* at §6(a)(1).

¹¹*Id.* at §4(a)(5).

¹²See, e.g., U.S. Senate Homeland Security and Governmental Affairs Committee, *Improving the Efficiency, Effectiveness, and Independence of Inspectors General* (Feb. 24, 2015), available at <http://www.hsgac.senate.gov/hearings/improving-the-efficiency-effectiveness-and-independence-of-inspectors-general> (Steve A. Linick written testimony: In FY 2014, State OIG “identified \$43.3 million in taxpayer funds that could be put to better use,” imposed or identified “\$75 million in fines, restitution, recoveries and other monetary results” in addition to “\$1 billion in financial results from audit- or inspection-related findings.”; Patrick P. O’Carroll, Jr. biography: In FY 2014, at SSA: “OIG’s investigators reported over \$552 million in investigative accomplishments through SSA recoveries, restitution, fines, settlements, judgments, and projected savings. In addition, the OIG’s auditors issued eighty-four reports with recommendations identifying more than \$5 billion in Federal funds that could be put to better use, and over \$1 billion in

Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and IG of the Department of Justice, has summed up OIGs' contribution as follows:

[I]n Fiscal Year (FY) 2013, the approximately 14,000 employees at the 72 federal Offices of Inspector General conducted audits, inspections, evaluations, and investigations resulting in the identification of approximately \$37 billion in potential cost savings and approximately \$14.8 billion from investigative recoveries and receivables. In comparison, the aggregate FY 2013 budget of the 72 federal OIGs was approximately \$2.5 billion, meaning that these potential savings represent about a \$21 return on every dollar invested in the IGs.¹³

Despite the clear existing statutory guarantees of IG independence and complete access to documents needed to conduct their audits, investigations, and other reviews, some challenges persist that threaten IG independence and prevent IGs from fully and effectively carrying out their missions. On February 24, 2015, the Committee held a hearing titled, *Improving the Efficiency, Effectiveness, and Independence of Inspectors General*. The Committee heard testimony from four IGs: Department of Justice IG Michael E. Horowitz; Department of State IG Steve A. Linick; Department of Homeland Security IG John Roth; and Social Security Administration IG Patrick P. O'Carroll, Jr.¹⁴ Each IG testified regarding the challenges they face and the need for reform.¹⁵ Those challenges and others are addressed by this bill, and discussed in more detail below.

A. OIG INDEPENDENCE

The OIG must be independent from the agency it is mandated to oversee. There are at least three ways that this principle is threatened: the ability for the President and/or an agency head to sideline an IG indefinitely and without notice to Congress; instances of agencies delaying or obstructing investigations; and IG vacancies.

1. *The Administration's ability to sideline IGs*

The power of the President or DFE to remove an IG threatens the IG's independence at a very basic level. The IG Act attempted to temper this power by adding procedural safeguards meant to protect IGs from being removed for political or other nefarious reasons.¹⁶ For establishment IGs, while the President can remove the IG from office or transfer him or her to another position within the agency, the President must communicate the reasons for the action in writing to Congress at least 30 days before the removal or trans-

questioned costs. And the OIG's attorneys reported over \$21 million in civil monetary penalties and assessments.”)

¹³Statement of Michael E. Horowitz, Inspector General, U.S. Department of Justice, *supra* note 12.

¹⁴U.S. Senate Homeland Security and Governmental Affairs Committee, *Improving the Efficiency, Effectiveness, and Independence of Inspectors General*, *supra* note 12.

¹⁵*Id.*

¹⁶*See* S. Rep. No. 110–262 (2008) (notice provision added to “allow for an appropriate dialogue with Congress in the event that the planned transfer or removal is viewed as an inappropriate or politically motivated attempt to terminate an effective Inspector General”).

fer.¹⁷ Similarly, in the case of DFE IGs, while the DFE can remove or transfer the IG, it must provide notice and reasons for the actions in writing to Congress.¹⁸

Another type of personnel action has the potential for doing significant damage to OIG independence if abused: placing an IG on indefinite paid or unpaid nonduty status (or administrative leave, as it is sometimes referred to). This type of action was not specifically addressed in the IG Act, nor is it well-defined by other federal law.¹⁹ The use of involuntary administrative leave as a substitute for removing a federal employee can be problematic. When it involves an IG or a senior IG official, however, the problem is all the more troublesome: by indefinitely displacing an IG or a senior IG official, the agency can undermine or intimidate the only office expressly designed to oversee it.

In one recent example, the National Archives and Records Administration placed its IG, Paul Brachfeld, on paid administrative leave in 2012 in response to allegations of wrongdoing against him.²⁰ The leave lasted for two years, creating lengthy uncertainty within the OIG and coming at a high cost to taxpayers: the agency paid \$300,000 for the IG's salary while he remained unable to work and another several hundred thousand dollars on legal fees.²¹ The Committee believes the delay was exacerbated by inadequate coordination among investigative bodies and slow work by CIGIE's Integrity Committee.

To address this problem, the bill limits the instances in which an IG can be placed on paid or unpaid nonduty status, and provides that CIGIE—the body to which any complaints against the IG will be referred—review the placement and determine whether it is justified in lasting more than ten days. The bill also includes clearer timelines for CIGIE to complete investigations and procedures to improve coordination between the Office of Special Counsel and CIGIE's Integrity Committee, discussed below. These measures are intended to reduce indefinite leave, to provide more stability for the OIGs, and to reduce the incidence, or even the appearance, of administrative leave being used to control an OIG's work. It does not, however, limit or alter the President's or an agency's ability to remove an IG from office.

2. Agency interference with investigations

The IG Act makes IG independence from the agency or DFE paramount, and it is clear both in language and intent that IGs should have unfettered access to the agency's documents for purposes of carrying out their responsibilities under the Act. IGs are authorized to access:

[A]ll records, reports, audits, reviews, documents, papers, recommendations or other material available to the

¹⁷ 5 U.S.C. App. § 3(b).

¹⁸ *Id.* at § 8G(e)(2).

¹⁹ Federal law does not explicitly authorize paid administrative leave, *Miller v. Dep't of Defense*, 45 M.S.P.R. 263, 266 (1990), but the agency can use it within its discretion and for short periods of time, *id.*; see also To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958).

²⁰ Report of Administrative Investigation for the Council of the Inspectors General on Integrity and Efficiency (Mar. 28, 2014), available at <http://www.govexec.com/media/gbc/docs/pdfs/edit/080514cc1.pdf>.

²¹ *Id.*; Letter from Charles E. Grassley, Darrell Issa, and Tom A. Coburn to The Honorable David S. Ferriero, Feb. 21, 2014.

applicable establishment which relates to programs and operations with respect to which that Inspector General has responsibilities under this Act.²²

The Committee is aware that many IGs have at times experienced difficulties accessing documents from their respective agencies. In August 2014, forty-seven IGs signed a letter to Congress highlighting the importance of timely and complete access to agency records and detailing several instances of agency interference.²³ The letter cited specific examples of restrictions on access to records faced by the IGs. One such example was the difficulty Peace Corps Inspector General Kathy Buller encountered trying to access records related to her review of the Peace Corps' implementation of the Katy Puzey Act.²⁴ According to the letter from the forty-seven IGs:

Other Inspectors General have, from time to time, faced similar obstacles to their work, whether on a claim that some other law or principle trumped the clear mandate of the IG Act or by the agency's imposition of unnecessarily burdensome administrative conditions on access. Even when we are ultimately able to resolve these issues with senior agency leadership, the process is often lengthy, delays our work, and diverts time and attention from substantive oversight activities. This plainly is not what Congress intended when it passed the IG Act.²⁵

Another example recently brought to the Congress's attention is the Federal Bureau of Investigation's (FBI) delay in producing records requested by IG Horowitz in four separate reviews in 2015 alone—records substantially similar to those that the FBI provided to the OIG on a routine basis prior to 2010.²⁶

Agency attempts to interfere with OIG investigations have come in many forms, including delaying turning over the documents for exorbitant amounts of time,²⁷ and over-classifying information or documents to avoid certain findings in the investigation becoming public.²⁸

²² 5 U.S.C. App. § 6(a)(1).

²³ Letter from Michael G. Carroll, et al. to The Honorable Darrell Issa, The Honorable Elijah Cummings, The Honorable Thomas R. Carper, and The Honorable Tom Coburn, Aug. 5, 2014, available at <http://www.grassley.senate.gov/sites/default/files/issues/upload/IG%20Access%20Letter%20to%20Congress%2008-05-2014.pdf>.

²⁴ *Id.*; see also U.S. House of Representatives, Committee on Oversight and Government Reform, *Strengthening Agency Oversight: Empowering the Inspectors General Community* (Jan. 15, 2014), available at <http://oversight.house.gov/hearing/strengthening-agency-oversight-empowering-inspectors-general-community/>.

²⁵ Letter from Michael G. Carroll, *supra* note 23.

²⁶ Letter from Sen. Charles E. Grassley, Chairman, Sen. Comm. on the Judiciary, to the Hon. James B. Comey, Director, Federal Bureau of Investigation (March 6, 2015); U.S. House of Representatives, Committee on the Judiciary, *Access to Justice?: Does DOJ's Office of the Inspector General Have Access to Information Needed to Conduct Proper Oversight?* (Sep. 9, 2014), Attachment 2, at 2–3, available at <http://judiciary.house.gov/cache/files/d2537da6-7f7f-4a32-b843-0366e2ee0403/ig-horowitz-testimony-w-attachments-hjc-september-9-2014.pdf>.

²⁷ Testimony of the Honorable Todd J. Zinser, Inspector General, U.S. Department of Commerce, Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, United States Senate, *The Department of Commerce's Fiscal Year 2016 Budget Request*, 26 (Feb. 26, 2015) (discussing IG access to Census Bureau documents); Statement of Michael E. Horowitz, Inspector General, U.S. Department of Justice, *supra* note 12 (FBI “failed to provide the OIG with timely access to certain records regarding two whistleblower retaliation investigations.”).

²⁸ Testimony of the Honorable Todd J. Zinser, Inspector General, U.S. Department of Commerce, Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, United States Senate, *The Department of Commerce's Fiscal Year 2016 Budget Re-*

Attempts by agencies to block or delay IG access to documents necessary for their statutorily mandated oversight is unacceptable. The Committee agrees with the IGs that “[r]efusing, restricting, or delaying an Inspector General’s access to documents leads to incomplete, inaccurate, or significantly delayed findings or recommendations, which in turn may prevent the agency from promptly correcting serious problems and deprive Congress of timely information regarding the agency’s performance.”²⁹ There does not appear to be any additional language the Committee could supply to the IG Act to make this clearer. Accordingly, the Committee reaffirms its belief that IGs must be given prompt, unfettered access to agency documents for purposes of carrying out their responsibilities under the Act, and reaffirms its intent to ensure agencies follow the law.

Furthermore, the Committee has been made aware of language in Section 3(a) of the IG Act that, from time to time, is used to suggest that the agency head has some ability to dictate, influence, or control the work of OIGs.³⁰ Courts have disagreed with this interpretation,³¹ but nonetheless, the existence of the language continues to be used by some agencies, at least informally, to justify interfering with the IG’s work. Nothing in Section 3(a) should be construed to suggest that agency heads exercise any influence, control, or supervision of the IGs. To make this clear, the bill strikes the “supervision” language from Section 3(a).

3. Addressing prolonged IG vacancies

IG vacancies are a significant concern to the Committee. As of the submission date of this report, there are seven vacancies of Presidentially-appointed IGs and two vacancies of agency-appointed IGs, with only two nominations pending.³² Some of the vacancies have existed for extremely long periods of time, despite Congress’ pleas for the President to nominate someone.³³ For example, the U.S. Department of Veterans Affairs OIG, which has faced many challenges in effectively carrying out its missions, has worked without a permanent IG since December, 2013.³⁴ The Department of the Interior has not had a permanent IG since February, 2009.³⁵

The Committee believes the absence of permanent, Senate-confirmed or agency-appointed IGs impedes the ability of these offices to identify and expose waste, fraud, and abuse in the federal government. In addition, acting IGs in these roles create the potential

quest, 27 (Feb. 26, 2015) (describing the IG’s views that NOAA over-classified certain documents); Statement of John Roth, Inspector General, Department of Homeland Security, *supra* note 12 (describing the IG’s views that the Transportation Security Administration unnecessarily delayed removing a classified designation from a report that contained no sensitive information).

²⁹ Letter from Michael G. Carroll, *supra* note 23.

³⁰ See 5 U.S.C. App. § 3(a) (“Under the general supervision of” and “subject to supervision by”).

³¹ See, e.g., *United States Nuclear Regulatory Comm’n v. Fed. Labor Relations Auth.*, 25 F.3d 229, 235 (4th Cir. 1994).

³² Information provided to Committee staff by CIGIE, Apr. 8, 2015.

³³ Letter from Ron Johnson, Thomas R. Carper, and all other Members of the Committee to President Barack H. Obama (Mar. 24, 2015); Letter from Ron Johnson to President Barack H. Obama (Jan. 22, 2015); Letter from Thomas R. Carper and Tom Coburn to President Barack Obama (June 19, 2014); Letter from Thomas R. Carper, Ranking Member Tom Coburn, and all other Members of the Committee to President Barack Obama (Jan. 24, 2013).

³⁴ Information provided to Committee staff by CIGIE, Apr. 8, 2015.

³⁵ *Id.*

for conflicts of interest, diminish independent IG oversight, and cause instability for IG offices.³⁶

This type of threat to IG independence was all too apparent in the case of former Acting Inspector General of the Department of Homeland Security, Charles Edwards. Mr. Edwards was the Acting IG from 2011 through 2013.³⁷ In 2014, the Committee's Subcommittee on Financial and Contracting Oversight found that Mr. Edwards "jeopardized the independence of the Office of Inspector General."³⁸ The report noted that "Mr. Edwards openly sought a nomination for the Inspector General position" and that he "directed reports to be altered or delayed to accommodate senior DHS officials."³⁹

Members' letters urging the President and his agency heads to nominate IGs have gone unanswered and an unacceptable number of IG positions remain vacant. Accordingly, this bill requires the Comptroller General to study the number and duration of IG vacancies, examine how these vacancies impact the OIG's ability to carry out their statutorily-required mission, and recommend ways to minimize the duration of vacancies.

B. OTHER IMPEDIMENTS TO OIGS' WORK

Although IGs have the authority to investigate fraud, waste, and abuse, they are sometimes prevented from fully and effectively doing so.

1. *Compelling testimony*

One such impediment is OIGs' limited ability to compel private citizens to speak to them during the course of an investigation. Current federal employees are required to comply with OIG investigations;⁴⁰ private citizens can be compelled to provide documents⁴¹ and can voluntarily speak with an OIG (even under oath, if they so choose).⁴²

The practical constraints this causes are clear: the OIG may be hamstrung when investigating matters involving non-Federal employees. Individuals such as federal contractors or grant recipients may nonetheless benefit from the agency or receive federal funds, but are not under the same obligations to comply with the investigations as federal employees are. Nor are federal employees who leave federal employment or resign in the face of an allegation or investigation.

In his written submission to the Committee on February 24, 2015, Department of State IG Linick noted the vast amount of money that the Department obligates every year on contracts and

³⁶ Letter from Ron Johnson, *et al.* to President Barack Obama (Mar. 24, 2015).

³⁷ On July 21, 2011, the President nominated an IG for DHS but the nomination was withdrawn on June 7, 2012. Congressional Record, p. S4812, July 21, 2011 and Congressional Record, p. S3874, June 7, 2012.

³⁸ *Investigation into Allegations of Misconduct by the Former Acting and Deputy Inspector General of the Department of Homeland Security*, Staff Report of the Subcommittee on Financial and Contracting Oversight, Committee on Homeland Security and Governmental Affairs, 3 (Apr. 24, 2014).

³⁹ *Id.* at 3-4.

⁴⁰ See generally 5 U.S.C. App. § 6(a). Agencies typically issue directives to their employees or have regulations on this issue. See, e.g., Department of Justice regulation 28 CFR 45.13 ("Department employees have a duty to, and shall, cooperate fully with the Office of the Inspector General and Office of Professional Responsibility, and shall respond to questions posed during the course of an investigation Refusal to cooperate could lead to disciplinary action.")

⁴¹ 5 U.S.C. App. § 6(a)(4).

⁴² *Id.* at § 6(a)(5).

grants (a total of \$10.5 billion) that his office needs to inspect to ensure proper management.⁴³ In the course of these inspections and investigations, individuals may need to be interviewed who are not currently federal employees. IG Linick, the other three IGs that testified, and CIGIE support giving IGs limited authority to compel witness testimony through the testimonial subpoena.⁴⁴

The bill provides this authority, limited by appropriate oversight and procedure, and mindful of the concern that such subpoenas not interfere with an ongoing matter being conducted by the Department of Justice. The bill accomplishes this by setting up a three-IG panel chosen by CIGIE to review a request by an IG to issue a testimonial subpoena. If a majority of the panel approves the subpoena, the request is then sent to the Attorney General of the Department of Justice for review. The Attorney General has ten days to object to issuance of the testimonial subpoena if he determines it would interfere with an ongoing matter. If CIGIE approves the issuance, and the Attorney General does not object, the testimonial subpoena may be issued and enforced in any appropriate United States District Court. The bill also requires CIGIE to report to Congress on the number of IG testimonial subpoenas issued each year.

2. Federal laws that hamstring OIGs

OIGs are also sometimes deterred from certain investigations and audits that could detect and prevent waste, fraud, and abuse due to laws and government regulations that have made it more difficult and time-consuming for OIGs to access information, and which could also interfere with OIG independence. The Computer Matching and Privacy Protection Act (CMPPA) (5 U.S.C. § 552a(a)) and Paperwork Reduction Act (PRA) (44 § U.S.C. 35) are two examples of laws that hamper OIGs and infringe upon their independence. The CMPPA prevents IGs from performing computer matching to compare Federal records of one federal agency against other Federal and non-Federal records without first getting approval from the IG's agency. This not only hampers IGs' ability to investigate fraud and perform audits, but also interferes with IGs' independence since the agency can disapprove or restrict any request for computer matching.⁴⁵ Similarly, the Paperwork Reduction Act prevents IGs from collecting information for an investigation or audit without an often lengthy and burdensome approval process through the IG's agency.⁴⁶ The IG community has been requesting these exemptions for many years, including a recent request by the legislative committee of CIGIE.⁴⁷

Patrick O'Carroll, Jr., the IG for the Social Security Administration (SSA), gave several examples of how the CMPPA hampers IGs at a Committee hearing on February 24, 2015.⁴⁸ For example, in

⁴³ Statement of Steve A. Linick, Inspector General, Department of State, *supra* note 12.

⁴⁴ U.S. Senate Committee on Homeland Security and Governmental Affairs, *Improving the Efficiency, Effectiveness, and Independence of Inspectors General*, *supra* note 12; see also Letter from Peggy E. Gustafson to The Honorable Beth Cobert (Feb. 20, 2015), available at <https://www.ignet.gov/sites/default/files/files/committees/legislative/CIGIE%20Legislation%20Priorities%20-%20114th%20Congress%20Letter.pdf>.

⁴⁵ Statement of Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration, *supra* note 12.

⁴⁶ *Id.*

⁴⁷ Letter from Peggy E. Gustafson to the Honorable Beth Cobert, 2–4 (Feb. 20, 2015).

⁴⁸ Statement of Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration, *supra* note 12.

2010, SSA OIG matched Department of Labor data against SSA data to identify Federal employees whose disability insurance payments were calculated without regard to the fact that they were at the same time receiving Federal Employees' Compensation Act payments.⁴⁹ The IG found 961 such individuals, totaling overpayments of \$43 million in just one year.⁵⁰ However, the SSA IG could not give this data to SSA to recover or terminate benefits because the SSA IG did not have a matching agreement, which would have taken over a year to get from the agency.⁵¹ IG O'Carroll also spoke of similar difficulties the PRA poses.⁵² To remove such obstacles, this bill provides OIGs an exemption to the PRA, as well as an exemption to the CMPPA for both the OIG and any agency with whom the OIG is coordinating the match.

C. OVERSIGHT OF OIGS

1. Congress

IGs are statutorily required:

to keep . . . the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.⁵³

Section 5 of the IG Act details the information that each IG must supply on a semi-annual basis to Congress, the agency head, and that should be made available to the public.⁵⁴ This Section generally includes summaries of the OIG's reports for the previous six months, including recommendations made to the agency and any matters referred to prosecutive authorities.⁵⁵

In addition to the reporting requirements of Section 5, the OIGs have for the last several years provided supplemental semi-annual reports to some Members of Congress on the Homeland Security and Governmental Affairs Committee and the Senate Committee on the Judiciary. These reports are not statutorily required; they have been supplied pursuant to a 2010 request by then-Ranking Members Tom Coburn and Charles E. Grassley.⁵⁶ On February 27, 2015, Chairman Ron Johnson and Chairman Charles E. Grassley renewed the requests.⁵⁷

Specifically, the requested reports provide information concerning: "all closed investigations, evaluations, and audits conducted by the IG offices that were not disclosed to the public;"

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ 5 U.S.C. App. § 4(a)(5).

⁵⁴ *Id.* at § 5. As the committees with oversight responsibility of IGs, the Homeland Security and Governmental Affairs Committee in the Senate and the Oversight and Government Reform Committee in the House receive these semi-annual reports from most OIGs.

⁵⁵ *Id.*

⁵⁶ Letter from Charles E. Grassley and Tom Coburn to The Honorable Hubert T. Bell, et al. (Apr. 8, 2010).

⁵⁷ Letter from Ron Johnson and Charles E. Grassley to The Honorable Hubert T. Bell, et al. (Feb. 27, 2015).

unimplemented IG recommendations; reports not responded to by the agency within 60 days; investigations involving high-level employees engaged in misconduct but not prosecuted; instances of agency whistleblower retaliation; attempts by the agency to interfere with IG independence or delay or resist access to documents; and reports not disclosed to the public.⁵⁸

These semi-annual reports have been a significant source of information to the Members, and help the committees ensure they are supporting the IGs and performing effective oversight of the executive branch. Because they are not statutorily required, however, they have not necessarily been provided to all appropriate Members and committees. The Committee believes that the request for these letters should be codified as a requirement to keep Congress better informed as well as to support the community of IGs and empower their work. The bill, therefore, would require the information requested to be supplied to the appropriate committees of jurisdiction in the Senate and House of Representatives, including Homeland Security and Governmental Affairs in the Senate and Oversight and Government Reform in the House, in coordination with the semi-annual reports already required under the IG Act. Additionally, the semi-annual reports required by this bill would be made available to any Member of Congress upon request.

2. *The Public*

Section 8M of the IG Act mandates that IGs post audits or reports on their websites “not later than 3 days after any report or audit (or portion of any report or audit) is made publicly available.”⁵⁹ Despite this clear requirement, some IGs argue that publication is required only after the report has been made public through a FOIA request or other similar means. In other words, some IGs act as though the default position is one *against* publication, and publish on their website only after the report has been made public through some other means.

For example, prior to introduction of this bill, the OIG for the Department of Veterans Affairs had 140 reports since 2006 that had not been made available to the public.⁶⁰ Although the OIG defended its decision to withhold the findings of those reports, it recently published seventeen of the reports in the face of congressional pressure.⁶¹ Six of those previously-undisclosed reports “contain[ed] substantiated allegations, including two involving veterans who were harmed or died.”⁶² The OIG also conceded it has no standard for deciding when to release reports to the public.⁶³

The bill would clarify that the three-day clock to release IG reports to the public begins the moment the report or audit is submitted in final form to the head of the Federal agency or the head of the designated Federal entity, as applicable. Not only would this ensure a uniform practice across agencies and leave significantly

⁵⁸ *Id.*

⁵⁹ 5 U.S.C. App. § 8M(b)(1).

⁶⁰ Donovan Slack, VA watchdog stands by decision not to release report, USA TODAY (Mar. 19, 2015), available at <http://www.usatoday.com/story/life/2015/03/19/va-watchdog-stands-by-decision-not-to-release-report/25048581/>. Official source?

⁶¹ *Id.*

⁶² *Id.*

⁶³ Donovan Slack, Congress grills VA watchdog on secret reports, USA TODAY (Mar. 16, 2015), available at <http://www.usatoday.com/story/news/2015/03/16/transparency-of-va-inspector-generals-office-questioned/24859475/>.

less room for interpretation, but it would protect an OIG from any potential pressure by an agency to withhold publication of a report.⁶⁴

The Privacy Act, FOIA, and other laws may prohibit an IG from publicly releasing a report or portions of the report, and nothing in this bill would override those laws. However, it is the express intent of this Committee that laws such as the Privacy Act and FOIA, when applied to the publication of IG reports, be construed in favor of public transparency. It should be the default position of each OIG under the IG Act to publicly release all reports unless otherwise prevented from doing so by law.

3. CIGIE

In addition to Congressional oversight and public accountability, OIGs are monitored by an independent council. In 2008, the CIGIE was statutorily established to address IG issues that span several agencies and work to increase the professionalism of IGs, including a body to consider allegations of misconduct against IGs or other top OIG officials.⁶⁵ The Chair of CIGIE, currently Department of Justice IG Michael Horowitz, is selected to serve a two-year term.⁶⁶ CIGIE serves an important role in setting IG quality standards and overseeing IG professionalism.⁶⁷

Under the IG Act, CIGIE's Integrity Committee (IC), has the responsibility to investigate allegations of misconduct by IGs or OIG officials.⁶⁸ The IC is made up of the Director of the Office of Government Ethics, the Special Counsel of the Office of Special Counsel, four IGs chosen by the Chairperson of CIGIE, and chaired by an official of the FBI.⁶⁹ Under current rules and procedures, the IC conducts a threshold review of allegations it receives and only goes on to conduct a full investigation of those allegations deemed sufficiently serious and credible to warrant it. The IC also has overlapping jurisdiction with the Office of Special Counsel and sometimes defers to the Office of Special Counsel to investigate first or exclusively, but there are not clear guidelines for that coordination. Although the IC has received an average of 28 allegations each year since Fiscal Year 2011, it has disposed of most without a full investigation, having carried out an average of six full investigations each year.⁷⁰

Where the IC does conduct its own, full investigation, it does so without any specific deadlines. Committee Members and others have expressed concern about the length of some IC investigations.⁷¹ Another frequent complaint is that the chairmanship of the

⁶⁴Testimony of the Honorable Todd J. Zinser, Inspector General, U.S. Department of Commerce, Committee on Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, United States Senate, *The Department of Commerce's Fiscal Year 2016 Budget Request*, 27 (Feb. 26, 2015) (detailing a senior Commerce official's threat to sue the IG for publicly releasing an investigative report).

⁶⁵The Inspector General Reform Act of 2008, P.L. 110-409, 5 U.S.C. App. § 11.

⁶⁶Council of the Inspectors General on Integrity and Efficiency, *Mission*, available at <https://www.ignet.gov/content/mission-0>, last visited Feb. 19, 2015.

⁶⁷5 U.S.C. App. § 11(c)(2).

⁶⁸*Id.* at § 11(d)(4), (5).

⁶⁹*Id.* at § 11(d)(2).

⁷⁰Letter from Timothy J. Delaney, Chairperson, CIGIE Integrity Committee, to Sen. Charles E. Grassley, Sen. Comm. on the Judiciary (Dec. 15, 2014).

⁷¹*Id.*

IC is a largely administrative role that has not been embraced by FBI and is better served by another party.⁷²

The bill strengthens the IC investigation process without being overly prescriptive. Among other changes, the bill alters the IC's makeup to ensure a panel of committed, experienced members, and puts time limits on each significant step in the investigation to ensure the IC is moving efficiently toward completing the investigation and keeping Congress apprised of delays as well as informed of the results.

The bill also expands CIGIE's role as an oversight body by authorizing it to receive, review, and mediate any disputes submitted in writing to it by an OIG regarding an audit, investigation, inspection, evaluation, or project that involves the jurisdiction of more than one OIG and to keep the records of the IC. Finally, the bill authorizes funding for CIGIE to help ensure it has sufficient funds to comply with its new and continuing authorities.

D. Conclusion

This bill seeks to address the aforementioned threats to IGs' independence and ability to effectively perform their mission to root out waste, fraud, and abuse in the federal government. With these tools, the Committee believes IGs can be even more effective in providing valuable insight and recommendations to agencies and to Congress.

III. LEGISLATIVE HISTORY

Senator Chuck Grassley (R-Iowa) introduced S. 579 on February 26, 2015 with Senators Claire McCaskill (D-Mo.) and Ron Johnson (R-Wi.). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senators Tammy Baldwin (D-Wi.) and Joni Ernst (R-Iowa) joined as cosponsors on March 4 and March 20, 2015, respectively.

The Committee considered S. 579 at a business meeting on March 4, 2015. During the business meeting, five amendments were offered. Senator Johnson, on behalf of himself and Senator McCaskill, offered a substitute amendment that made technical corrections to the bill and, at the request of the Intelligence Community IG, provided a separate panel to review Intelligence Community IG requests for testimonial subpoenas. The substitute amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Ayotte, Carper, Baldwin, Heitkamp and Peters present.

Senator Johnson, for himself and Senator Baldwin, offered an amendment to clarify that publication of IG reports must occur within three days of it being submitted in final form to the head of the agency or entity. The amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Ayotte, Carper, Baldwin, Heitkamp, and Peters present.

Senator Johnson, on behalf of himself and Senator McCaskill, introduced an amendment to modify the authorized appropriations for CIGIE. The amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Ayotte, Carper, Baldwin, Heitkamp, and Peters present.

⁷²*Id.*

Senator Lankford introduced an amendment on behalf of Senator Sasse to expand the classes of individuals who can be the subject of an IG testimonial subpoena to ensure that individuals who benefit from contracting or grants with the federal government must comply with IG investigations. The amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Ayotte, Carper, Baldwin, Heitkamp, and Peters present.

Senator Baldwin, on behalf of herself and Senator Johnson, introduced an amendment to require that all IG work products making recommendations to the agency or entity are provided to the agency or entity head, the appropriate congressional committees, and posted on the OIG's website. The amendment was adopted by voice vote with Senators Johnson, Portman, Lankford, Ayotte, Carper, McCaskill, Baldwin, Heitkamp, and Peters present.

The Committee ordered the bill, as amended, reported favorably by voice vote on March 4, 2015. Senators present for the vote on the bill were Senators Johnson, Portman, Lankford, Ayotte, Carper, McCaskill, Baldwin, Heitkamp, and Peters.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title; table of contents

This section provides the bill's short title, the "Inspector General Empowerment Act of 2015," and a table of contents.

Section 2. Nonduty status of Inspectors General; supervision

This section amends the header of the Inspector General Act of 1978 Section 3 by striking the word "supervision" and adding the term "administrative leave" to clarify the purpose and effect of what follows.

It also removes from Section 3 references to Inspectors General (IGs) being "supervised" by the agency. This change is meant to enhance the independence of IGs and make clear that nothing in Section 3(a) should be construed to suggest that agency heads exercise any influence, control, or supervision of the IGs.

New paragraph (2) to Section 3(b) adds language about how and when the President can place an IG on paid or unpaid, nonduty status. If the President places an IG on paid or unpaid, nonduty status, he or she must notify Congress in writing within 48 hours of doing so and include the reasons for such action. Such action is limited to situations where the continued presence in the workplace of the IG may pose a threat to the employee or others; result in loss of or damage to property of the Federal Government; or otherwise jeopardize legitimate interests of the Federal Government. Moreover, the President may not place an IG on paid or unpaid, nonduty status for more than 10 days, unless he/she does so pursuant to a written recommendation for more time by the Integrity Committee of CIGIE and immediately notifies Congress of his/her action. This section is constructed to ensure that indefinite paid or unpaid administrative leave cannot be used to improperly impede the independence of an OIG and as a way to avoid the statutory removal process. The authorities in this new subsection are in addition to any other personnel action authorized by law.

New paragraph (3) to section 8G(e) adds language about how and when the head of a DFE can place an IG on paid or unpaid,

nonduty status. If the DFE head places an IG on paid or unpaid, nonduty status, he or she must notify Congress in writing within 48 hours of doing so and include the reasons for such action. Such action is limited to situations where the continued presence in the workplace of the IG may pose a threat to the employee or others; result in loss of or damage to property of the Federal Government; or otherwise jeopardize legitimate interests of the Federal Government. Moreover, the head of a designated Federal entity may not place an IG on paid or unpaid, nonduty status for more than 10 days, unless he/she does so pursuant to a written recommendation for more time by the Integrity Committee of the CIGIE and immediately notifies Congress of his/her action. This section is constructed to ensure that indefinite paid or unpaid administrative leave cannot be used to improperly impede the independence of an OIG and as a way to avoid the statutory removal process. The authorities in this new subsection are in addition to any other personnel action authorized by law.

Section 3. Additional authority provisions for Inspectors General

Section 3(a) creates a new section of the Inspector General Act. This new Section 6A authorizes IGs to require by subpoena the attendance and testimony of certain witnesses, including a current or former contractor (or subcontractor) with the Federal Government, a current or former grantee (or subgrantee) of the federal government, a current or former employee of the aforementioned groups, and any former Federal employee that is necessary in the performance of the functions assigned by the Inspector General Act. The language identifying classes of individuals who may be subject to a testimonial subpoena is designed to encompass those individuals who are receiving—either themselves or by virtue of their employment for a company that receives—a benefit from contracting or accepting a grant from the federal government.

To issue the subpoena, the IG shall submit a request for approval of the subpoena to a review panel made up of 3 members of CIGIE (designated by the CIGIE Chair). In the case of a request by a member of the Intelligence Community, the panel will be made up of 3 members of the Intelligence Community IGs to address any security or other issues. The panel has ten days to review the request and deny, approve, or ask for more time. If the panel approves the subpoena, the IG then notifies the Attorney General of his or her intent to issue a subpoena. The Attorney General has ten days to approve or deny the request if it would interfere with an ongoing matter. If the request is approved or no response is given in ten days, the subpoena may be issued.

This section mandates that CIGIE notify Congress in its annual report of the number of times such a subpoena has been issued.

Section (b) exempts IGs from the Computer Matching and Privacy Protection Act (5 USC 552a(a)) and Paperwork Reduction Act (44 USC 35) restrictions, and ensures that the Computer Matching exemption does not impede the exemption the Health and Human Services IG already has.

Section 4. Additional responsibilities and resources of the Council of the Inspectors General on integrity and efficiency

This section offers numerous amendments to Section 11 of the Inspector General Act of 1978.

It first clarifies the membership of CIGIE will include the IG of the Intelligence Community, rather than the IG of the Office of the Director of National Intelligence, and also requires that the annual report be sent to the appropriate committees of jurisdiction in Congress, in addition to the President.

New subparagraph (c)(1)(H) directs CIGIE to receive, review, and mediate any disputes submitted in writing to it by an Office of Inspector General (OIG) regarding an audit, investigation, inspection, evaluation, or project that involves the jurisdiction of more than one OIG.

This section also makes several amendments to CIGIE's Integrity Committee. Section 11(d) is amended by changing the membership of the Integrity Committee as follows: (1) the FBI will serve on the Council, but will no longer chair the committee; (2) the Special Counsel of the Office of Special Counsel will no longer be a member of the committee; and (3) the Director of the Office of Government Ethics can appoint a designee. The subparagraph is further amended by providing that the Integrity Committee will elect one of the IG members appointed by the Chairperson to sit on the Integrity Committee to serve as Chairperson of the Integrity Committee for a term of two years.

The section amends Section 11(d)(5) to provide greater structure for the Integrity Community's review of allegations and to ensure investigation are timely and efficient. It first requires that, when a complaint of wrongdoing against an IG or other covered employee is received by the Integrity Committee, it is reviewed within 7 days by a subset of the Integrity Committee (a representative of the Department of Justice, a representative of the Office of Special Counsel, and a representative of the Integrity Committee) to determine which of the members the complaint will be referred to. If the complaint is referred to the Integrity Committee, the Integrity Committee has 15 days to review and determine whether the Chairperson of the IC will initiate an investigation. These deadlines are not intended to hamstring the Integrity Committee, but to ensure that investigations occur in a timely fashion.

An amendment to Section 11(d)(6) makes it mandatory, rather than discretionary, for the agency or department to provide necessary resources to the Integrity Committee in the course of its investigation.

Section 11(d)(7)(B) is amended by requiring that investigations referred to the Integrity Committee be conducted by OIGs of similar size to the one being investigated, unless it involves an OIG with less than 50 employees. It also mandates that the Integrity Committee rotate assignment of IGs to investigate allegations and create procedures to avoid conflicts of interests.

Section 11(d)(7)(C) is replaced with language that requires the Chairperson to complete its investigation in 120 days. If it cannot be completed in 120 days, the Chairperson of the Integrity Committee must notify the committees of jurisdiction of the status of such investigation every 30 days until the investigation is complete.

New Section 11(d)(7)(D) allows for concurrent investigations by the Integrity Committee and the Department of Justice or the Office of Special Counsel.

New Section 11(d)(7)(E) requires the Integrity Committee, Department of Justice, and Office of Special Counsel to report to Congress and the CIGIE Chair on the results of any investigations under this section, and provides that any Member of Congress can have access to the results, rather than just a few committees.

Section 11(d)(10) allows any Member of Congress, rather than just a few committees, to request and obtain from the Integrity Committee more detailed information about specific allegations.

The bill adds a new Section 11(d)(12) that permits the Integrity Committee to receive, review, and refer allegations of wrongdoing against the Special Counsel (defined under section 1211(b) of title 5, United States Code) or Deputy Special Counsel and provides for recusal of the Special Counsel representative in certain situations. It also directs the Chairperson of the Council to maintain records for the Integrity Committee.

New subparagraph 11(e) provides authorized appropriations for CIGIE from FY 2016–2021 to ensure CIGIE has sufficient funds to comply with its new and continuing authorities.

Section 5. Reports and additional information

Section 5 requires supplemental reporting requirements related to the work of IGs. First, this section tasks the Government Accountability Office (GAO) with conducting a study on the vacancies in the OIGs that includes the number of prolonged vacancies; the extent to which the numbers have changed over time; an evaluation of the impact of such vacancies; and recommendations for minimizing vacancies. GAO shall report to the appropriate committees of jurisdiction on the study.

Next, this section tasks CIGIE with analyzing critical issues involving the jurisdiction of more than one Federal agency and reporting on this analysis to the appropriate committees of jurisdiction.

Further, this section tasks OIGs with reporting every 6 months to the appropriate committees of jurisdiction (and available by request for any Member of Congress) as follows: (1) reports on the investigations conducted by their office involving employees at GS–15 rate of pay and above where misconduct was found but no prosecution resulted, including the agency’s handling and whether it was referred to the Department of Justice; (2) reports that were authored by the OIG but not made available to the public; (3) instances of whistleblower retaliation at the agency; attempts by the agency to interfere with the OIG’s independence; and any work the OIG performed and submitted for agency comment that was not returned to the OIG within 60 days. This new requirement codifies the provision of this information pursuant to requests that Senators Grassley, Coburn, and Johnson have made to IGs in 2014 and 2015. This information will help ensure Congress has the information it needs to perform its oversight duties of federal agencies.

Finally, this section clarifies and standardizes the procedures of OIGs for sending reports to the head of the agency or entity, providing reports to Congress, and making them public on the OIG’s website. For all work products by IGs that offer recommendations

to the agency, the IG must provide the work product to the head of the agency or federal entity, the appropriate committees of congress, any individual or entity that requested the work product, and, upon request, any Member of Congress. All aforementioned work products, and more broadly, all IG reports, must be published on the OIG's website within three days of the report or work product being submitted in its final form to the head of the agency or entity. There is an exception for information that is specifically prohibited from public disclosure by any other provisions of law to ensure appropriate privacy protections.

Section 6. Technical and conforming amendments

Section 6(a) repeals previous laws for technical purposes.

Section 6(b) revises the Inspector General Act to distinguish between designated Federal agencies and nondesignated Federal agencies.

Section 6(c) makes a number of grammatical and spelling corrections to the Inspector General Act of 1978.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MARCH 17, 2015.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 579, the Inspector General Empowerment Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 579—Inspector General Empowerment Act of 2015

Summary: S. 579 would amend the Inspector General Act of 1978. Specifically, the legislation would authorize the appropriation of \$51 million over the 2016–2021 period for the Council of the Inspectors General on Integrity and Efficiency (CIGIE). In addition, the bill would provide Inspectors General (IGs) with additional investigative authorities and require IGs and the Government Accountability Office (GAO) to submit additional reports to the Congress.

Based on information from selected IGs and assuming appropriation of the authorized and necessary amounts, CBO estimates that implementing S. 579 would cost \$45 million over the 2016–2020 period. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 579 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 579 is shown in the following table. The costs of this legislation fall within all budget functions that have funding for IGs.

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ^a						
Council of the Inspectors General on Integrity and Efficiency:						
Authorization Level	8	8	8	9	9	42
Estimated Outlays	6	8	8	9	9	40
Other Provisions:						
Estimated Authorization Level	2	1	1	1	*	5
Estimated Outlays	2	1	1	1	*	5
Total Changes:						
Estimated Authorization Level	10	9	9	10	9	47
Estimated Authorization Level	8	9	9	10	9	45

Note: * = less than \$500,000.
^a S. 579 also would authorize the appropriation of \$9 million in 2021.

Basis of estimate: For this estimate, CBO assumes that S. 579 will be enacted before the end of 2015, that the authorized and necessary amounts will be provided each year, and that spending will follow historical patterns for federal salaries and expenses.

The Inspector General Act of 1978 created independent offices headed by inspectors general who are responsible for conducting and supervising audits and investigations; promoting economy, efficiency, and effectiveness; and preventing and detecting fraud and abuse in government programs and operations. IGs operate in more than 70 departments and larger federal agencies. The federal government spends about \$3 billion annually on IG activities.

Council of the Inspectors General on Integrity and Efficiency

S. 579 would authorize the appropriation of \$51 million over the 2016–2021 period for the CIGIE. The mission of the council is to investigate allegations of misconduct against IGs and to coordinate government activities to prevent fraud in federal operations and programs. The CIGIE receives no specific appropriation but is funded by transfers from the various IGs. In fiscal year 2014, the CIGIE spent about \$6 million. Based on information from selected IGs and the CIGIE regarding their current operations, and assuming the appropriation of the specified amounts, CBO estimates that implementing this provision would cost \$40 million over the 2016–2020 period and \$11 million thereafter.

Other provisions

S. 579 would require IGs to submit to the Congress additional reports on their activities. The bill also would provide additional investigative authorities to all IGs, and it would require GAO to sub-

mit a report to the Congress. Based on information from IG offices, CBO estimates that implementing those provisions would cost \$5 million over the 2016–2020 period.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 579 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Matthew Pickford; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private-sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 579 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 5—APPENDIX

INSPECTOR GENERAL ACT OF 1978

SEC. 3. APPOINTMENT OF INSPECTOR GENERAL; [SUPERVISION;] REMOVAL; *ADMINISTRATIVE LEAVE*; POLITICAL ACTIVITIES; APPOINTMENT OF ASSISTANT INSPECTOR GENERAL FOR AUDITING AND ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS

(a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to [and be under the general supervision of] the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, [or be subject to supervision by,] any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any [subpoena] *subpoena* during the course of any audit or investigation.

(b) [An Inspector General]

(1) *An Inspector General* may be removed from office by the President. If an Inspector General is removed from office or is transferred to another position or location within an establishment, the President shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. [Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.]

(2) *An Inspector General may not be placed in a paid or unpaid, nonduty status by the President—*

(A) unless the President, not later than 48 hours after the President issues the directive to place the Inspector General in such status, communicates in writing to both Houses of Congress the reasons for such action, which shall be limited to evidence that the continued presence in the workplace of the Inspector General may—

- (i) pose a threat to the employee or others;*
- (ii) result in loss of or damage to property of the Federal Government; or*
- (iii) otherwise jeopardize legitimate interests of the Federal Government; and*

(B) for more than 10 days, unless the Integrity Committee of the Council of the Inspectors General for Integrity and Efficiency submits to the President a written recommendation for additional time, which is acted upon by the President, and the decision is communicated immediately to both Houses of Congress.

(3) Nothing in this subsection shall prohibit a personnel action otherwise authorized by law.

* * * * *

SEC. 4. DUTIES AND RESPONSIBILITIES; REPORT OF CRIMINAL VIOLATIONS TO ATTORNEY GENERAL

(a) * * *

(b)(1) * * *

(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 12(2), Offices of Inspector General of designated Federal entities defined under section **【8F(a)(2)】 8G(a)(2)**, and any audit office established within a Federal entity defined under section **【8F(a)(1)】 8G(a)(1)**, reviews shall be performed exclusively by an audit entity in the Federal Government, including the Government Accountability Office or the Office of Inspector General of each establishment defined under section 12(2), or the Office of Inspector General of each designated Federal entity defined under section **【8F(a)(2)】 8G(a)(2)**.

* * * * *

(e)

(1) Whenever an Inspector General, in carrying out the duties and responsibilities established under this Act, issues a work product that makes a recommendation or otherwise suggests corrective action, the Inspector General shall—

- (A) submit the work product to—*
 - (i) the head of the establishment;*
 - (ii) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate;*
 - (iii) the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives;*
 - (iv) the congressional committees of jurisdiction;*

(v) if the work product was initiated upon request by an individual or entity other than the Inspector General, that individual or entity; and

(vi) any Member of Congress upon request; and
(B) not later than 3 days after the work product is submitted in final form to the head of the establishment, post the work product on the website of the Office of Inspector General.

(2) Nothing in this subsection shall be construed to authorize the public disclosure of information that is specifically prohibited from disclosure by any other provision of law.

SEC. 5. SEMIANNUAL REPORTS; TRANSMITTAL TO CONGRESS; AVAILABILITY TO PUBLIC; IMMEDIATE REPORT ON SERIOUS OR FLAGRANT PROBLEMS; DISCLOSURE OF INFORMATION; DEFINITIONS

(a) * * *

(1) * * *

* * * * *

(13) the information described under section [05(b)] 804(b) of the Federal Financial Management Improvement Act of 1996;

(14) * * *

(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; [and]

(16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented[.]; and

(17) a description of the use of subpoenas for the attendance and testimony of certain witnesses under section 6A.

* * * * *

SEC. 6. AUTHORITY OF INSPECTOR GENERAL; INFORMATION AND ASSISTANCE FROM FEDERAL AGENCIES; UNREASONABLE REFUSAL; OFFICE SPACE AND EQUIPMENT

(a) * * *

(1) * * *

* * * * *

(4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored [information, as well as any tangible thing]) information), as well as any tangible thing and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided, That procedures other than [subpenas] subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

* * * * *

(g)

(1) *In this subsection, the terms ‘agency’, ‘matching program’, ‘record’, and ‘system of records’ have the meanings given those terms in section 552a(a) of title 5, United States Code.*

(2) *For purposes of section 552a of title 5, United States Code, or any other provision of law, a computerized comparison of 2 or more automated Federal systems of records, or a computerized comparison of a Federal system of records with other records or non-Federal records, performed by an Inspector General or by an agency in coordination with an Inspector General in conducting an audit, investigation, inspection, evaluation, or other review authorized under this Act shall not be considered a matching program.*

(3) *Nothing in this subsection shall be construed to impede the exercise by an Inspector General of any matching program authority established under any other provision of law.*

(h) *Subchapter I of chapter 35 of title 44, United States Code, shall not apply to the collection of information during the conduct of an audit, investigation, inspection, evaluation, or other review conducted by the Council of the Inspectors General on Integrity and Efficiency or any Office of Inspector General, including any Office of Special Inspector General.*

SEC. 6A. Additional Authority.

(a) **TESTIMONIAL SUBPOENA AUTHORITY.**—*In addition to the authority otherwise provided by this Act and in accordance with the requirements of this section, each Inspector General, in carrying out the provisions of this Act, is authorized to require by subpoena the attendance and testimony of certain witnesses, including a current or former contractor with the Federal Government, a current or former subcontractor (at any tier) of a contractor with the Federal Government, a current or former grantee of the Federal Government, a current or former subgrantee of a grantee of the Federal Government, a current or former employee of such a contractor, subcontractor, grantee, or subgrantee, and any former Federal employee (but not including any Federal employee, who is otherwise obligated to provide testimony and cooperate with the Inspector General), necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.*

(b) **PANEL REVIEW BEFORE ISSUANCE.**—

(1) **APPROVAL REQUIRED.**—*Before the issuance of a subpoena described in subsection (a), an Inspector General shall submit a request for approval to issue a subpoena by a majority of a panel (in this section referred to as the ‘Subpoena Panel’), which shall be comprised of—*

(A) *3 members of the Council of the Inspectors General on Integrity and Efficiency, as designated by the Chairperson of the Council of the Inspectors General on Integrity and Efficiency; or*

(B) *in the case of a request by an Inspector General from the Intelligence Community, the 3 members designated under subparagraph (A) shall each be members of the Council of the Inspectors General on Integrity and Efficiency’s Intelligence Community.*

(2) *TIME TO RESPOND.*—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), not later than 10 days after the date on which a request for approval to issue a subpoena is submitted under paragraph (1), the Subpoena Panel shall approve or deny the request.*

(B) *ADDITIONAL INFORMATION FOR PANEL.*—*If the Subpoena Panel determines that additional information is necessary to approve or deny a request for approval to issue a subpoena under subparagraph (A), the Subpoena Panel shall, not later than 20 days after the date on which the request is submitted—*

- (i) request the additional information; and*
- (ii) approve or deny the request.*

(3) *DENIAL BY PANEL.*—*If a majority of the members of the Subpoena Panel votes to deny a request for approval to issue a subpoena under subparagraph (B)(ii), the subpoena may not be issued.*

(c) *NOTICE TO ATTORNEY GENERAL.*—

(1) *IN GENERAL.*—*If the Subpoena Panel approves a request for approval to issue a subpoena under subsection (b)(2), the Inspector General shall notify the Attorney General that the Inspector General intends to issue the subpoena.*

(2) *DECISION OF ATTORNEY GENERAL.*—*Not later than 10 days after the date on which the Attorney General is notified under paragraph (1), the Attorney General may—*

- (A) object to the issuance of the subpoena if the subpoena will interfere with an ongoing matter; or*
- (B) approve the issuance of the subpoena.*

(3) *ISSUANCE OF SUBPOENA APPROVED.*—*If the Attorney General approves the issuance of the subpoena or does not object to the issuance of the subpoena during the 10-day period described in paragraph (2), the Inspector General may issue the subpoena.*

(d) *INCLUSION IN ANNUAL REPORT.*—*Not later than 1 year after the date of enactment of this section, and every year thereafter, each Inspector General shall submit to the Chairperson of the Council of the Inspectors General on Integrity and Efficiency the number of times the Inspector General issued a subpoena under this section, which shall be included by the Chairperson in the annual report required under section 11(b)(3)(B)(viii).*

(e) *RULE OF CONSTRUCTION.*—*Nothing in this section shall be construed to affect the exercise by an Inspector General of any testimonial subpoena authority established under any other provision of law.*

SEC. 8D. SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF TREASURY

(a)

(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the

issuance of [subpenas] subpoenas, which require access to sensitive information concerning—

* * * * *

(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General of the Department of the Treasury from carrying out or completing any audit or investigation, or from issuing any [subpena] subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such [subpena] subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

* * * * *

SEC. 8E. SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

(a)

(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of [subpenas] subpoenas, which require access to sensitive information concerning—

* * * * *

(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any [subpena] subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such [subpoena] subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

* * * * *

SEC. 8G. REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

(a) * * *

* * * * *

(d)

(1) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. Except as provided in paragraph (2), the head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any [subpoena] subpoena during the course of any audit or investigation.

(2) * * *

(e)

(1) * * *

(2) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer. [Nothing in this subsection shall prohibit a personnel action otherwise authorized by law, other than transfer or removal.]

(3) *An Inspector General may not be placed in a paid or unpaid, nonduty status by the head of a designated Federal entity—*

(A) unless the head of the designated Federal entity, not later than 48 hours after the head of the designated Federal entity issues the directive to place the Inspector General in such status, communicates in writing to both Houses of Congress the reasons for such action, which shall be limited to evidence that the continued presence in the workplace of the Inspector General may—

- (i) pose a threat to the employee or others;*
- (ii) result in loss of or damage to property of the Federal Government; or*
- (iii) otherwise jeopardize legitimate interests of the Federal Government; and*

(B) for more than 10 days, unless the Integrity Committee of the Council of the Inspectors General for Integrity and Efficiency submits to the head of the designated Federal entity a written recommendation for additional time, which is acted upon by the head of the designated Federal entity, and the decision is communicated immediately to both Houses of Congress.

(4) *Nothing in this subsection shall prohibit a personnel action otherwise authorized by law.*

(f) * * *

(g)

(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), 6A, and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

* * * * *

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section [8C] 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

* * * * *

SEC. 8M. INFORMATION ON WEBSITES OF OFFICES OF INSPECTORS GENERAL

(a) DIRECT LINKS TO INSPECTORS GENERAL OFFICES.—

(1) IN GENERAL.—[Each agency] *Each Federal agency and designated Federal entity* shall establish and maintain on the homepage of the website of [that agency] *that Federal agency or designated Federal entity*, a direct link to the website of the Office of the Inspector General of [that agency] *that Federal agency or designated Federal entity*.

(b) REQUIREMENTS FOR INSPECTORS GENERAL WEBSITES.—

(1) POSTING OF REPORTS AND AUDITS.—The Inspector General of each [agency] *Federal agency and designated Federal entity* shall—

(A) not later than 3 days after any report or audit (or portion of any report or audit) [is made publicly available] *is submitted in final form to the head of the Federal agency or the head of the designated Federal entity, as applicable*, post that report or audit (or portion of that report or audit) on the website of the Office of Inspector General; and

(B) * * *

(2) REPORTING OF FRAUD, WASTE, AND ABUSE.—

(A) IN GENERAL.—The Inspector General of each [agency] *Federal agency and designated Federal entity* shall establish and maintain a direct link on the homepage of the website of the Office of the Inspector General for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this paragraph shall not be required to provide personally identifying information relating to that individual.

(B) ANONYMITY.—The Inspector General of each [agency] *Federal agency and designated Federal entity* shall not disclose the identity of any individual making a report under this paragraph without the consent of the individual unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.

(3) *RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the public disclosure of information that is prohibited from disclosure by any other provision of law.*

(c) *DEFINITIONS.—In this section, the terms ‘designated Federal entity’ and ‘head of the designated Federal entity’ have the meanings given those terms in section 8G(a).*

SEC. 11. ESTABLISHMENT OF THE COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

(a) * * *

(b) MEMBERSHIP.—

(1) * * *

(A) * * *

(B) The Inspectors General of the Office of the [Director of National Intelligence] *Intelligence Community* and the Central Intelligence Agency.

* * * * *

(3) FUNCTIONS OF CHAIRPERSON AND EXECUTIVE CHAIRPERSON.—

(A) * * *

(B) CHAIRPERSON.—The Chairperson shall—

(i) * * *

* * * * *

(viii) **【**prepare and transmit a report annually on behalf of the Council to the President on the activities of the Council.**】** *prepare and transmit an annual report on behalf of the Council on the activities of the Council to—*

(I) the President;

(II) the appropriate committees of jurisdiction of the Senate and the House of Representatives;

(III) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(IV) the Committee on Oversight and Government Reform of the House of Representatives.

(c) FUNCTIONS AND DUTIES OF COUNCIL.—

(1) IN GENERAL.—* * *

(A) * * *

* * * * *

(G) make such reports to Congress as the Chairperson determines are necessary or appropriate; **【and】**

(H) receive, review, and mediate any disputes submitted in writing to the Council by an Office of Inspector General regarding an audit, investigation, inspection, evaluation, or project that involves the jurisdiction of more than 1 Office of Inspector General; and

【(H)】 *(I) perform other duties within the authority and jurisdiction of the Council, as appropriate.*

(2) * * *

(3) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

(A) * * *

(i) * * *

(ii) upon the authorization of the Executive Chairperson, any **【**department, agency, or entity of the executive branch**】** *Federal agency or designated Federal entity (as defined in section 8G(a))* which has a member on the Council shall fund or participate in the funding of such activities.

* * * * *

(d) INTEGRITY COMMITTEE.—

(1) * * *

(2) MEMBERSHIP.—**【**The Integrity Committee shall consist of the following members:**】**

(A) IN GENERAL.—The Integrity Committee shall consist of the following members:

【(A)】 *(i) The official of the Federal Bureau of Investigation serving on the Council**【**, who shall serve as Chairperson of the Integrity Committee, and maintain the records of the Committee**】**.*

【(B)】 *(ii) Four Inspectors General described in subparagraph (A) or (B) of subsection (b)(1) appointed by the Chairperson of the Council, representing both establish-*

ments and designated Federal entities (as that term is defined in section 8G(a)).

[(C) The Special Counsel of the Office of Special Counsel.]

[(D) (iii) The Director of the Office of Government Ethics or the designee of the Director.

(B) CHAIRPERSON.—

(i) IN GENERAL.—*The Integrity Committee shall elect 1 of the Inspectors General referred to in subparagraph (A)(ii) to act as Chairperson of the Integrity Committee.*

(ii) TERM.—*The term of office of the Chairperson of the Integrity Committee shall be 2 years.*

* * * * *

(5) REVIEW OF ALLEGATIONS.—[The Integrity Committee shall—]

(A) [review all allegations of wrongdoing the Integrity Committee receives against an Inspector General, or against a staff member of an Office of Inspector General described under paragraph (4)(C)] IN GENERAL.—*Not later than 7 calendar days after the date on which the Integrity Committee receives an allegation of wrongdoing against an Inspector General or against a staff member of an Office of Inspector General described under paragraph (4)(C), the allegation of wrongdoing shall be reviewed and referred to the Department of Justice or the Office of Special Counsel for investigation, or to the Integrity Committee for review, as appropriate by,—*

(i) *a representative of the Department of Justice, as designated by the Attorney General;*

(ii) *a representative of the Office of Special Counsel, as designated by the Special Counsel;*

(iii) *a representative of the Integrity Committee, as designated by the Chairperson of the Integrity Committee.*

(B) [refer any allegation of wrongdoing to the agency of the executive branch with appropriate jurisdiction over the matter; and] REFERRAL TO THE CHAIRPERSON.—*Not later than 15 calendar days after the date on which an allegation of wrongdoing is referred to the Integrity Committee under subparagraph (A), the Integrity Committee shall determine whether to refer the allegation of wrongdoing to the Chairperson of the Integrity Committee to initiate an investigation.*

[(C) refer to the Chairperson of the Integrity Committee any allegation of wrongdoing determined by the Integrity Committee under subparagraph (A) to be potentially meritorious that cannot be referred to an agency under subparagraph (B).]

(6) AUTHORITY TO INVESTIGATE ALLEGATIONS.—

(A) REQUIREMENT.—*The Chairperson of the Integrity Committee shall cause a thorough and timely investigation of each allegation referred under [paragraph (5)(C)] paragraph 5(B) to be conducted in accordance with this paragraph.*

(B) RESOURCES.—At the request of the Chairperson of the Integrity Committee, the head of each agency or entity represented on the Council—

- (i) **may** shall provide resources necessary to the Integrity Committee; and
- (ii) * * *

(7) PROCEDURES FOR INVESTIGATIONS.—

(A) * * *

(B) ADDITIONAL POLICIES AND PROCEDURES.—

(i) ESTABLISHMENT.—* * *

(I) * * *

(II) * * *

(III) reporting the results of an investigation; **and**

(IV) providing the person who is the subject of an investigation with an opportunity to respond to any Integrity Committee report**【.】**;

(V) *except as provided in clause (ii), ensuring, to the extent possible, that investigations are conducted by Offices of Inspector General of similar size;*

(VI) *creating a process for rotation of Inspectors General assigned to investigate allegations through the Integrity Committee; and*

(VII) *creating procedures to avoid conflicts of interest for Integrity Committee investigations.*

(ii) *EXCEPTION.—The requirement under clause (i)(V) shall not apply to any Office of Inspector General with less than 50 employees who are authorized to conduct audits or investigations.*

【(ii)】 (iii) SUBMISSION TO CONGRESS.—The Council shall submit a copy of the policies and procedures established under clause (i) to the congressional committees of jurisdiction.

【(C) REPORTS.—

【(i) POTENTIALLY MERITORIOUS ALLEGATIONS.—For allegations described under paragraph (5)(C), the Chairperson of the Integrity Committee shall make a report containing the results of the investigation of the Chairperson and shall provide such report to members of the Integrity Committee.

【(ii) ALLEGATIONS OF WRONGDOING.—For allegations referred to an agency under paragraph (5)(B), the head of that agency shall make a report containing the results of the investigation and shall provide such report to members of the Integrity Committee.**】**

(C) COMPLETION OF INVESTIGATION.— *If an allegation of wrongdoing is referred to the Chairperson of the Integrity Committee under paragraph (5)(B), the Chairperson of the Integrity Committee—*

(i) shall complete the investigation not later than 120 calendar days after the date on which the Integrity Committee made the referral;

(ii) if the investigation cannot be completed within the 120-day period described in clause (i), shall—

(I) promptly notify the congressional committees described in paragraph (8)(A)(iii); and

(II) brief the congressional committees described in paragraph (8)(A)(iii) every 30 days until the investigation is complete.

(D) *CONCURRENT INVESTIGATION.*—If an allegation of wrongdoing against an Inspector General or a staff member of an Office of Inspector General described under paragraph (4)(C) is referred to the Department of Justice or the Office of Special Counsel under paragraph (5)(A), the Chairperson of the Integrity Committee may conduct any related investigation referred to the Chairperson under paragraph (5)(B) concurrently with the Department of Justice or the Office of Special Counsel, as applicable.

(E) *REPORTS.*—

(i) *INTEGRITY COMMITTEE INVESTIGATIONS.*—For each investigation of an allegation of wrongdoing referred to the Chairperson of the Integrity Committee under paragraph (5)(B), the Chairperson of the Integrity Committee shall submit to members of the Integrity Committee and to the Chairperson of the Council a report containing the results of the investigation.

(ii) *OTHER INVESTIGATIONS.*—For each allegation of wrongdoing referred to the Department of Justice or the Office of Special Counsel under paragraph (5)(A), the Attorney General or the Special Counsel, as appropriate, shall submit to the Integrity Committee a report containing the results of the investigation.

(iii) *AVAILABILITY TO CONGRESS.*—Any Member of Congress shall have access to any report authored by the Integrity Committee.

(8) *ASSESSMENT AND FINAL DISPOSITION.*—

(A) *IN GENERAL.*—* * *

(i) * * *

(ii) * * *

[(iii) submit to the Committee on Government Oversight and Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and other congressional committees of jurisdiction an executive summary of such report and recommendations within 30 days after the submission of such report to the Executive Chairperson under clause (ii).]

(iii) submit the report, with the recommendations of the Integrity Committee, to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and other congressional committees of jurisdiction; and

(iv) following the submission of the report under clause (iii) and upon request by any Member of Congress, submit the report, with the recommendations of the Integrity Committee, to that Member.

* * * * *

(9) *ANNUAL REPORT.*—* * *

(A) * * *

(B) The number of allegations referred to [other agencies] *the Department of Justice or the Office of Special Counsel*, including the number of allegations referred for criminal investigation.

* * * * *

(10) REQUESTS FOR MORE INFORMATION.—With respect to paragraphs (8) and (9), the Council shall provide more detailed information about specific allegations upon request from [any of the following:

[(A) The chairperson or ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

[(B) The chairperson or ranking member of the Committee on Oversight and Government Reform of the House of Representatives.

[(C) The chairperson or ranking member of the congressional committees of jurisdiction.] *any Member of Congress.*

(11) NO RIGHT OR BENEFIT.—* * *

(12) ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

(A) SPECIAL COUNSEL DEFINED.—*In this paragraph, the term ‘Special Counsel’ means the Special Counsel appointed under section 1211(b) of title 5, United States Code.*

(B) AUTHORITY OF INTEGRITY COMMITTEE.—

(i) IN GENERAL.—*An allegation of wrongdoing against the Special Counsel or the Deputy Special Counsel may be received, reviewed, and referred for investigation to the same extent and in the same manner as in the case of an allegation against an Inspector General or against a staff member of an Office of Inspector General described under paragraph (4)(C), subject to the requirement that the representative designated by the Special Counsel under paragraph (5)(A)(ii) shall recuse himself or herself from the consideration of any allegation brought under this paragraph.*

(ii) COORDINATION WITH EXISTING PROVISIONS OF LAW.—*This paragraph shall not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this paragraph involves section 2302(b)(8) of such title, a failure to obtain corrective action within 120 days after the date on which the allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of such title.*

(C) REGULATIONS.—*The Integrity Committee may prescribe any rules or regulations necessary to carry out this paragraph, subject to such consultation or other requirements as may otherwise apply.*

(13) COMMITTEE RECORDS.—*The Chairperson of the Council shall maintain the records of the Integrity Committee.*

(e) AUTHORIZATION OF APPROPRIATIONS FOR COUNCIL.—For the purposes of carrying out this section, there are authorized to be appropriated into the revolving fund described in subsection (c)(3)(B), out of any money in the Treasury not otherwise appropriated, the following sums:

- (1) \$7,500,000 for fiscal year 2016.*
- (2) \$7,800,000 for fiscal year 2017.*
- (3) \$8,100,000 for fiscal year 2018.*
- (4) \$8,500,000 for fiscal year 2019.*
- (5) \$8,900,000 for fiscal year 2020.*
- (6) \$9,300,000 for fiscal year 2021.*

