



Council of the
INSPECTORS GENERAL
on INTEGRITY and EFFICIENCY

Statement of Michael E. Horowitz
Chair, Council of the Inspectors General on Integrity and Efficiency
Inspector General, U.S. Department of Justice

before the

U.S. House of Representatives
Committee on Oversight and Government Reform

concerning

“Recommendations and Reforms from the Inspectors General”

November 15, 2017

Mr. Chairman, Ranking Member Cummings, and Members of the Committee:

Thank you for inviting me today to discuss recommendations and reforms that would further assist Inspectors General in their oversight efforts. Inspectors General (IGs) play a critical role in ensuring that taxpayer money is used effectively and efficiently, and that federal government agencies and employees are held accountable for their actions. We sincerely appreciate the steadfast bipartisan support this Committee has shown to the IG community, including its efforts to help pass the *Inspector General Empowerment Act of 2016* (IG Empowerment Act) nearly one year ago. In my testimony today, I will focus on the recent achievements of IGs, the impact of the IG Empowerment Act on our ability to continue our oversight work, and the continuing challenges faced by IGs.

IGs are uniquely positioned in the federal government to identify waste, fraud, and abuse because of our placement within the agencies we oversee and our statutory authority to independently conduct audits, inspections, and investigations. This independence is essential to IGs' ability to perform non-partisan, objective oversight of federal agencies. We have conducted this crucial oversight work without regard to political parties or ideologies since Offices of Inspectors General (OIG) were established almost 40 years ago.

As Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and the Department of Justice (DOJ) Inspector General, I have observed the positive impact of the IG community's audits, inspections, reviews, and investigations of federal programs. In fiscal year (FY) 2016, the IG community identified potential savings totaling approximately \$45.1 billion. This total includes \$25.2 billion in potential savings from audit recommendations with which agency management agreed and \$19.9 billion from investigative receivables and recoveries. Compared to the IG community's aggregate FY 2016 budget of about \$2.7 billion, these recoveries and potential savings represent about a \$17 return on every dollar of taxpayer money invested by the Congress in OIGs.

IGs' investigations of administrative or criminal misconduct by federal employees, grantees, and contractors have significant impacts beyond financial recoveries. In FY 2016, the OIGs' investigative work resulted in 4,894 successful criminal prosecutions; 1,580 successful civil actions; 6,448 suspensions and debarments; and 4,315 personnel actions.

These successes illustrate why it is critical that vacant IG positions be filled promptly. During the period of an IG vacancy, acting IGs and career staff carry on the work of their offices, and they do it with the utmost professionalism. However, a sustained absence of permanent leadership is not healthy for any office, particularly one entrusted with the important and challenging mission of an IG. By law, IGs must be selected without regard to political affiliation and based solely on the basis of their integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Under the IG Act, one of CIGIE's responsibilities is to recommend candidates with exemplary qualifications for vacant IG positions to the President for

Presidentially-nominated IGs and to agencies for agency-appointed IGs. We have developed a strong working relationship with the White House Counsel's office and look forward to continuing to work with the Administration to identify and recommend candidates for IG positions who have the expert credentials called for in the IG Act.

There are currently 14 vacant IG positions—12 for Presidential-appointed, Senate-confirmed IG positions and 2 for agency-appointed IG positions. We are pleased that the President has nominated candidates for seven of the vacancies and those nominations are currently pending before the Senate. We hope that the nominations will be considered expeditiously by the Senate.

The Important Impact of the IG Empowerment Act

The IG community's ability to continue its important work was greatly enhanced by the passage of the IG Empowerment Act. Most importantly, the Act rejected an opinion in 2015 by the DOJ's Office of Legal Counsel that threatened our ability to conduct independent and thorough audits, investigations, and reviews by allowing agencies to limit IGs' access to records that were necessary to perform our oversight work. The IG Empowerment Act makes clear that IGs must be granted timely and complete access to all agency information that we need in order to conduct effective oversight. At the DOJ OIG, we have not had any access issues since the enactment of this law. And while some IGs have had questions raised by managers about their legal right to access certain records, those IGs were able to quickly resolve those issues by pointing their respective agencies to the provisions in the IG Empowerment Act. These examples demonstrate why the work of this Committee and the Congress in passing the IG Empowerment Act was so critically important. Nevertheless, there remain concerns about ensuring that agencies give IGs timely access to information, as demonstrated recently by the failure of the Export-Import Bank to timely provide its IG with data in connection with an IG audit released just a few weeks ago, and one issued earlier this year. This foot-dragging by agency leadership delays IG work, thereby impacting our ability to identify issues, and is wholly unacceptable. CIGIE will continue to support IGs in their effort to obtain timely access to agency information, and we appreciate the continued support of this Committee and the Congress in our efforts.

Unimpeded access to agency records also is critical to IGs' efforts to move forward with our data analytics programs. As you know, the GAO has reported that the annual amount of government-wide improper payments continues to increase, with the amount estimated by GAO to exceed \$100 billion annually. In our effort to root out improper and duplicative payments, my office, like many of my fellow IGs, has developed a data analytics program. Critical to these efforts is our ability to obtain data from our agencies in a timely manner so that we can identify waste, fraud, and abuse. For example, in fiscal year 2016, the Federal Bureau of Prisons (BOP) spent over \$1.1 billion on inmate health care. My office is gathering data from the BOP on its healthcare spending and, with the help of our colleagues at the Health and Human Services OIG, we are using our data analytics tools to identify potentially fraudulent and improper payments.

The IG Empowerment Act granted IGs an important authority that will significantly advance our data analytics efforts and our fight against wasteful government spending: the ability to request and match datasets across federal agencies by exempting IGs from the Computer Matching Act. Earlier this year, CIGIE put together a working group of IGs that met and put forward guidance to IGs on using this new authority and putting in place appropriate controls. IGs are now in the process of engaging with one another to share agency information in order to identify individuals who are defrauding federal programs. Further, in meetings with the Office of Management and Budget (OMB), we have raised the possibility of launching a pilot program whereby IGs from several cabinet-level agencies could use agency data to determine whether agency employees, contractors, grantees, or other beneficiaries are improperly receiving additional benefits from a benefit program managed by another federal agency. The IG community and CIGIE will continue to explore appropriate and effective ways to utilize this important new tool in our work.

All IG Reports in One Place: The Launch of Oversight.gov

The IG community's oversight work is more impactful when the public and all of our stakeholders, including Congress and OMB, can easily access IG reports. Yet, until last month, the public would have had to regularly visit the websites of all 73 federal IGs in order to follow our work—there was no website that consolidated those IG reports in one place. That changed in October when CIGIE launched [Oversight.gov](#), which provides a “one stop shop” for the public to follow the ongoing oversight work of all federal IGs that release public reports. Moreover, all of the IG reports on Oversight.gov are fully text searchable, so users can find the information they need and identify trends across the federal government. There are currently over 6,400 IG reports on Oversight.gov, and that number grows everyday as IGs release new reports. In addition, metadata from these reports is aggregated to identify, in real time, the total potential cost savings and number of recommendations identified in the IGs' reports. As a result, on the first day of FY 2018, users of Oversight.gov could immediately see that in FY 2017 the IG community had identified over \$27 billion in potential cost savings and made more than 8,000 recommendations for improvement to federal agencies. This new website was developed primarily through the voluntary and collaborative efforts of CIGIE members because CIGIE receives no direct appropriation from Congress.

Also in October, CIGIE launched its first-ever Twitter account, @Oversightgov, through which followers are notified every time an IG posts a report to Oversight.gov. In addition, CIGIE uses the account to send followers tweets about important IG and CIGIE news. We hope that everyone interested in the work of the IG community will sign up to follow our Twitter feed.

Oversight.gov is just a beginning point for CIGIE in our effort to better inform the public about the important work of the IG community. We are currently planning to develop additional features for the website. For instance, in the coming months, a new page will be added that details the oversight efforts of the OIGs that

make up CIGIE's Disaster Assistance Working Group, which is chaired by Department of Homeland Security IG John Roth. This new page will provide the public with quick and comprehensive access to IG reports assessing how recent federal disaster assistance funding is being used by federal agencies. It also will include information and content about past IG work, and information from OMB about its work in this area. We also are discussing with GAO how we can include information from GAO on this new web page so that the public has a complete picture of the work that is being conducted by the federal oversight community in this important area.

While we were able to build Oversight.gov and the coming Disaster Assistance Working Group page through the voluntary efforts of our members and without an appropriation, other enhancements to the site would require modest funding to perform the necessary up-front development, as well as to support ongoing monitoring to ensure the information provided on the site is consistent, accurate, and up to date. For example, several Members of Congress have expressed interest in the site serving as a central repository for information about open and pending IG recommendations. We agree that greater transparency regarding the thousands of open IG recommendations is important because implementing these recommendations could potentially save the federal government billions of dollars. Moreover, we have found that transparency has a positive impact on encouraging agencies to address long-standing unimplemented recommendations, which benefits taxpayers. Another feature that has been requested is a cross-agency Hotline form that would allow whistleblowers and concerned citizens to more efficiently and securely direct allegations of waste, fraud, and abuse to the appropriate IG. We believe that a Congressional appropriation to CIGIE of approximately \$1 million to \$2 million would enable us to both maintain Oversight.gov's existing features, and develop and operate sites with these and other new features that would greatly benefit the public, Congress, OMB, and all of our stakeholders.

Issuing a Capstone Top Management and Performance Challenges

A particularly valuable document for agency leadership is the Top Management and Performance Challenges report that most IGs are required by law to prepare annually for inclusion in their agencies' reports to Congress. The report typically provides a description of the main challenges that an IG has determined its agency is facing based on the IG's work, experience, and expertise. The report also describes the agency's progress in addressing each challenge and provides a summary of ongoing and completed IG work that relates to the challenge.

These reports can provide an effective roadmap for identifying risk in our federal agencies. And for the first time, thanks to Oversight.gov, they will all be found in one place. Additionally, for the first time, CIGIE will issue a capstone report early next year that identifies, based on these IG reports, the top management and performance challenges across the entire federal government, similar to the GAO's list of high risk areas vulnerable to fraud, waste, abuse, and mismanagement. We believe this report will provide this Committee, the Congress,

OMB, and the public important insight into the operations of the federal government.

Challenges Facing Inspectors General

Having highlighted some of the past achievements and ongoing work of the IG community, let me briefly discuss some of the issues we are facing going forward. The IG Empowerment Act gave us several new and important tools that will enable us to build on our past accomplishments, and we are working on using them in an appropriate and judicious manner. We believe that some additional authorities are also necessary for us to be able to fully carry out our mission. My colleague, IG Kathy Buller, addresses those authorities in her testimony. One example is testimonial subpoena authority. My office continues to have situations where the absence of such authority results in our inability to obtain important and relevant information from former DOJ employees in connection with our investigations, audits, and reviews, including in recent matters involving allegations of whistleblower retaliation and sexual harassment.

Another area of potential concern to the IG community is the impact that flat or declining budgets will have on IGs' ability to continue to conduct the kind of oversight that the public expects from their watchdogs, particularly at the same time that many IGs are being asked to increase their oversight responsibilities. As careful stewards of taxpayer money, we fully appreciate and respect the importance of carefully and appropriately allocating federal resources. However, given our track record of returning to the federal treasury far more money than we are budgeted, the increasing responsibilities being placed on us through legislation, and our important role in public safety and national security matters, we believe careful consideration should be given before impacting our budgets. OIGs are at the front lines of identifying waste, fraud, and abuse in the federal government, and we look forward to working with Congress to ensure we can continue that important work. My colleague, IG John Roth, will discuss funding for the IG community in more detail in his testimony.

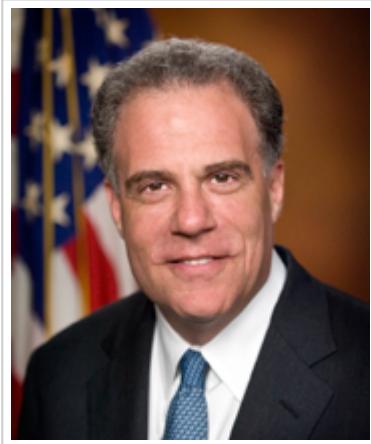
Challenges Facing the Department of Justice OIG

Finally, I would like to briefly mention an issue that only affects the DOJ OIG. Unlike IGs throughout the federal government, the DOJ OIG does not have authority to investigate all allegations of misconduct within the agency we oversee. While we have jurisdiction to review alleged misconduct by non-lawyers in the Department, including agents at the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives, under Section 8E of the IG Act, we do not have the same jurisdiction over alleged misconduct by Department attorneys when they act in their capacity as lawyers—namely, when they are litigating, investigating, or providing legal advice. In those instances, the IG Act grants exclusive investigative authority to the DOJ's Office of Professional Responsibility, a DOJ component that lacks the same statutory independence and protections the OIG is provided by the IG Act.

This bifurcated jurisdiction creates a system where misconduct by FBI agents and other DOJ law enforcement officers is conducted by a statutorily-independent IG appointed by the President and confirmed by the Senate, while misconduct by DOJ prosecutors is investigated by a component head who is appointed by the Department's leadership and who lacks statutory independence. There is no principled reason for treating misconduct by federal prosecutors differently than misconduct by DOJ law enforcement agents. Indeed, other federal IG are responsible for handling misconduct allegations against agency lawyers, including lawyers with prosecuting authority such as those at the Securities and Exchange Commission. I want to thank the Members of this Committee, Congressman Richmond, Congressman Hice, and Congressman Conyers, for their sponsorship of the *Inspector General Access Act*, H.R. 3154, which would ensure that misconduct by lawyers at the Justice Department is subject to the same independent IG oversight as is currently the case with agents and non-lawyers. I look forward to working with Congress to address this anomaly in our jurisdiction.

Thank you again for the strong bipartisan support for our work, and we look forward to working with the Committee, the Congress, and the Administration as the IG community carries out its crucial oversight mission. This concludes my prepared statement, and I would be pleased to answer any questions that you may have.

Meet the Inspector General



Michael E. Horowitz was confirmed as Inspector General for the Department of Justice (DOJ) by the U.S. Senate on March 29, 2012. He was sworn in as the fourth confirmed Inspector General on April 16, 2012.

As Inspector General, Mr. Horowitz oversees a nationwide workforce of more than 400 special agents, auditors, inspectors, attorneys, and support staff whose mission is to detect and deter waste, fraud, abuse, and misconduct in DOJ programs and personnel, and to promote economy and efficiency in Department operations.

Mr. Horowitz most recently worked as a partner at Cadwalader, Wickersham, & Taft LLP, where he focused his practice on white collar defense, internal investigations, and regulatory compliance. He also was a board member of the Ethics Resource Center and the Society for Corporate Compliance and Ethics. From 2003 to 2009, Mr. Horowitz served as a Presidentially appointed and Senate confirmed Commissioner on the U.S. Sentencing Commission. As

Commissioner, he was instrumental in rewriting the guidelines for corporate compliance programs, and for fraud, antitrust, intellectual property, and money laundering offenses.

Mr. Horowitz previously worked for DOJ in the Criminal Division at Main Justice from 1999 to 2002, first as Deputy Assistant Attorney General and then as Chief of Staff. Prior to joining the Criminal Division, he was an Assistant U.S. Attorney for the Southern District of New York from 1991 to 1999. From 1997 to 1999, Mr. Horowitz was the Chief of the Public Corruption Unit, and from 1995 to 1997, he was a Deputy Chief of the Criminal Division. In 1995, he was awarded the Attorney General's Award for Distinguished Service for his work on a complex police corruption investigation.

Before joining the DOJ, Mr. Horowitz was an associate at Debevoise & Plimpton and clerked for Judge John G. Davies of the U.S. District Court for the Central District of California.

Mr. Horowitz earned his Juris Doctor, *magna cum laude*, from Harvard Law School and his Bachelor of Arts, *summa cum laude*, from Brandeis University.

Updated: October 2016