

Appendix F

Pending Inspector General Legislation,
as of February 25, 2008

PENDING LEGISLATION

Provision	H.R. 928	S. 2324	POGO Position
Status	Passed in full House on October 3, 2007, by 404-11	Passed by Committee on Homeland Security and Government Affairs on November 14, 2007, by unanimous voice vote	
Appointment & Removal	Seven-year fixed renewable terms; IGs may be removed only for cause; nine specific causes listed; requires 30 days' advance notice of transfer or dismissal	No fixed terms; no removal for cause; requires advance notice of transfer or dismissal	Supports fixed terms for PCIE IGs; supports removal only for cause
Candidates	Slate of candidates submitted to appointing authority by a committee of the IG council	Slate of candidates submitted to appointing authority by a committee of the IG council	Supports having IG council submit slate of qualified candidates
Pay	Raises PCIE pay to Senior Executive Level III plus 3%; raises DFE pay to level of other senior agency officials; forbids cash awards or bonuses	Raises PCIE pay to Senior Executive Level III plus 3%; raises DFE pay to level of other senior agency officials; forbids cash awards or bonuses	Supports provision
Counsel	No provision	Each IG must obtain legal advice either from own counsel or one reporting to another IG, or from IG council	Supports Senate provision

Provision	H.R. 928	S. 2324	POGO Position
-----------	----------	---------	---------------

IG Council	Establishes joint council, combining PCIE and ECIE, by statute; provides dedicated budget account; Deputy Director of OMB is executive chair; IGs elect chair who convenes meetings and runs Council; creates statutory Integrity Committee	Establishes joint council, combining PCIE and ECIE, by statute; provides dedicated budget account; Deputy Director of OMB is executive chair; IGs elect chair who convenes meetings and runs Council; creates statutory Integrity Committee	Supports provision; would add budget for resource pool of professional IG staff members, including legal, administrative, audit, investigative, and IT, to fill in for OIGs with temporary resource needs
Budget Accounts	IG shall inform Congress if the budget submitted by agency would “substantially inhibit” IG from performing duties; president shall include in budget a separate statement of the amount requested by each IG	IG shall submit budget request to agency; agency head shall include IG request to OMB; president’s budget submission to Congress shall include separate statement of amount requested by each IG beside amount requested by president	Supports Senate provision
Subpoena Power	Makes clear IGs may subpoena any electronically stored information as well as any tangible thing	Makes clear IGs may subpoena any electronically stored information as well as any tangible thing	Supports provision, but also supports giving IGs the testimonial subpoena power and the right to compel interviews
Civil Fraud Remedies Act and law enforcement authority	Would apply to DFEs as well as PCIEs	Would apply to DFEs as well as PCIEs	Supports provision

Provision	H.R. 928	S. 2324	POGO Position
-----------	----------	---------	---------------

Website access	Each agency must have direct link to IG page from home page; link to facilitate accessibility of IG page, including hotline; IG reports to be posted within one day after being made public	Each agency must have direct link to IG page from home page; link to facilitate accessibility of IG page, including hotline; IG reports to be posted within three days of being made public	Supports provision, but would add: IGs must have complete authority and control over their own web pages
Justice Dept. IG	Would remove provision requiring allegations of professional misconduct to be referred to Office of Professional Responsibility, and give authority to IG	Would remove provision requiring allegations of professional misconduct to be referred to Office of Professional Responsibility, and give authority to IG	Supports compromise whereby OIG has jurisdiction over AG and Deputy AG, and OPR retains jurisdiction over all other Dept lawyers re allegations of professional misconduct
Legislative IGs	Most of foregoing provisions would NOT apply to the legislative IGs	Most of foregoing provisions would NOT apply to the legislative IGs	Supports making clear that legislative IGs have the same duties, powers, and responsibilities as all other statutory IGs

POGO RECOMMENDATIONS NOT CURRENTLY COVERED BY EITHER BILL

1. ***The creation of a resource pool of professional employees for smaller IG offices.*** The new combined Council of IGs contemplated by both bills should be given sufficient budget to cover not only its own administrative needs and appropriate training programs, but also to establish a pool of dedicated professionals to assist IGs when the need arises. This pool would include trained government auditors, investigators, information technology experts, and lawyers.
2. ***Clarify the law so that once an IG's budget has been approved, expenditures can be made without further approval.*** IGs must be able to control the expenditure of their own budgets once the amount has been finally approved, without delays by their agencies that have often amounted to denials.
3. ***Make clear that IGs should rely on their own in-house counsel for advice about how FOIA applies to IG reports.*** Information that is generated within the IG's office and from its own investigation should not be subject to redaction by the agency general counsel.
4. ***Provide IGs autonomy over all content on their own web pages.***
5. ***Expand IGs' subpoena power to include the power to compel formal depositions, interviews, and other informal assistance.***
6. ***Enact legislation to make clear that all provisions of law aimed at enhancing the independence of statutory Inspectors General should apply equally to the legislative IGs.***
7. ***The Peace Corps IG should be excepted from that agency's five-year limit on time with the possibility of only two extensions.*** By the time an IG has learned his way around the agency, he is faced with having to ask his agency chief for an extension of time. The Peace Corps IG should have the same terms of service as his colleagues in the DFE IG community.
8. ***Justice Department IG and the DOJ Office of Professional Responsibility should compromise.*** POGO was persuaded that the special situation at the Justice Department and the history of the OPR allow for some continuing authority of the OPR in investigating allegations of improper professional conduct. However, because the Counsel of OPR reports to the Attorney General and the Deputy Attorney General, POGO supports a compromise whereby the IG would have the authority to investigate any allegations of professional misconduct involving the offices of the Attorney General or the Deputy Attorney General. All such accusations against any other Justice Department attorneys would still be referred to the OPR for investigation. DOJ should ensure that OPR informs the IG of all cases it opens.

9. ***Boost the budget and resources of the State Department OIG.*** Many IGs are underfunded, but this important agency has reached the point of crisis; while the Department's budget has grown by 55 percent since the terrorist attacks of 2001, the IG's budget has actually declined in real dollars by 6 percent.
10. ***Require the State Department Bureau of Diplomatic Security and the Office of Inspector General to execute a formal written Memorandum of Understanding defining their respective areas of responsibility.***
11. ***GAO should conduct an extensive investigation of the military and intelligence community non-statutory Inspectors General.*** The current situation in which literally hundreds of military "inspectors general" lack independence and answer to their agency chiefs is unacceptable. The same applies to the Department of Defense intelligence agencies that still lack statutory IGs.
12. ***Congress must reconsider the current mish-mash of IGs serving the civilian intelligence community.*** Legislation currently pending in the intelligence oversight committees would substitute a presidentially-appointed IG to oversee the entire intelligence community for the agency-appointed IG currently serving under parallel authority in the Office of the Director of National Intelligence. The CIA IG is presidentially-appointed, but also serves under authority parallel to the IG law. While POGO agrees that this vital community should have an IG subject to both presidential appointment and Senate confirmation, the question of how the IG for the entire intelligence community will relate to other IGs in the community, whether PCIE, DFE, or non-statutory, is troubling and must be clarified.