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United States Government Accountability Office  
Washington, DC 20548

October 15, 2009

The Honorable Charles E. Grassley  
Ranking Member  
Committee on Finance  
United States Senate

The Honorable Bart Gordon  
Chairman  
Committee on Science and Technology  
House of Representatives

The Honorable Brad Miller  
Chairman  
Subcommittee on Investigations and Oversight  
Committee on Science and Technology  
House of Representatives

Subject: *Integrity Committee's Process to Address Allegations of Wrongdoing by Inspectors General*

This report responds to your request that we review the activities of the Integrity Committee (Committee) of the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) used to address allegations of wrongdoing by federal statutory inspectors general (IGs). Executive Order No. 12993, *Administrative Allegations Against Inspectors General*, signed by the President on March 21, 1996, provided the Integrity Committee of the PCIE and ECIE with the authority to receive, review, and refer for investigation allegations of wrongdoing against IGs and certain staff members of the IG offices. At the time of our review there were statutory IG offices in 67 federal agencies, departments, and entities. The Executive Order provides the Committee this authority over IG staff members whose activities are known to the IG or when the allegation against the staff person is related to an allegation against the IG. The IG Reform Act of 2008 (Reform Act) superseded the Executive Order but maintains the functions of the Integrity Committee with additional authorities, reporting requirements, and responsibilities.<sup>1</sup>

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<sup>1</sup>Pub. L. No. 110-409, 122 Stat. 4302 (Oct. 14, 2008). The Reform Act, among other things, established the Council of the Inspectors General for Integrity and Efficiency (CIGIE), which replaced the PCIE and ECIE. The Integrity Committee is a part of CIGIE.

The IGs have a unique role within their agencies to identify areas for improved economy, efficiency, and effectiveness through independent and objective oversight; prevent and detect fraud, waste, abuse, and mismanagement; and recommend corrective actions. This role requires that IGs and their staff maintain the highest level of integrity and accountability within their own offices. Over the years, concerns have been raised about the transparency of the process for handling allegations of wrongdoing against IGs and their staff. As agreed with your offices, this report describes (1) the Committee's process for addressing allegations of wrongdoing against IGs, (2) whether the Committee adhered to its process as described in Executive Order No. 12993 and implementing policy and procedures, and (3) the effect of the Reform Act on the Committee's process.

To describe the Integrity Committee's process, we reviewed the requirements of Executive Order No. 12993 and the Committee's November 2004 and February 2007 implementing policy and procedures that were in effect at the time of our review. To determine whether the Committee adhered to the Executive Order and the policy and procedures, we obtained and reviewed the case files for all of the 165 allegations received and closed during the 3-year period of January 1, 2005, through December 31, 2007. This period represents the last three full calendar years that the Integrity Committee addressed allegations under the requirements of the Executive Order. From the case files, we obtained information about the various allegations, including the sources, subjects, and nature of the allegations, and the actions taken by the Committee to resolve them and close the case files. We compared this information with the requirements of the Executive Order and the Integrity Committee's implementing policy and procedures. During our review of these files, we also consulted with officials of the Integrity Committee to obtain explanations or additional documentation. We did not provide additional review of the merits of individual allegations brought before the Integrity Committee and therefore do not comment on the professional judgment applied by the Committee to address them. Finally, we analyzed the relevant provisions of the Reform Act to identify and assess any changes that affect the Committee's responsibility to address allegations of wrongdoing by IGs and their staff.

We conducted this performance audit from April 2008 through August 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **Results In Brief**

The Integrity Committee is responsible for receiving, reviewing, and referring for investigation, allegations of wrongdoing by IGs and certain staff. The Committee receives allegations from government contractors, private citizens, IG employees, and those who remain anonymous through phone calls, e-mails, and letters. The Integrity Committee may refer the allegations it receives to the Public Integrity Section of the

Department of Justice (DOJ) to determine whether, if substantiated they would constitute a violation of federal criminal law. If a criminal investigation is warranted the Public Integrity Section refers the matter to the appropriate law enforcement agency. The Integrity Committee reviews all allegations of administrative misconduct that are not criminal in nature to determine if they fall within its jurisdiction, and if so the Committee may perform an administrative investigation or take steps to close the matters.

We reviewed case files for 165 allegations that the Integrity Committee opened and closed during calendar years 2005 through 2007 and found that the Committee's activities were consistent with the requirements of Executive Order No. 12993 and the Committee's implementing policy and procedures. The Integrity Committee received allegations about IGs and their staff in 35 separate federal agencies and entities. The nature of the wrongdoing reported in the allegations involved seven areas of alleged misconduct that included the failure to investigate certain matters, and the mismanagement, waste, and abuse of government resources. DOJ determined that none of these allegations warranted a criminal investigation. The Integrity Committee reviewed the allegations for administrative misconduct and determined that 93 of the 165 allegations were within its jurisdiction because they alleged wrongdoing by an IG or an IG staff member acting with the knowledge of the IG. For those allegations within its jurisdiction, the Integrity Committee conducted 2 separate investigations that addressed 41 allegations. The Integrity Committee closed the remaining 52 allegations within its jurisdiction (1) because the matters were within the IG's discretion to decide where to apply audit and investigative resources, (2) after additional information was obtained indicating a lack of evidence of wrongdoing, (3) after referral of allegations to the responsible IG for action when no indication of wrongdoing is determined, or (4) after referral of the allegations to an agency with jurisdiction. In addition, the Integrity Committee determined that 72 allegations were outside its jurisdiction because they involved lower level IG staff or agency officials, and failed to demonstrate administrative misconduct against an IG or IG staff member acting with the knowledge of the IG.

The Reform Act continues the functions carried out by the Integrity Committee under Executive Order No. 12993 but with the permanence of statute. In addition, the Reform Act provides new guidance and greater transparency over the Committee's activities. Specifically, the Reform Act requires

- IGs to annually designate the positions of staff subject to Integrity Committee review;
- the Integrity Committee to establish policies and procedures necessary to ensure fairness and consistency in its investigations, such as providing the person under investigation the opportunity to respond, which may help to facilitate the Committee's investigations; and
- the Integrity Committee to provide the results of its investigations to congressional committees, agency heads, and the President shortly after completion, and to annually report by December 31 to Congress and the President on certain activities during the preceding fiscal year as specified by the act, which significantly enhances transparency of the Committee's process.

In addition, the Integrity Committee has revised its policy and procedures to implement the Reform Act. Among other things, its revised policy changed the definition of administrative misconduct so that it includes the review of conduct so serious that it may undermine the independence or integrity reasonably expected of an IG or senior IG staff member.

## **Background**

Prior to the Reform Act, the IGs established by the IG Act of 1978<sup>2</sup> and subsequent amendments (IG Act) met and coordinated as two separate councils as provided by Executive Order No. 12805, *Integrity and Efficiency in Federal Programs* (May 11, 1992). The IGs appointed by the President with Senate confirmation were part of PCIE and IGs appointed by their agency heads in designated federal entities defined by the IG Act were part of ECIE.<sup>3</sup> The mission of the two councils was to coordinate and enhance the work of the IGs, and the Integrity Committee was part of these councils. The Deputy Director for Management of the Office of Management and Budget (OMB) chaired both councils and had responsibilities regarding the Integrity Committee's investigations.

Congress enacted the Reform Act to enhance IG independence and accountability. Congress maintained the existing framework and IG community and added authorities and requirements to help build a stronger, more independent, professional, and accountable IG community.<sup>4</sup> For example, the Reform Act combined the existing councils (PCIE and ECIE) into one IG Council (CIGIE), which continues to address integrity, economy, and effectiveness issues, but the act allows CIGIE to operate under statutory authority for the entire IG community and provides additional resources and authorities.<sup>5</sup> Similarly, the Reform Act continues the Integrity Committee's authority to address allegations of wrongdoing as part of an IG council and provides additional authorities and requirements.

The Reform Act also maintains the OMB Deputy Director for Management's responsibilities regarding the Integrity Committee's activities. Under both the Executive Order and the Reform Act, the Integrity Committee consists of (1) an official of the Federal Bureau of Investigation (FBI) who serves as the Integrity Committee Chairperson; (2) the Special Counsel of the Office of Special Counsel; (3) the Director of the Office of Government Ethics; and (4) representative IGs. Further, the Chief of the Public Integrity Section of the Criminal Division of DOJ served as an advisor to the Integrity Committee under the Executive Order and continues as a legal advisor under the Reform Act. In addition, the Integrity Committee Chairperson appoints a Working Group that may be composed of FBI employees or the staff of CIGIE members to assist in the Chairperson's responsibilities and to handle all correspondence. (See encls. I, II, and III for a current listing of the federal agencies, departments, and entities with statutory IG offices.)

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<sup>2</sup>Pub. L. No. 95-452, 92 Stat. 1101 (Oct. 12, 1978) (codified, as amended, at 5 U.S.C. App.).

<sup>3</sup>The first President's Council on Integrity and Efficiency was established in 1981 under Executive Order No. 12301, *Integrity and Efficiency in Federal Programs* (May 26, 1981).

<sup>4</sup>The IGs in the legislative branch were added as members of CIGIE.

<sup>5</sup>S. Rep. No. 110-262 at 5 (Feb. 22, 2008).

During passage of the Reform Act bill, the House of Representatives Committee on Oversight and Government Reform noted that to preserve the credibility of an IG's office, IGs must also perform their duties with integrity and apply the same standards of conduct and accountability to themselves as they apply to the agencies that they audit and investigate.<sup>6</sup> The House Committee expressed concern that a lack of consistent and credible mechanisms for investigating and resolving allegations of misconduct by Inspectors General may threaten accountability and credibility.<sup>7</sup> Similarly, the Senate Committee on Homeland Security and Governmental Affairs noted that with greater IG autonomy there is a heightened risk of IGs abusing their power.<sup>8</sup> The Senate Committee recognized that the IGs are not immune from real or alleged misconduct or mismanagement and it is critical that there be an effective and credible mechanism to address complaints about IGs when they arise.<sup>9</sup>

A combination of alleged troubling instances of IG misconduct, misunderstood procedures of the existing Integrity Committee, and a lack of transparency over the Committee's actions and processes led Congress to provide additional authorities and requirements involving the Integrity Committee. For example, the Senate Committee on Homeland Security and Governmental Affairs reported that because Congress had no systematic or assured way to learn of serious allegations against an IG or to learn of the results of an investigation into those allegations, the Reform Act would require the Integrity Committee to notify Congress of its procedures, and prepare regular reports on the investigations it undertakes in hopes of providing an oversight process that is more transparent and more accountable than that under the Executive Order.<sup>10</sup>

### **The Integrity Committee Process**

The Integrity Committee process for addressing allegations of wrongdoing includes activities for the receipt, review, and referral for investigation of allegations leading to closure of the matters by the committee. (See fig. 1.) The Integrity Committee developed implementing policy and procedures to reflect the requirements in Executive Order No. 12993, and the Committee continues to carry out this basic process under the Reform Act using its revised implementing policy and procedures.

The Integrity Committee Working Group at FBI Headquarters receives allegations from government contractors, private citizens, IG employees, and those who remain anonymous through phone calls, e-mails, and letters. The Working Group opens case files for the allegations which are numbered to correspond with sources that often make multiple allegations. The Working Group conducts an initial review of each complaint to determine whether it is within the Integrity Committee's jurisdiction, or may request additional information from the complainant if the complaint lacks sufficient detail.

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<sup>6</sup> H.R. Rep. 110-354 at 9 (Sept. 27, 2007).

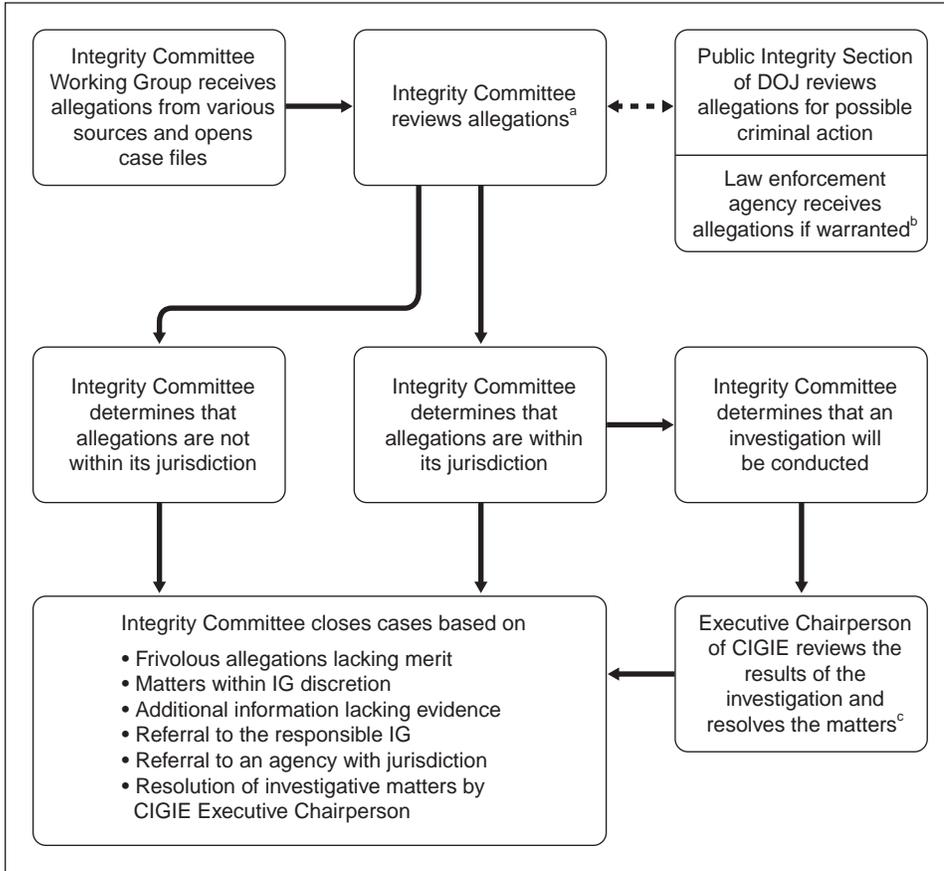
<sup>7</sup> Id.

<sup>8</sup> S. Rep. No. 110-262 at 3 (Feb 22, 2008).

<sup>9</sup> Id at 6.

<sup>10</sup> Id.

**Figure 1: Activities of the Integrity Committee**



Source: GAO analysis of Executive Order No. 12993, the Reform Act, Integrity Committee case files and implementing policy and procedures.

<sup>a</sup>The Integrity Committee may request additional information from either the sources or the subjects of the allegations during their review.

<sup>b</sup>DOJ determined that none of the allegations in our review warranted criminal investigation.

<sup>c</sup>Under Executive Order No. 12993 this function was performed by the Chairperson of PCIE and ECIE.

Under the Executive Order, complaints fell within the Integrity Committee’s jurisdiction when wrongdoing was alleged on the part of an IG or staff members of the IG’s office whose activities were known to the IG or when the allegation against a staff person was related to an allegation against the IG. The Reform Act also requires that allegations of wrongdoing by IGs be included in the Integrity Committee’s jurisdiction but defines IG staff to be any staff that report directly to the IG or are designated by the IG to be subject to Integrity Committee review.<sup>11</sup> The Integrity Committee may close a case if it determines that the allegation is frivolous, not supported by meaningful documentation, and lacks potential merit. In addition, the Integrity Committee may determine that the matters in the allegation are within an IG’s discretion to decide, and therefore close the case. For example, the Integrity

<sup>11</sup>The Reform Act requires each IG to annually submit to the Chairperson of the Integrity Committee a designation of positions whose holders are staff members subject to Integrity Committee review.

Committee has determined there is no wrongdoing by an IG who uses his or her discretion to decide where to apply limited audit and investigative resources even though the IG is alleged to have ignored an area of importance to the complainant.

The Integrity Committee may also refer an allegation to another agency with the appropriate jurisdiction. For example, the Integrity Committee may refer equal employment opportunity complaints to the Equal Employment Opportunity Office of the affected agency, and refer allegations of illegal political activity, whistleblower retaliation, or prohibited personnel practices to the Office of Special Counsel or other agency as provided by law.<sup>12</sup> In addition, the Integrity Committee may close a case when the allegation is known to be incorrect and refer the allegation to the subject IG for disposition as deemed appropriate by the IG. Also, the Integrity Committee may close a case after additional information is obtained from the subject of the complaint which disproves the allegation. Where the source of the allegation is known, the Integrity Committee provides the complainant with information regarding the disposition of the allegation.

The Integrity Committee Chairperson may refer any complaint containing allegations that present the possibility of criminal conduct to the Public Integrity Section of DOJ. The Public Integrity Section then determines whether the allegation, if substantiated, would constitute a violation of federal criminal law. If the Public Integrity Section determines that a criminal investigation is warranted, it will notify the Integrity Committee and refer the matter to the appropriate law enforcement agency. If the Public Integrity Section determines that a criminal investigation is not warranted, the matter is returned to the Working Group for further review.

The Integrity Committee reviews each complaint within its jurisdiction to determine whether the allegation substantially involves administrative misconduct such as a violation of law, rule, or regulation; gross mismanagement; gross waste of funds; or abuse of authority in the exercise of official duties.<sup>13</sup> For example, administrative misconduct may include allegations of questionable travel costs and contracting practices, promotions and appointments of IG office personnel, and conflicts of interest.

The Integrity Committee determines whether to perform an investigation of allegations within its jurisdiction. Typically, allegations that the Integrity Committee accepts for investigation clearly identify the alleged wrongdoing by an IG or covered IG staff member and contain supporting documentation. If the allegation lacks sufficient information to proceed with an investigation, the Integrity Committee may choose to take no further action or direct the Working Group to make further inquiries to develop additional information for the Integrity Committee to consider in determining whether an investigation is warranted. If an allegation appears to have potential merit the Integrity Committee will submit the matter to the Integrity

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<sup>12</sup>The Reform Act requires that agency heads receiving allegations referred to them by the Integrity Committee provide a report containing the results of their investigation to the Integrity Committee.

<sup>13</sup>In its revised policy and procedures to address changes in the Reform Act, the Integrity Committee added to its definition of administrative misconduct to include conduct so serious that it may undermine the independence or integrity reasonably expected of an IG or IG staff member.

Committee Chairperson who will cause an investigation of the allegation to be conducted. The Integrity Committee may request that the FBI conduct or assist in the investigation of allegations, or it may request an uninvolved IG office to perform the investigation under the control and direction of the Integrity Committee Chairperson. These investigations are to be conducted in accordance with the *Quality Standards for Investigations*<sup>14</sup> using the investigative procedures of the investigating IG or as directed by the Integrity Committee Chairperson.

At the conclusion of an investigation, the investigating team reports the facts and conclusions to the Integrity Committee. The Integrity Committee determines whether the allegations under investigation are substantiated and whether administrative misconduct has been established. If warranted, the Integrity Committee forwards the report of investigation along with a letter containing the findings, opinions, and recommendations, to the Executive Chairperson of CIGIE. The Executive Chairperson then notifies the Integrity Committee concerning the final disposition of the matters in the investigative report and the case file is closed.

The Integrity Committee may determine that allegations are not under its jurisdiction because they do not allege wrongdoing by an IG or certain IG staff as described by the Executive Order for the allegations in the 3-year period we reviewed, or as indicated by the Reform Act for allegations currently received. The Integrity Committee may refer these allegations to another federal agency with appropriate jurisdiction over the matter or refer them to the concerned IG for disposition. For example, an allegation may allege wrongdoing by a lower level staff member of an IG's office who acted without the knowledge of the IG and therefore not meet the conditions for Integrity Committee jurisdiction. Nevertheless, the Integrity Committee may refer this information to the IG for possible review and correction of the matter regarding the staff member. In addition, while determining whether allegations are within its jurisdiction, the Integrity Committee may obtain additional information that disproves the allegation or determine that the allegations address matters that are within the IG's discretion to decide.

### **The Integrity Committee's Activities Were Consistent with Requirements of the Executive Order**

The Integrity Committee received and closed 165 allegations during calendar years 2005 through 2007. Based on our review of these case files, the activities of the Integrity Committee were consistent with the requirements of the Executive Order and the Committee's implementing policy and procedures. The documentation in the numbered case files at FBI Headquarters indicate that the Integrity Committee provided a copy of each allegation to the Public Integrity Section of DOJ for a determination as to whether the allegation, if proven, would constitute a prosecutable violation of federal criminal law. The Public Integrity Section returned each of the allegations in our 3-year sample to the Integrity Committee with its determination that a criminal investigation was not warranted.

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<sup>14</sup>*Quality Standards for Investigations*, PCIE and ECIE (Washington, D.C.: December 2003).

Out of a total of 67 federal agencies, departments, and entities with statutory IGs as of December 31, 2007, 35 had IGs or IG staff involved in allegations of wrongdoing over the 3-year period of our review. (See encl. IV.) The nature of the complaints made in the 165 allegations can be grouped into seven types of alleged misconduct, as shown in table 1.

**Table 1: Allegations Against IGs and Their Staff**

	<b>Nature of alleged misconduct</b>	<b>Examples of specific allegations</b>	<b>Number of allegations</b>
1.	Alleged failure to investigate	Allegations that IG investigations were not done on issues that appeared, to the complainant, to warrant them	32
2.	Alleged mismanagement, waste, and abuse	Allegations that IG auditors had done too much costly testing activity rather than sampling during an audit	31
3.	Alleged improper personnel decisions	Complaints regarding promotions, appointments, personnel records, and alleged racial discrimination	29
4.	Alleged improper investigative activity	Alleged bias by an IG office for a specific outcome, lack of timeliness, and a disregard for evidence	25
5.	Alleged independence issues	Allegations of conflicts of interest and work as redirected away from sensitive issues	22
6.	Alleged lack of compliance with laws and regulations	Allegations of questionable travel costs and contracting practices subject to laws and regulations	13
7.	Other allegations	Allegations included unprofessional behavior and making false statements	13
Total allegations			165

Source: GAO analysis of Integrity Committee case files.

The Integrity Committee determined that 93 allegations were against an IG or a Deputy IG and within its jurisdiction. The remaining 72 allegations were determined by the Integrity Committee to be outside its jurisdiction because they involved lower level IG staff or agency officials and failed to demonstrate administrative misconduct against an IG, or IG staff member acting with the knowledge of the IG.

For the 93 allegations within its jurisdiction the Integrity Committee took the following actions to close the case files.

- The Integrity Committee referred 41 allegations to other IG offices for investigation, as part of 2 separate administrative investigations the Committee conducted during the 3-year period of our review. One investigation of the National Aeronautics and Space Administration (NASA) IG

involved 35 allegations and another investigation of the Department of Defense (DOD) IG involved 6 allegations.<sup>15</sup>

- The Department of Housing and Urban Development (HUD) IG performed the investigation of the allegations made against the NASA IG and submitted the investigative results to the Integrity Committee on August 30, 2006. The Chairperson of PCIE and ECIE advised the NASA Administrator to determine the appropriate actions to address the investigation's conclusions. The Integrity Committee stated that the matter was resolved within the terms of the Executive Order when the Chairperson of PCIE and ECIE informed them that he had accepted the actions recommended by the NASA Administrator, and accordingly, the case file was closed on April 26, 2007.<sup>16</sup>
  - The U.S. Postal Service (USPS) IG performed the investigation of the allegations made against the DOD IG, from November 2, 2005, to April 25, 2006, and reported the results to the Integrity Committee on June 9, 2006. The Chairperson of PCIE and ECIE sent a letter to the Deputy Secretary of Defense to suggest that DOD consider taking appropriate steps to address observations made during the investigation and included in the investigative report. However, the Integrity Committee concluded that none of the allegations were substantiated by the investigation and closed the case file on September 19, 2006.
- For 24 allegations, the Integrity Committee concluded that the IG or Deputy IG had exercised the discretion of their office and found no indications of administrative misconduct. For example, one complainant alleged that the IG failed to perform investigations of possible fraud at a medical school. The Integrity Committee closed the case file and concluded that such decisions were made within the IG's discretion and that the IG must decide where best to apply resources for investigations.
  - IGs provided additional information for the Committee's review on 17 of the allegations, and the Committee found that none of these allegations involved actions that violated any laws, regulations, or rules, and there were no instances of mismanagement, waste, or abuse of authority. For example, a complainant alleged that an IG had taken official travel not related to the duties of the office. The Integrity Committee contacted the subject IG and requested a response to justify the official travel. After reviewing the IG's documentation, the Integrity Committee closed the case file.
  - The Integrity Committee referred seven allegations back to the IGs who were the subjects of the allegations for actions as deemed appropriate by the IGs. These allegations generally related to administrative complaints from IG staff and, as determined by the Integrity Committee, did not rise to the criteria

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<sup>15</sup>The DOD IG was the subject of 15 allegations during the 3-year period; 6 were closed after the Integrity Committee investigation and 9 were closed without an investigation.

<sup>16</sup>For more information on the outcome of this Integrity Committee investigation refer to GAO, *Inspectors General: Actions Needed to Improve Audit Coverage of NASA*, GAO-09-88 (Washington, D.C.: Dec. 18, 2008).

provided by the implementing policy and procedures for administrative misconduct. For example, a complainant alleged the IG had failed to investigate the agency's illegal use of subpoenas. The Integrity Committee provided clarification to the complainant to show the agency's actions were allowed. In addition, the Integrity Committee determined that the IG had the discretion to determine whether an investigation of the matter was warranted.

- The Committee referred four allegations to another agency with jurisdiction over the matters. Three of these allegations were referred to the appropriate equal employment opportunity office and one was referred to the Office of Special Counsel. Two of these allegations had responses provided back to the Integrity Committee and the case files were closed. The remaining two allegations were closed when the referrals were made and the Integrity Committee did not require a response.

The Integrity Committee took the following actions regarding the 72 allegations that it determined were not within its jurisdiction. These allegations were either not directed at an IG or an IG staff member acting with the knowledge of the IG, or failed to demonstrate any administrative misconduct.

- The Committee referred 51 allegations to the responsible IGs for action as deemed appropriate. For example, one complainant alleged that the IG's office had failed to investigate allegations of fraud associated with the award of a contract. The Integrity Committee concluded that the allegation failed to show a substantial likelihood of a violation of a law, regulation, or rule, nor gross mismanagement, waste, or abuse of authority by the IG or the Deputy IG. The Integrity Committee closed the case file for this allegation and referred the complaint to the IG for action as deemed appropriate.
- For the remaining 21 allegations the committee
  - requested additional information in 10 cases from either the subjects or the sources of the allegations before closing the case files due to a lack of evidence of wrongdoing,
  - referred 8 allegations to another agency with jurisdiction, and
  - determined that 3 of the allegations involved issues within the discretion of the IG, and alleged no misconduct.

### **Reform Act Provides Additional Guidance and Increased Transparency for Integrity Committee Activities**

The Reform Act established a statutory basis for the Integrity Committee within CIGIE, and provided the Integrity Committee with generally the same functions as those under the Executive Order to receive, review, and refer for investigation allegations of wrongdoing made against IGs and certain staff members of the IG offices. The Reform Act also provides new guidance and greater transparency over Integrity Committee activities than called for in Executive Order No. 12993.

The Reform Act requires the IGs to annually submit a designation of positions within each IG's office whose holders are staff members subject to review by the Integrity Committee. The Integrity Committee's revised policy and procedures implementing the Reform Act state that positions reporting directly to an IG are to be included, such as the Deputy IG and the Counsel to the IG. In addition, other positions with significant responsibilities should normally be included where it is likely that an internal investigation regarding an allegation of wrongdoing on the part of that staff member would lack an appearance of objectivity. As an example, Assistant IGs may be specified for review by the Integrity Committee. This guidance encourages the IGs to provide a designation of positions beyond the IG and the Deputy IG.

The Reform Act also requires the Integrity Committee to establish policies and procedures that ensure fairness and consistency in conducting investigations and reporting the results. The Integrity Committee's revised policy and procedures include steps to provide a copy of the report of investigation to the IG or designated staff member before the final consideration of the report by the Integrity Committee.<sup>17</sup> The IG or designated staff member has the opportunity for comment concerning the report's accuracy and may submit additional statements or documents for the Integrity Committee's consideration.

In addition, the Reform Act enhances the transparency of the Integrity Committee's process by establishing additional reporting requirements to help ensure timely notification to Congress of its investigations and other activities. The Reform Act requires the Integrity Committee to provide an executive summary of any completed investigation along with its recommendations to congressional committees with jurisdiction within 30 days after the investigative results are provided to the Executive Chairperson of CIGIE.<sup>18</sup> In addition, the report of investigation is to include any recommendations of the Integrity Committee, including those on disciplinary action. Notification to Congress of the investigative results with recommendations can allow for additional oversight and help to ensure that meaningful corrective actions will be taken on weaknesses identified by current and future Integrity Committee investigations.

The Reform Act also requires the CIGIE to submit additional information to both Congress and the President by the end of each calendar year on the activities of the Integrity Committee for the preceding fiscal year. This provides an opportunity for additional oversight of Integrity Committee activities. The reported information is to include the number of allegations received, referred to other agencies, and referred for criminal investigation; as well as those allegations referred to the Chairperson of the Integrity Committee for investigation and those allegations closed without referral. In addition, the report is to include the date the Committee received and closed each allegation, the status of investigations, and a summary of the findings of the investigations completed during the preceding fiscal year. The first annual report, for fiscal year 2009, is due to Congress by December 31, 2009.

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<sup>17</sup> Executive Order No. 12993 previously allowed the Integrity Committee the discretion to ask the subject IG for comments before disposition.

<sup>18</sup> The Reform Act requires that the Executive Chairperson of CIGIE receive the report of investigation no later than 30 days after completion of the investigation.

In addition, the Integrity Committee's policy and procedures that implemented the Executive Order included a definition of administrative misconduct used to review allegations of wrongdoing. The revised policy and procedures in response to the Reform Act include this definition but add to it the consideration of matters that potentially involve conduct so serious that it may undermine the independence or integrity reasonably expected of an IG or a senior staff member in an IG office.

During our review, we suggested that the Committee update its policy and procedures to make them consistent with the requirements of the Reform Act. The Committee issued its revised policies and procedures, *The Council of the Inspectors General of Integrity and Efficiency, Integrity Committee Policy and Procedures*, in April 2009. We provided a draft of our report to the FBI to obtain comments from the Integrity Committee Chairperson, who is Assistant Director of the FBI's Criminal Investigative Division. In response the FBI stated that it had reviewed the draft report and had no comments.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time, we will send copies of the report to the Integrity Committee, OMB Deputy Director for Management, the Chairperson and Vice Chairperson of CIGIE, other congressional committees, and interested parties. This report will also be available at no charge on the GAO Web site at <http://www.gao.gov>. If you have any questions or would like to discuss this report please contact me at (202) 512-8486 or by e-mail at [raglands@gao.gov](mailto:raglands@gao.gov). Major contributors to this report are listed in enclosure V.



Susan Ragland  
Director  
Financial Management and Assurance

## **Enclosure I**

### **Federal Agencies and Departments with IGs Established by the IG Act and Appointed by the President**

Agency for International Development  
Corporation for National and Community Service  
Department of Agriculture  
Department of Commerce  
Department of Defense  
Department of Education  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of Housing and Urban Development  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of State  
Department of Transportation  
Department of the Treasury  
Department of Veterans Affairs  
Environmental Protection Agency  
Export-Import Bank  
Federal Deposit Insurance Corporation  
Federal Housing Finance Agency  
General Services Administration  
National Aeronautics and Space Administration  
Nuclear Regulatory Commission  
Office of Personnel Management  
Railroad Retirement Board  
Small Business Administration  
Social Security Administration  
Tennessee Valley Authority  
Treasury Inspector General for Tax Administration

Source: CIGIE

## **Enclosure II**

### **Designated Federal Entity IGs Established by the IG Act, as Amended, with Appointment by Their Agency Heads**

Amtrak

Appalachian Regional Commission

Broadcasting Board of Governors <sup>1</sup>

Commodity Futures Trading Commission

Consumer Product Safety Commission

Corporation for Public Broadcasting

Denali Commission

Election Assistance Commission

Equal Employment Opportunity Commission

Farm Credit Administration

Federal Communications Commission

Federal Election Commission

Federal Labor Relations Authority

Federal Maritime Commission

Federal Reserve Board

Federal Trade Commission

Legal Services Corporation

National Archives and Records Administration

National Credit Union Administration

National Endowment for the Arts

National Endowment for the Humanities

National Labor Relations Board

National Science Foundation

Peace Corps

Pension Benefit Guaranty Corporation

Postal Regulatory Commission

Securities and Exchange Commission

Smithsonian Institution

United States International Trade Commission

United States Postal Service

Source: CIGIE

<sup>1</sup>The Broadcasting Board of Governors is a designated federal entity with oversight provided by the Department of State IG.

### **Enclosure III**

#### **Agencies with Inspectors General Appointed under Statutes Other than the IG Act**

Architect of the Capitol

Central Intelligence Agency

Government Accountability Office

Government Printing Office

Library of Congress

Office of Director of National Intelligence<sup>2</sup>

Special IG for Afghanistan Reconstruction

Special IG for Iraq Reconstruction

Special IG for the Troubled Asset Relief Program

United States Capitol Police

Source: CIGIE

<sup>2</sup>The IG Act authorizes the Director of National Intelligence to appoint an IG.

## Enclosure IV

### Allegations Against IGs and Their Staff at Federal Departments, Agencies, and Entities during Calendar Years 2005 through 2007

	<b>Federal entities</b>	<b>Number of Allegations</b>
1	National Aeronautics and Space Administration	35
2	Department of Defense	15
3	Department of the Interior	9
4	Department of Veterans Affairs	9
5	Department of Homeland Security	8
6	Department of Transportation	8
7	Department of Agriculture	6
8	Nuclear Regulatory Commission	6
9	Department of State	6
10	United States Postal Service	6
11	Department of Education	5
12	Department of Health and Human Services	5
13	Environmental Protection Agency	4
14	Federal Deposit Insurance Corporation	4
15	Internal Revenue Service (TIGTA)	4
16	Railroad Retirement Board	4
17	Agency for International Development	3
18	Amtrak	3
19	Department of Commerce	3
20	Securities and Exchange Commission	3
21	Department of Energy	2
22	Department of Housing and Urban Development	2
23	General Service Administration	2
24	Office of Personnel Management	2
25	Appalachian Regional Commission	1
26	Department of Labor	1
27	Department of the Treasury	1
28	Federal Housing Finance Board	1
29	Legal Services Corporation	1
30	National Science Foundation	1
31	Office of Government Ethics	1
32	Office of Special Counsel	1
33	Peace Corps	1
34	Social Security Administration	1
35	Special Inspector General for Iraq Reconstruction	1
	<b>Total</b>	<b>165</b>

Source: GAO analysis of Integrity Committee case files.

**Enclosure V**

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