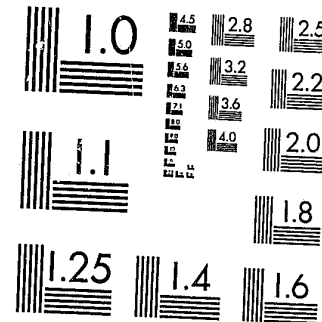


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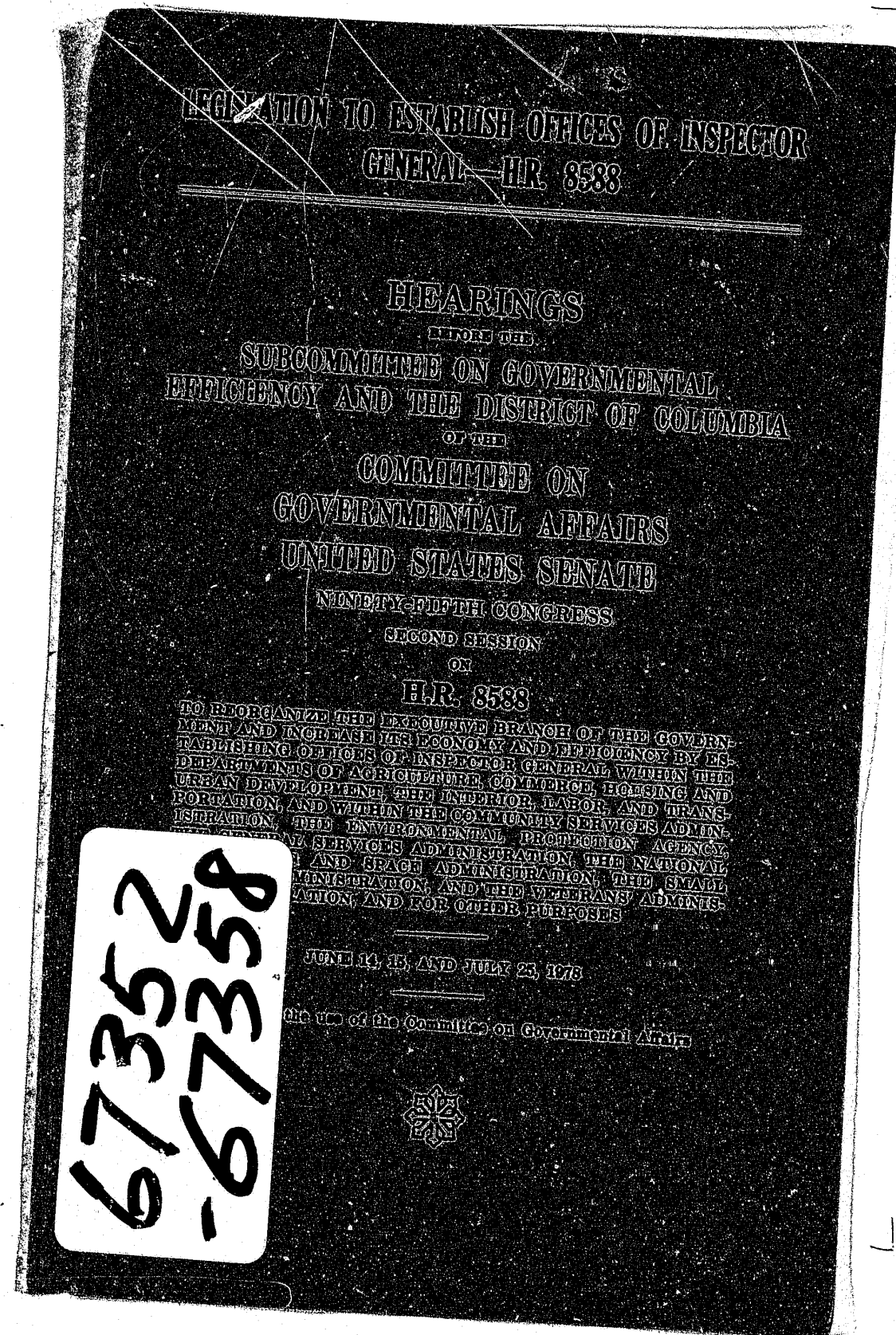
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PREPARED STATEMENT OF JOHN C. KEENEY, ACTING ASSISTANT
ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT
OF JUSTICE

I am happy to appear today with members of our Fraud
Section.

The major priorities of the Attorney General in the
law enforcement area are organized crime, white collar crime,
public official corruption, and illegal drug trafficking.
As you know, the Department and the Attorney General have
made a particular commitment to maintaining and protecting
the integrity of Government programs and procurement. The
former Assistant Attorney General, Benjamin R. Civiletti,
now the Deputy Attorney General, previously testified in
support of the Inspector General Bill concept before a
Subcommittee of the House of Representatives last summer.
The Division continues to support the concept of an
Inspector General's office.

The Fraud and Public Integrity Sections of the Criminal
Division assist United States Attorneys and conducts their
own investigations and prosecutions. These Sections are
the principal units in the Division involved in efforts to
deal with white collar crime connected with Federal programs
and procurement. The Fraud Section has a professional staff
of forty-five (45) attorneys and four (4) paralegals, while
the Public Integrity Section has a complement of twenty-four
(24) attorneys and two (2) paralegals. The principal

responsibilities of these Sections include coordinating enforcement efforts with other agencies and assisting the efforts of the 94 United States Attorneys and their approximately 1,600 Assistants in the prosecution of fraud matters. My views, as well as those of Deputy Attorney General Civiletti expressed before the House Subcommittee, reflect the position of the Department on the impact of the Inspector General Bill on Government fraud investigations and prosecutions. I will defer to my brethren from the Office of Legal Counsel concerning the constitutional implications of the legislation.

The Department strongly supports increased compliance, audit and investigation efforts by the agencies. We believe the combining of audit and investigation functions under an Inspector General in the respective departments and agencies virtually ensures that the performance of the agencies will improve.

History has shown that increased successful investigation and prosecution efforts of the Department of Justice are directly related to increased agency efforts. The best example of this correlation is in HUD programs. Our successes over the past five (5) years in this area are a direct result of the combined efforts of HUD's Office of

Inspector General, the FBI and United States Attorneys. The recent successes in health care prosecutions are, in large part, the result of HEW's increased enforcement efforts. DOD, GSA, and Labor have recently emphasized fraud and abuse detection and investigation, and we expect that this emphasis will shortly lead to increased prosecutions.

The agencies' role is important to emphasize. FBI Special Agents and Special Agent Accountants currently used to investigate complex fraud cases are generally not involved until specific criminal allegations surface. The problem in this area lies in initial detection of the fraud and abuse. An Inspector General can fill this detection vacuum. Accordingly, we do not view the Offices of Inspector General as being a substitute for the FBI in investigating criminal fraud matters, but rather as an organization which will complement the FBI.

In addition to the detection role accomplished through audits, compliance surveys, investigations and like efforts, agency auditors and investigators add a new dimension to investigative teams working on complex Government fraud matters. Not only are they intimately familiar with the internal organization of their agency, but they also understand

the structure of the program and the procedures utilized in its implementation. Many agencies are not now organized in a manner to adequately fulfill these roles.

The Department of Justice first recognized the broad scope of program fraud and abuse when in May 1972, in response to public and Congressional concern, we announced our intention to tackle the fraud and corruption in HUD programs. Since that time over 813 indictments and 841 convictions have been obtained. We have learned a great deal from this experience. Subsequent efforts in other areas have taught us much about the problems of fraud and abuse in Federal programs. Any estimate of the scope of fraud and abuse in these programs is obviously open to challenge. However, our experience suggests that from 1% to 10% of the monies allotted to our Federal programs may be lost annually through fraud and abuse with the percentage of loss varying with the type and design of the program. In nearly every program-wide criminal audit or investigation, fraud and abuse of significant proportions have been uncovered. Marshalling program-wide audits and investigations as contemplated by this Bill will lead to more criminal convictions and civil recoveries, but more importantly, should enable us to provide program managers with information which will enable them to avoid systematic occurrences of fraud and abuse in agency programs.

Too often, we have seen programs in place for years before anyone seriously addresses the problems of fraud and abuse created either by the legislation or the agency regulations. An example is the Medicaid program enacted in 1965. It was not until the past two years that serious Congressional interest was directed to creating fraud control units in the states to combat fraud and abuse in the state-administered Medicaid program.

The hearings before Chairman Fountain demonstrated that certain programs are not audited regularly. Both routine and special audits play a vital detection and compliance role in our enforcement efforts. Government fraud auditors and investigators generally pay for themselves several times over in administrative and civil recoveries, future cost savings and restitution resulting from criminal prosecution. The consolidation of the audit and investigation functions will ensure that our present resources are more efficiently and effectively utilized. United States Attorneys will no longer have to penetrate an organizational maze to secure assistance within the agency, but will be able to address all their enforcement problems to one office.

The Inspector General concept should also measurably improve the agency's ability to pursue administrative action. Administrative actions--debarment, suspension, dismissal, set-off and the like--offer the agency tools for program

control which, from the Department's perspective, are too rarely used. Suspending or debarring a Government contractor for fraud and abuse can achieve a substantial deterrent effect. The Inspector General, because of his position in the agency, his concern for investigation and audits, and his responsibility for prevention of fraud and abuse should increase his agency's utilization of these remedies.

I would like to comment on two provisions of the Bill that gave the Criminal Division great concern when initially proposed in the House of Representatives.

The first provision is Section 5(a)(4) which authorizes the Inspector General to "require by subpoena the production of all information, documents, reports, etc.". An expansive reading of this provision would appear to authorize the Inspector General to secure testimony of persons through subpoena in addition to the production of required records. Such a power would replace the traditional functions of the grand jury without the attendant safeguards. Moreover, it would give the Inspector General far greater powers than those currently possessed by the FBI, Criminal Division or United States Attorneys. While this authority may be appropriate for all investigative agencies, considering its revolutionary impact on traditional law enforcement approaches,

we would suggest that it be addressed directly in a forum other than the instant one so as to allow a more extensive analysis of its ramifications. In any event, we understand that the provision is intended only to empower the Inspector General to secure records and documents in furtherance of his duties and that the power to secure substantive testimony of individuals is to be left to other forms of compulsory process. The HEW Inspector General's Office has advised us that it interprets a similar provision in their enabling legislation in this fashion and employs, and intends to employ their subpoena authority only for purpose of securing access to pertinent records.

The second provision that has given us some concern is Section 4 which provides for two types of reports. The principal concern which prosecutors and investigators have with any public reporting requirement is that the premature public release of information relative to an active investigation may impair a criminal investigation and its ultimate success. However, we understand that the Semiannual report requirement to summarize matters referred to prosecutive authorities can be general enough in terms of investigation details to protect the integrity of the investigations. The same procedure with respect to the summaries in the Semiannual report of the immediate reports to the head of the establishment

will ensure that the security needs of the investigation and the information needs of the Congress on the progress of investigations can be met.

HEW has taken a giant step forward in the area of both audit and investigation. The auditors are being employed imaginatively in two national projects, Project Integrity and Project Match, which have both administrative and enforcement impact. Growing pains for any organization of the size and mission of an agency with an Inspector General are inevitable, but we would term the HEW Inspector General operation a success.

Some comment on Justice's performance in the area of program fraud and abuse is in order. Including the United States Attorneys' staff there are about 2,000 Federal prosecutors with responsibility for all Federal crimes. The Attorney General is attempting to reallocate and direct manpower to one of his top priorities--White Collar Crime. The Criminal Division is attempting to effectuate these priorities with its own prosecution projects and new training programs for agency investigators and auditors, Assistant United States Attorneys and FBI agents. Prosecutors and investigators are now recognizing a responsibility to communicate program weaknesses to the agency for corrective action. Our Fraud Section has

in the past taken the lead in the Government's efforts in the HUD Task Forces and in renewed training efforts. We are now expanding our efforts in the areas of Labor, GSA, Health Care and DOD fraud and abuse matters. We expect to work as a partner with the new Inspectors General in fulfilling our leadership responsibilities in the area of Government fraud and abuse.

That concludes my prepared remarks. My colleagues and I would be pleased to answer any questions the members may have.

Senator EAGLETON. Thank you very much. We will take a short recess.

[Recess taken.]

Senator EAGLETON. We will come back to order.

We are delighted to have with us Mr. Tom Morris, Inspector General, Department of Health, Education and Welfare and Mr. Charles Ruff, Deputy Inspector General, Department of Health, Education and Welfare. We welcome both of you, gentlemen.

You may proceed.

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