

INSPECTOR GENERAL ACT OF 1980



HEARING
BEFORE THE
SUBCOMMITTEE ON
GOVERNMENTAL EFFICIENCY AND
THE DISTRICT OF COLUMBIA
OF THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
NINETY-SIXTH CONGRESS

SECOND SESSION

ON

S. 3025

INSPECTOR GENERAL ACT OF 1978 TO ESTAB-
LISH AN INSPECTOR GENERAL IN CERTAIN DEPART-
MENTS AND AGENCIES, AND FOR OTHER PURPOSES

AUGUST 26, 1980

For the use of the Committee on Governmental Affairs



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INSPECTOR GENERAL ACT OF 1980

TUESDAY, AUGUST 26, 1980

U.S. SENATE, SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA, OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,

Washington, D.C.

The subcommittee met, pursuant to notice, at 9:55 a.m., in room 6226, Dirksen Senate Office Building, Hon. Thomas F. Eagleton (chairman of the subcommittee) presiding.

Present: Senator Eagleton.

Staff present: Ira S. Shapiro, chief counsel and staff director; and Margaret Crenshaw, Glenn Smith, and Eileen Mayer, counsels.

Senator EAGLETON. The subcommittee will be in order.

I will defer my opening statement until later so that we may hear from Senator Baucus.

I apologize to the Senator for the necessary and unavoidable delay. I do personally apologize to the Senator and all of the other witnesses. It had to be.

Senator, we will proceed with you and I will read my opening statement after we have heard your testimony.

TESTIMONY OF MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA, ACCOMPANIED BY KEN KAY, LEGAL ASSISTANT, AND AVA ABRAMOWITZ, COUNSEL, SENATE JUDICIARY COMMITTEE

Senator BAUCUS. Thank you, Mr. Chairman.

I have a prepared statement which I would like to have included in the record. I will read it at this point.

Mr. Chairman, I want to praise you for holding this hearing today. We all know of the waste and fraud in Government. I think it is imperative that all Federal agencies, including the Department of Justice, examine more closely their audit and investigative framework to insure that their agencies are more responsive to the statutes we enact.

As chairman of the Judiciary Subcommittee on Limitations of Contracted and Delegated Authority, I have been looking into this issue for some time. Let me tell you what we have done.

In an effort to settle this problem, I discovered that there are now two separate offices within the Department of Justice performing audits and investigations. One is the Office of Professional Responsibility which is in charge of investigating cases of employee misconduct. In this regard, the Senate recently passed a bill which upgrades the status of the Office of Professional Responsibility.

It provides that the head of OPR be appointed by the President and that he or she report directly to the Attorney General and the Congress.

In the area of internal audits, Senator Cochran and I have introduced a separate bill. It would establish a new audit office to perform the audit functions of the Department of Justice.

We separated the audit and investigative functions for two reasons. First, the Justice Department is, very skittish—to put it mildly—about the creation of an Inspector General in their Department. They think that there is some justification for the idea, but that Justice is different from some of the other agencies.

The Department is concerned about prosecutorial discretion. It is because of this opposition to an Inspector General that I attempted to reach the same goal through some other route.

To some degree, it is a semantic problem. Perhaps there could be established a structural arrangement which would be in effect, like an IG, except there would be two separate agencies instead of one.

One agency would conduct the functions of the Office of Professional Responsibility and the other agency conduct the audit operations.

The second reason we separated the two functions was because, very candidly, our Committee on the Judiciary only has jurisdiction over the Office of Professional Responsibility. Your committee has jurisdiction over the audit functions. I thought it most proper to allow your committee to exercise its jurisdiction and report to the Senate legislation your committee considers appropriate.

I am not adverse to the creation of an Inspector General with the combined functions. There are problems, but perhaps they can be worked out.

Importantly, I think the internal audit functions very definitely have to be upgraded. As you know, Mr. Chairman, right now the Office of Audits in the Department of Justice is at a low level. It is two or three organizational levels below the Attorney General, so it does not report directly to the Attorney General.

Senator EAGLETON. I was distracted momentarily. Are you referring to the Office of Professional Responsibility as it now exists?

Senator BAUCUS. Right now I am talking about the audit functions as they now exist, which are at a low level and which, have been reorganized three times in the last year and reorganized six times in the last 13 years.

Finally, the number of people in that office has recently been reduced from 57 to 33 people.

At any rate, my strong feeling is that the Justice Department treats its audits responsibilities very cavalierly. That is, audits are not high on the list of priorities. This attitude consequently places the audit function at a very low level of priority. In my view, both the audit and investigative functions should be separate from the main Department of Justice's operations.

I strongly support your efforts to raise the status of the functions presently performed by the Office of Professional Responsibility and the Internal Audit Staff at the Department.

As I mentioned, perhaps there ought to be two separate offices instead of one. It may even be feasible to combine the audit and investigations functions under an Inspector General, so long as the

actions of the IG with respect to prosecutorial discretion are defined very clearly, with a sensitivity to the Attorney General's role regarding prosecutorial decisions. Other than the problem of prosecutorial discretion, I see few problems in applying the traditional IG arrangement to the Department of Justice.

Senator EAGLETON. Educate me, if you will, Senator. What is this low level audit office to which you have referred? I think you said it is three levels down, or something. What is its exact title? Does it have a title? It is called the office of—what?

Senator BAUCUS. It is the Internal Audit Staff.

Senator EAGLETON. I see. What does it now audit? For instance, does it audit the LEAA—Law Enforcement Assistance Administration—program?

Senator BAUCUS. My understanding is that it does. I am not sure. Let me check.

This is Ken Kay.

Senator EAGLETON. Give your name to the reporter, if you will, sir.

Mr. KAY. My name is Ken Kay. I am Senator Baucus' legislative assistant.

Senator EAGLETON. Does the audit staff that the Senator mentioned have an official name?

Mr. KAY. Yes. It is the Internal Audit Staff, the IAS.

Senator EAGLETON. I see. Does it audit, among other things, the LEAA program?

Mr. KAY. It is my understanding that it does. LEAA has its own staff, but the IAS works with them.

Senator EAGLETON. I see. Now, separating out LEAA for the moment, it being the biggest, and maybe the only, grant-type program that the Department of Justice operates—do they have any other grant programs?

Senator BAUCUS. Let me check with another member of the staff.

Senator EAGLETON. Come up to the table, too. Does anyone else want to come up to the table? [Laughter.]

Madame, who are you?

Senator BAUCUS. Her name is Ava Abramowitz. She is with Senator Kennedy's committee.

Ms. ABRAMOWITZ. Good morning, Senator.

Senator EAGLETON. Good morning.

The reason I am going into these questions is that the Department of Justice is not available to testify either today or tomorrow. Since the bill includes the Department of Justice, I am trying to get some facts, however meager or disparate, into the record.

I will ask you this. Does the Department of Justice, other than the LEAA program, have other grant-type programs?

Ms. ABRAMOWITZ. There is one other, sir. It is sponsored by the National Institute of Corrections in the amount of \$10 million toward State and local jail reform.

Senator EAGLETON. Is that outside of LEAA?

Ms. ABRAMOWITZ. Yes, sir. It is under the Bureau of Prisons.

Senator EAGLETON. Does this IAS audit both LEAA and this National Institute of Corrections program?

Ms. ABRAMOWITZ. Yes, sir. It does.

Senator EAGLETON. All right. Now, putting both of those aside for the moment, what other things within the Department of Justice does this IAS audit?

Ms. ABRAMOWITZ. It audits the entire Department of Justice.

Senator EAGLETON. Therefore, it would audit travel vouchers when Assistant Attorneys General travel out to try a case. It would audit purchases of computers, paper, and other supplies for the Department of Justice. It audits the ledgers, the vouchers, the expenses, et cetera, of running that Department. Is that correct?

Ms. ABRAMOWITZ. That is right.

Senator EAGLETON. I see. To whom does it report? Who is Mr. IAS?

Mr. KAY. Senator, I believe that the IAS reports to the Assistant Attorney General for the Justice Management Division—that is, Kevin Rooney.

Senator EAGLETON. In addition to this IAS operation there is an Office of Professional Responsibility in place in the Department of Justice. Is that correct?

Senator BAUCUS. That is correct.

Senator EAGLETON. What is the principal thrust of that Office? When was it set up and what was it set up to do?

Senator BAUCUS. The principal thrust is to investigate employee misconduct. It was set up in 1976. It was first established under Attorney General Levy.

Senator EAGLETON. In at least 12 other Departments both of these things would be under a thing called the Inspector General. Let us say, the Department of Education. They have an Inspector General. He or she audits various grant programs administered by the Department of Education. He or she also has power to inquire into official misconduct within that Department. I am just using Education as a test tube example.

Is that correct?

Senator BAUCUS. That is correct.

Senator EAGLETON. The question arises because of the peculiar nature of the Department of Justice, wherein there is this grey area thing of prosecutorial judgment. Having been a prosecutor myself, I know it is a grey area wherein you look at a file, at witnesses' statements, and at other pertinent evidentiary data. Then there is a judgment call as to whether or not that package, as it is laid before you, is enough to seek an indictment or enough to make a submissible criminal case.

You cannot weigh it on a scale. It is not the weight of the file that determines the efficacy of the case. You cannot put a thermometer into it or pump it into a computer to give you an answer. It is a subjective judgment call that every prosecutor faces in his lifetime—whether on balance that file as assembled is enough to make a submissible case.

Since that is so different in the Department of Justice—that is, the nature of its operation from other domestic departments that already have an IG—the question arises: Does the IG scheme of things function in the scheme of things at the Department of Justice?

Is that about what the bottom line question is?

Senator BAUCUS. I think that is what it comes down to. I do not want to put words in their mouths, but the Justice Department raises several other points as well. Two others come to mind.

One is that today the Office of Professional Responsibility has access to and utilizes personnel in the FBI, the Criminal Division, and other divisions in Justice. Traditionally, IG's in other agencies utilize only their own personnel and not the personnel of other divisions or bureaus within the departments with which they are associated. I do not think that that is a major problem, but it is one that the Justice Department sometimes raises.

Senator EAGLETON. Thank you, Senator Baucus. Thank you, sir and madam.

I will now give my opening statement. There is a vote on the floor of the Senate and we will proceed as far as we can before we take a short recess.

Without objection, Senator Baucus, your prepared statement will be included in the hearing record at this point.

Senator BAUCUS. Thank you, Mr. Chairman.

[The prepared statement of Senator Max Baucus follows:]

PREPARED STATEMENT OF SENATOR MAX BAUCUS

Mr. Chairman, thank you for the opportunity to be here today. At a time when all of us want to reduce Federal spending, efforts to eliminate mismanagement in Federal programs assume even greater significance. I am pleased that you have initiated legislation to strengthen our Federal programs, particularly with regard to the Department of Justice.

As a member of the Senate Judiciary Committee, I am especially concerned that the Department operates efficiently and that its employees act with the highest regard for the law. Last March I chaired oversight hearings on the Department, focusing on the Office of Professional Responsibility and the Internal Audit Staff of the Justice Management Division. The Office of Professional Responsibility (OPR) investigates allegations of employee misconduct. The Internal Audit Staff (IAS) conducts audits to determine program efficiency and to identify fraud and mismanagement.

The purpose of the hearings was to determine the degree to which each of these branches of the Department were equipped to achieve their responsibilities. During the hearings, I examined two important issues under consideration today. The first issue involved the feasibility of establishing an Inspector General to oversee the Department. The second issue dealt with improving the internal audit structure at the Department. After considering various options available at the time, I concluded that the most appropriate way to address these two issues was by strengthening the OPR and the IAS individually.

I therefore introduced two separate pieces of legislation. The first was an amendment to the Department of Justice Authorization Act which would create a statutory charter for the Office of Professional Responsibility. As you know, that legislation has already passed the full Senate.

Subsequently, Senator Cochran and I introduced separate legislation which is pending before this subcommittee which would create a separate office of audits within the Department of Justice. I am delighted that the Governmental Affairs Committee under your leadership, Mr. Chairman, is now considering this important issue.

There is no doubt that the issue of internal audits requires further legislation. Having looked at your bill, the Financial Integrity Act of 1980, I must say that I think we are pursuing very similar and worthwhile goals concerning agency audits.

The audits conducted by agencies on their activities can be a good starting point for congressional oversight of Federal programs. These audits can also provide accurate analyses of whether programs are operated efficiently and whether they comply with the law. Finally, agency audits can further ensure the financial integrity of an agency's activities, but only if the auditing process operates effectively.

Based upon the hearings I chaired last March, and on previous work conducted by my staff, I am convinced that the audit structure at the Department requires substantial improvement. In my view, the Department presently lacks a stable, independent and effective internal audit unit.

S. 2618, the Department of Justice Audit Act, which Senator Cochran and I introduced, would establish a new Office of Audits in the Department, under the direction of an Assistant Attorney General. While there are several ways to address the audit problem at the Department, I am certain that we share the basic concerns. I would like to briefly mention my concerns, and how they relate to the Department of Justice. Hopefully, my comments will prove useful to your consideration of the audit problem addressed in your legislation.

Independence of agency audits

Because of the importance of audits, it is essential that agency audit units be free from any pressures or influences that may be exerted by agency officials. The present structure of the IAS has had a history of instability within the Department.

For example, the IAS has been in three different organizational positions within the Justice Management Division during the last year. Under the latest reorganization, the IAS has been reduced from a staff of 57 to 33. Clearly, these factors seriously question the ability of the IAS to function independently.

According to GAO guidelines, any internal audit unit should report directly to the head of an agency or to the highest practical level—in order to ensure absolute independence. The Justice Department's present audit structure violates those guidelines. As a small unit with the Justice Management Division, the IAS is now two organizational levels removed from the Attorney General.

In my view, efforts to improve upon the Department's existing audit structure ought to increase the independence and status of the IAS. Moreover, I think that the Financial Integrity Act of 1980 is the right step towards improving the accounting and administrative procedures for Justice Department audits.

Accountability and implementation

Legislation is needed to increase accountability and accessibility to the Congress. As already pointed out, the IAS is at least two levels removed from the Attorney General. At a minimum, the Congress and the Attorney General should be kept fully informed on matters concerning fraud or mismanagement in the administration of Department programs. Under the present structure the IAS lacks accessibility and accountability to the Congress and the Attorney General. Thus, it seems apparent that the Attorney General has little input into the activities of the auditing unit.

Under the current reporting structure, questions concerning implementation of audit recommendations are rarely reviewed by the Attorney General. The Congress and the Attorney General ought to be able to monitor the progress of audit recommendations.

The Attorney General, who has the ultimate authority to implement recommendations, has no way of knowing whether audit recommendations are properly implemented. And, we in the Congress, who ought to be able to determine at any time what recommendations are being implemented have no way to do so.

A structure is needed to insure increased accountability and implementation. The Justice Department's internal audit unit can be improved. The legislation under consideration here today is a step in the right direction.

CONCLUSION

Mr. Chairman, I believe that you and your subcommittee are performing a tremendous public service by attempting to address the problems that exist at the Department of Justice in the area of auditing capability. If this committee can focus the Department's resources on more effective auditing, the Department and the public will be well served.

However, as a member of the Judiciary Committee I am extremely sensitive to the special needs of the Justice Department. I hope that as you and this committee consider this legislation, you remain sensitive to the fact that "the Government's law firm" has special needs. There is a legitimate concern that an Inspector General at the Department would inappropriately interfere with the Attorney General and the Department's right to exercise prosecutorial discretion. It is important to keep in mind that line attorneys and Assistant Attorney Generals and others at the Department of Justice, including the Attorney General himself, are basically spending their entire time trying to decide when to proceed or not to proceed with a prosecution. Therefore, it is important that we do not set up an Inspector General to serve as a shadow Attorney General. With regard to prosecutorial discretion, the Inspector General's role should be exercised only in those cases where there is a clear showing that prosecutorial discretion has been inappropriately applied.

The Attorney General should retain the primary responsibility for determining when the laws of this land have been broken and when cases ought to be prosecut-

ed. That is a very important balancing function that the Attorney General should retain control over. I, therefore, caution the committee to design its legislation with this important and sensitive function in mind.

Once again, Mr. Chairman, I commend you for your efforts to improve agency audits. I hope that my experience with the Department and its internal auditing units is beneficial to your and this committee's initiatives.

I and my staff look forward to providing you within any assistance you may require.

OPENING STATEMENT OF SENATOR EAGLETON

Senator EAGLETON. We meet today to begin hearings on S. 3025, legislation to extend the Inspector General Act of 1978 to several additional executive departments and agencies.

Today's hearing will focus on the Departments of Justice, Treasury, and State as well as the International Development Cooperation Agency—IDCA—and the Agency for International Development—AID. The Defense Department will be considered tomorrow.

Hearings will also be held this week in the House on H.R. 7893, companion legislation to this bill, introduced by Representatives Brooks, Fountain, and Horton.

The Inspector General Act of 1978 created Offices of Inspector General in 12 major executive departments and agencies. Earlier legislation had created IG's in the Departments of Health, Education, and Welfare and Energy. The 1978 act, of which I was the chief Senate advocate, responded to two basic findings made by this subcommittee and its House counterpart.

First, the level of fraud, abuse, and waste in Federal programs was appallingly high. In one stunning revelation the Inspector General at Health, Education, and Welfare estimated that between \$6.3 billion and \$7.4 billion was misspent annually at his Department as a result of fraud, abuse, and waste—he stated, "at a minimum."

Surveying the entire landscape, an official of the General Accounting Office knowledgeable in this area, estimated in 1978 that fraud in Federal programs cost the taxpayers of this country from \$12 to \$15 billion annually to perhaps as high as \$25 billion.

The second finding was that while no miracle cure exists for this magnitude of fraud and waste, the problems could be traced to basic deficiencies in the way that the Government approached its responsibility to audit and investigate Federal programs and operations.

Resources were inadequate. Some agencies spending billions of dollars annually were policing their operations with a mere handful of auditors and investigators. The auditors and investigators were often misplaced in the Departments, buried too low to get the attention of the Department head and often reporting and responsible to exactly those officials whose programs they were reviewing—an obviously unacceptable arrangement for promoting vigorous independent auditing and investigation. The General Accounting Office had repeatedly called Congress attention to the dangers inherent in such an arrangement.

The 1978 IG legislation dealt directly with these serious deficiencies. For the affected Departments, it consolidated audit and investigative resources under a Presidentially appointed Inspector General, reporting directly to the head of the Department.

The legislation gave the Inspector General a broad mandate to coordinate, supervise, and conduct the audits and investigations for the Departments; to take the lead in efforts to prevent and detect fraud and waste; and to promote economy, efficiency, and effectiveness.

The legislation guaranteed the Inspector General the necessary independence by specifying that even the agency head could not interfere with the IG's audit or investigative activities or their required reports to Congress and required the President to explain to Congress the reasons for removal of any Inspector General.

Justice, Treasury, State, and Defense are the only executive Departments which do not have statutory Inspectors General at the present time.

Obviously, the appropriateness of the Inspector General concept for each Department must be carefully assessed. I recognize that the mission of each of these Departments is unique, and unlike those Departments presently covered by the IG law, they do not spend most of their funds on the grant-type programs which have proven most vulnerable to fraud and waste.

However, because Congress has enthusiastically supported the IG concept and the preliminary indication is that the existing IG's have had a positive impact, the burden should be on each of these remaining Departments to explain why it would not benefit from the centralized authority over audits and investigation and the independence which are the hallmarks of the other inspectors general.

Additionally, since 1978, several of the committees of Congress have devoted attention to the audit and investigative activities of agencies under their jurisdiction. The Foreign Relations Committees, for example, are in conference considering legislation to upgrade the AID Auditor General. Many features of that legislation are tailored after the 1978 IG Act.

Also, the work of two subcommittees charged with oversight of the Justice Department—those chaired by Senator Baucus and Congressman Preyer—have demonstrated the extent to which the audit and investigatory efforts of the Department need to be strengthened.

Based on the work of Senator Baucus' subcommittee the Senate recently voted to provide a statutory charter and greater independence to one entity performing inspector general-like functions, the Office of Professional Responsibility.

This subcommittee will obviously pay careful attention to the work of the other committees, balancing any individualized approaches they might have recommended against the advantages of the IG concept and the obvious benefits derived from a uniform, governmentwide approach to the battle against fraud and waste.

While describing my basic approach to these issues, let me make one additional point. Unsubstantiated assertions that agencies are effectively performing their audit and investigative activities will not wash. In 1978 almost every agency which testified in the House or here claimed to be doing a great job in these areas. Those few which acknowledged past deficiencies claimed that they had recently reorganized and upgraded their efforts. In all cases their bottom line was the same—that is, no legislation was needed.

In fact, what we found in 1978 was precisely why legislation was needed. Virtually none of the agencies were doing an effective job of fighting fraud and waste.

Many of them showed their first spark of interest only when Congress began looking at the inspector general legislation.

From its coordinating post in the executive branch, OMB routinely slashed audit and investigative staffs that were already meager—a classic example of being penny-wise and dollar-foolish.

The administration has shown more interest in the past 2 years, but the record of the agencies and several administrations over the last 5 or 10 years eminently justified Congress resort to legislation in 1978. It justifies continued skepticism of agency claims that they can fight fraud and waste without legislation telling them how.

The present level of fraud, program abuse, and just plain waste in Federal programs is unacceptable. It fuels the fires of inflation. It steals taxpayers' dollars which might be available to meet other pressing needs. It creates understandable public cynicism about all Federal programs, eroding support for these activities and for the Government generally.

Those who hold Federal office have an obligation to devise constructive approaches to this problem. Otherwise, we risk a continued decline in the public's confidence in government and open the door to those who would exploit the public's dissatisfaction with empty rhetoric or draconian solutions.

The committee will be in recess for about 10 minutes.

[Recess taken.]

Senator EAGLETON. The committee will once again be in order. There is apparently another vote, but we will get as far as we can.

Our next witness is Mr. Donald L. Scantlebury, Director of the Financial Division of the General Accounting Office. He is accompanied by Mr. John Adair, who is a Group Director, and Frank Zappacosta, who is a Senior Group Director.

TESTIMONY OF DONALD L. SCANTLEBURY, DIRECTOR, FINANCIAL AND GENERAL MANAGEMENT STUDIES DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY FRANK ZAPPACOSTA, SENIOR GROUP DIRECTOR, INTERNATIONAL DIVISION, AND JOHN ADAIR, GROUP DIRECTOR, FINANCIAL AND GENERAL MANAGEMENT DIVISION

Mr. SCANTLEBURY. Thank you, Mr. Chairman.

We appreciate the opportunity to appear before the subcommittee to present the views of the General Accounting Office on the provisions of S. 3025 that would establish Offices of Inspectors General in the Departments of Justice, Treasury, State, and the International Development Cooperation Agency.

The General Accounting Office strongly supported passage of the 1978 Inspector General Act and other legislation which has centralized internal audit and investigative activities under Inspectors General in 15 major departments and agencies. We supported such legislation because we believed that it: insures that high level agency attention is given to promoting economy and efficiency and combating fraud, waste, and abuse; provides better assurance that the work of audit and investigative units in those agencies and throughout the Government are coordinated; and insures that both

the Congress and agency heads receive information on problems involving economy and efficiency and fraud and abuse.

We support the provisions of S. 3025 as they relate to establishment of Inspectors General at the Departments of Justice, Treasury, and State. With regard to the creation of an Inspector General within the International Development Cooperation Agency, we support the concept but believe it may be premature to do so at this time.

Before proceeding with my testimony on each of these agencies, I would like to say a few words about the title "Inspector General". Important as the detection of fraud, abuse, and errors is, detection should not be our primary concern. Our prime concern should be directed toward seeing that systems of management control are established that will prevent fraud and abuses and decrease the likelihood of error and waste.

When it comes to fraud, abuse, and error, the old axiom that "an ounce of prevention is worth a pound of cure" fits well. The most important element of preventing fraud, waste, and abuse is the establishment of effective internal controls.

Experience has shown that auditors are far more effective and better qualified to assist management in matters involving internal controls than are investigators.

Accordingly, we believe that a major portion of the activities of Inspectors General should be auditing and that this fact should be evident from the title of the position. We therefore recommend that the title Inspector General be changed to Auditor and Inspector General as we suggested in our prior testimony on the 1978 Inspector General legislation.

INCLUSION OF THE DEPARTMENT OF JUSTICE UNDER THE INSPECTOR GENERAL ACT OF 1978

I would like to first discuss the Department of Justice, which has reorganized or moved its internal audit operations six times in the past 13 years, as has already been mentioned.

Senator EAGLETON. Does not that fact alone indicate that all is not well insofar as that function is concerned within the Department of Justice?

Mr. SCANTLEBURY. Of course, every time you have a reorganization there is a great deal of confusion until the operation settles down. I think that does, in my judgment—

Senator EAGLETON. Bureaucrats love to reorganize. Every time a new administration comes in they reorganize, but to reorganize that function 6 times in 13 years even goes beyond the inherent and normal proclivity to reorganize.

It is like a Mexican jumping bean. They bounce it around all over the Department. Apparently, nobody wants it. Apparently, each person who gets it wants to unload it. Therefore, they keep kicking it around within the Department of Justice.

It is such a low level function, as was described by Senator Baucus. Kicking it around from one low-level bureaucrat to another low-level bureaucrat certainly gives me the picture that there is total lack of continuity insofar as this function is concerned within the Department of Justice.

Mr. SCANTLEBURY. It is my view, too, with that many reorganizations they probably have difficulty getting down to business and getting over the reorganization.

Before I go on, I would like to mention that I think you may have been somewhat misled by the statistics you received with regard to the Internal Audit Staff within the Department of Justice. The Internal Audit Staff has oversight over LEAA and their functions, but LEAA does have its own Office of Audit.

Senator EAGLETON. They said that.

Mr. SCANTLEBURY. They have—

Senator EAGLETON. They said IAS works with LEAA auditors.

Mr. SCANTLEBURY. Yes. They have about 31 people. Those are the last figures that I have for the Internal Audit Staff. LEAA has about 80.

Senator EAGLETON. I see.

We are particularly concerned with the adverse impact of the most recent reorganization. As originally planned by Justice, the Internal Audit Staff would have: reported to a lower level in the Department than previously—

Senator EAGLETON. In other words, they are putting it even lower. When was this most recent reorganization?

Mr. SCANTLEBURY. It was in January or February of this year.

Senator EAGLETON. How many times has it been reorganized under this administration—that is, since January of 1977?

Mr. SCANTLEBURY. I believe Senator Baucus said three. I do not have that information.

Senator EAGLETON. We have had three in this administration alone and they have only been in a little over 3 years. That is one a year for this administration.

You do not have to comment on that. I am just stating absolute, fundamental truth. [Laughter.]

Mr. SCANTLEBURY. As originally planned, they would have been subject to policy direction by an official in the Office of the Controller having direct responsibility for activities likely to be audited; and they would have been limited in the scope of the audits by transfer of responsibility for program audits to another group.

Through discussions with the Assistant Attorney General for Administration and his deputy, we received assurances, which were later embodied in a departmental order, that the audit staff would continue reporting to the Assistant Attorney General for Administration and that there was no intention to reduce the scope of audits. We are still very concerned, however, about the level of staffing for the internal audit function. About half the Internal Audit Staff within the Department were reassigned to other Justice components subsequent to the last reorganization.

As currently organized, Justice's audit and investigative functions operate under different lines of authority. The Office of Professional Responsibility investigates allegations of employee misconduct. This Office reports directly to the Attorney General.

Internal Audit Staff, which has overall responsibility for auditing activities, reports to the Assistant Attorney General for Administration.

In addition, an evaluation staff, which reports to the Office of the Comptroller which in turn reports to the Assistant Attorney Gen-

eral for Administration, was recently created to perform evaluations of ongoing and future initiatives to help management set policy and plan strategy.

We support S. 3025 which would combine the Internal Audit Staff and the Evaluation Staff along with the Office of Audit and Investigations of the Law Enforcement Assistance Administration under an inspector general. This would consolidate and upgrade the Department's audit capability and would give the audits of LEAA grants and contracts, where the potential for fraud and abuse is particularly high, greater visibility.

I might also mention that there are some investigative units in other parts of the Justice Department that you might want to consider including in this organization. They are located in the Drug Enforcement Administration, Immigration and Naturalization Service, Bureau of Persons, and Marshals Service.

We also believe the subcommittee should consider transferring the Office of Professional Responsibility into the new Office of Inspector General to provide it with an immediate investigative capability.

We recognize that one potential problem with such a transfer is that the Senate recently passed a bill, S. 2377, title II, which would establish the Office of Professional Responsibility by statute rather than by departmental regulation and would require that the head of the Office of Professional Responsibility be appointed by the President, with the advice and consent of the Senate, just as an Inspector General at the Justice Department would be.

One of the most important aspects of S. 3025 is the requirement that the Inspector General keep the head of the agency and the Congress fully and currently informed about problems and deficiencies relating to the agency's programs and operations. The Department of Justice does not routinely report such irregularities to the Congress and we believe the Department should have an Inspector General to periodically provide this information.

TREASURY'S INTERNAL AUDITING AND INVESTIGATIVE ACTIVITIES

We also believe that a statutory Inspector General in the Department of the Treasury is needed. In April of this year we testified before the Subcommittee on Treasury, Postal Service, and General Government, Senate Committee on Appropriations, that the Treasury Department should centralize its internal audit and investigative activities under an Inspector General who reports directly to the Secretary of the Treasury.

At the April hearing, Treasury's Assistant Secretary for Administration testified that the Department was not opposed to centralizing their auditing and investigative functions although they believed centralization would create certain problems.

He said that the bureau heads would no longer have their own internal audit and investigative staffs serving as control mechanisms within their jurisdiction. He also believed that centralization would increase the departmental budget. Finally, he said the Department currently lacks a management staff with sufficient personnel and expertise to manage a diversified nationwide audit and investigative activity.

We believe that these problems can be overcome and that the advantages of a statutory Inspector General at Treasury would outweigh the disadvantages cited by the Assistant Secretary.

Most of Treasury's activities presently are reviewed by audit staffs located in 10 bureaus and by investigative staffs located in 5 bureaus. Another bureau is currently in the process of establishing an investigative staff.

In addition, the Treasury has a nonstatutory Office of Inspector General that was established on July 18, 1978, to: supervise investigations of allegations concerning high-level Treasury officials; coordinate but not duplicate work of the bureau's investigative components; provide investigative services to bureaus not having investigative components; and review bureau operations involving employee misconduct.

The Office of Inspector General began operations in September 1978 with a staff of three professionals. The Inspector General presently has a staff of six professionals. He is also authorized to detail investigators from Treasury's bureaus and field offices.

In fiscal 1979 the Inspector General obtained the equivalent of about 28 investigative years from those bureaus and field offices. In addition, Treasury's Office of Audit, with a staff of 12, has been under control of the Inspector General since February 1980.

The Inspector General's authority was substantially expanded by a Treasury order dated February 27, 1980, which assigned him authority to: review and approve Bureau internal audit and investigative plans; evaluate Bureau internal audit and investigative programs; and analyze reports to inform the Secretary or Deputy Secretary of any significant problems, abuses, or deficiencies disclosed in Bureau audits and investigations and of corrective actions taken.

In addition, the Bureaus are required to consult with the Inspector General in recruiting and selecting Bureau officials in charge of their internal audit and investigative components.

We believe that Treasury's action to establish its own Inspector General was a step in the right direction, but we believe a statutory Inspector General as provided by S. 3025 would significantly improve the capability of the Treasury Department to combat fraud, waste, and abuse.

We also believe that in addition to the transfer by S. 3025 of the existing Office of Inspector General and 10 of Treasury's internal audit agencies to a new Inspector General Office, that consideration should be given to transferring the investigative units of the following Services and Bureaus to this office: the Secret Service; Customs Service; Bureau of Alcohol, Tobacco, and Firearms; and the Bureau of Engraving and Printing.

In addition, the Office of the Comptroller of the Currency has been authorized an investigative unit which is now being established. We believe consideration should be given to including this investigative unit in the new Office of Inspector General.

We note that the internal auditors and investigators of the Internal Revenue Service would be specifically excluded from a statutory Inspector General in the Treasury Department. As we have pointed out in previous testimony, while we support the need to centralize the internal audit and investigative activities of the

Treasury Department, we recognize that the Internal Revenue Service should possibly be excepted because of the sensitive nature of its internal audit and investigative operations.

However, we do not rule out inclusion of these activities under a departmental Inspector General and believe that this matter should be explored further before a final decision is reached.

INCLUSION OF THE STATE DEPARTMENT AND IDCA UNDER THE 1978
INSPECTOR GENERAL ACT

The last portion of my testimony today deals with the proposal to bring the safeguards of the 1978 Inspector General Act to those entities which oversee foreign expenditures.

As we understand it, S. 3025 would accomplish this by establishing two separate Inspector General offices. One Inspector General office would be located in the State Department and would be responsible for reviewing operations of installations abroad. It would be established through a transfer of that portion of the Office of Inspector General of Foreign Service now engaged in auditing and investigative activities.

Another Inspector General office would be located in the International Development Cooperation Agency and would be responsible for reviewing all foreign assistance operations. It would be established through transfer to IDCA of the Office of Auditor General of the Agency for International Development.

STATE DEPARTMENT

We testified in September 1979 that we support the inclusion of the State Department under the 1978 Inspector General Act and we continue to support such a proposal. However, we believe the specific functions of the new Office of Inspector General must be clarified before it is established.

As recently as 1977 there were two Inspectors General at the State Department—one for Foreign Service and one for Foreign Assistance. Public Law 95-83 abolished the Office of Inspector General for Foreign Assistance and assigned its functions for reviewing foreign assistance programs to the Inspector General of Foreign Service in June 1978 by Executive Order 12066.

The foreign assistance program responsibilities reassigned by the Executive order have never been implemented by the Inspector General, Foreign Service, because a fund reprogramming request, which would have provided the resources needed for the assigned functions, was denied.

Accordingly, the Office of Inspector General, Foreign Service, while conducting some audits, has continued to primarily perform reviews of the work of the U.S. diplomatic and consular establishments. These latter reviews cover the economic, commercial, consular, and political affairs of U.S. Embassies, consulates, various missions, and other lesser offices in foreign countries.

The present language of S. 3025 does not specifically state if the foreign assistance program responsibilities presently assigned to the Inspector General, Foreign Service, will come under the new proposed Office of Inspector General in the State Department or will be transferred to another organization.

From the statement you made, Mr. Chairman, when you introduced S. 3025 on August 6, 1980, it appears the intention of the bill is to transfer these responsibilities to the newly proposed Office of Inspector General within IDCA. We, however, see problems with establishing such an office within IDCA at this time and we will discuss these problems in more detail later in this statement.

We would like to reemphasize that any legislative action to establish an Inspector General Office in the State Department under the 1978 act should specifically identify the scope of that office's duties and responsibilities.

If the Congress decides that the auditing and investigative responsibilities for the foreign assistance programs now assigned to the Inspector General, Foreign Service, should be included as part of the new Inspector General's functions in the State Department, then we believe the legislation must make it clear that these responsibilities are not to duplicate the work of the audit, investigation, and inspection groups of other agencies.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY (IDCA)

As for the proposal to establish an Inspector General in IDCA under the 1978 act, we believe it would be premature at this time to take such action because IDCA was only established in October 1979, and it is still experiencing startup problems.

We believe that the Congress needs to consider some important questions associated with IDCA's role in development assistance before enacting legislation on this proposal.

Some of these questions are: Should IDCA have operational responsibility for an Inspector General Office when its primary role, as we understand it, is to coordinate all U.S. policies and programs affecting the economic development of developing countries? What authority would IDCA and its Inspector General have over multi-lateral program matters administered by the Secretaries of Treasury and State and the Department of Agriculture? If an Inspector General is established in IDCA, to whom does he or she report? What other legislative action is under consideration that would create an Inspector General in AID? Presently we are aware of two bills—S. 2714 and H.R. 6942.

Besides considering these questions, Congress may want to consider the results of recently completed, ongoing, and planned GAO work involving IDCA and the AID Auditor General.

In a GAO report dated February 1, 1980, entitled "Coordinating U.S. Development Assistance: Problems Facing the International Development Cooperation Agency", ID-80-13, we stated:

* * * it was one of the major purposes of the reorganization plan to separate IDCA from AID in order to enhance IDCA's independent identity and role as an honest broker among independent organizations and activities. It is also the intent that the IDCA Director spend most of his energies on coordination activities.

We added that—

At this time the intended lines of division between AID and IDCA are quite unclear. Although . . . it is the intention of the administration and of the IDCA Director that he will stay out of day-to-day decisionmaking, the temptations for him to become involved could be considerable.

Presently, we have plans to follow up on the progress made by IDCA to achieve the purpose for which it was established. An

assignment which will assess the progress and problems of the new IDCA is scheduled to start in February 1981.

In addition to these reviews involving IDCA, we are currently involved in a study of the AID Auditor General's operations. One objective of the study is to determine the possibility of eliminating the Office of the Auditor General in AID in favor of an Office of Inspector General, or as we would prefer to call it, an Office of Auditor and Inspector General.

I might also add that we concur in the aspect of S. 3025 that would consolidate the internal auditors in the Department of Energy under the Inspector General.

That concludes my statement. I will be happy to answer any questions to the best of my ability to do so.

Senator EAGLETON. Just so that we have the bottom line, in the Department of the Treasury you think there ought to be an Inspector General, although you prefer to change the name. Let us just call it an Inspector General for purposes of conformity in the record.

You think, for the Department of the Treasury there ought to be an Inspector General in the traditional mode, namely, as is in the 1978 act. For the Department of Energy you think it ought to conform to the 1978 act.

Mr. SCANTLEBURY. Yes, sir.

Senator EAGLETON. For the Department of Justice, do you acknowledge that because of a different decisionmaking process that goes on within the Department of Justice—that is, the subjective nature of the prosecutorial judgment—that there is a plausible reason to structure whatever we call the position somewhat differently than we structure it in the other departments of Government, or do you say that you see no difference in how they function and it ought to conform to the traditional mode as well?

Mr. SCANTLEBURY. It seems to me that the Inspector General's traditional function could apply in the Department of Justice. If the idea is to review some of the cases that are tried by Justice prosecutors and whether or not they pursued them vigorously, that might be a somewhat different function and you might have to give it somewhat different consideration.

Senator EAGLETON. For example, GAO is called upon frequently by Members of Congress to look into various departments to see how well or poorly a program is being administered. Is that not correct? That is your stock in trade. You do it every day of the week.

Has GAO ever been called upon to look into the Department of Justice and to give GAO's evaluation of how a case should have been prepared and tried in the Department of Justice? Do you have that kind of expertise?

Mr. SCANTLEBURY. I do not believe that we have ever been asked to do that.

Senator EAGLETON. Suppose Senator X wrote you today and said: "Mr. GAO, the XYZ case was just tried before a jury in Federal court in San Francisco and an acquittal occurred. I do not think the Department of Justice handled that case very well. Please, Mr. GAO, give us your evaluation of how well or how poorly that case was tried."

Would you not fire back a letter and say: "We are not prepared, or equipped, or trained to make that kind of evaluation"? You might frame the letter in softer words, but would that not be the bottom line? Would you want to superimpose your judgment on how a case was tried?

Mr. SCANTLEBURY. I do not believe we would.

Senator EAGLETON. I do not believe you would either. Now, if that be the case, does that not show that the nature of the operation of the Department of Justice is significantly different than the nature of the operation of other executive agencies?

Mr. SCANTLEBURY. There are a lot of other aspects—What I think this example does is go beyond what Inspectors General would normally do. It seems to me that, for instance, you might want to have an Inspector General and in addition have your office of professional responsibility.

Senator EAGLETON. Therefore, you do admit of the possibility that perhaps somewhat different treatment should be given to the Department of Justice than in the other—

Mr. SCANTLEBURY. For that particular type of thing.

Senator EAGLETON [continuing]. For that particular type of thing which, by the way, insofar as the Department of Justice is concerned, is 99 percent of its activities—omitting LEAA and the other grant program on corrections that Mrs. Abramowitz mentioned. Passing those two over, those two grant-type programs, about 99 percent of what Justice does is judgmental, whether it is an anti-trust case, a civil claim, or whether or not to process an appeal and apply for a writ of certiorari, whether to initiate a Grand Jury investigation.

That is all the stock in trade of the Department of Justice, day in and day out. I know GAO could not evaluate that operation. You are not a super Justice Department.

Hence, it may well be that there ought to be a different approach.

Mr. SCANTLEBURY. Besides LEAA, which is a rather sizable grant program that has traditional agency-type functions, here are some of the other organizations.

Senator EAGLETON. How many of them are there?

Mr. SCANTLEBURY. There is the LEAA, the Federal Bureau of Investigations, the Federal Prison System, the Immigration and Naturalization Service, and the Drug Enforcement Administration.

Senator EAGLETON. Those are all under the Department of Justice. I was referring to grant-type programs.

Mr. SCANTLEBURY. Typical types of activities that Inspectors General perform are auditing functions and investigative functions—

Senator EAGLETON. That is an important addition to your testimony. I stand corrected to that extent. For the Bureau of Prisons, GAO could be called upon to look into prison conditions at penitentiary X to see whether it was overcrowded, what the statistics were, how many escapes had occurred, et cetera.

Mr. SCANTLEBURY. It could also look into the general management.

Senator EAGLETON. Yes, how food was purchased for the prison and how it was accounted for. That would fall within traditional GAO-type analyses.

Mr. SCANTLEBURY. As well as any fraud that might occur.

Senator EAGLETON. On this business of prosecutorial judgment or civil litigation judgment business, you admit that that could be and may well be treated separately.

Mr. SCANTLEBURY. Yes.

Senator EAGLETON. How about the Department of State? Do they need, as a department, a traditional mode, 1978-law IG?

Mr. SCANTLEBURY. I think so. However, the scope and responsibilities of that office should be identified.

Senator EAGLETON. All right.

Now, for the Department of Defense someone is coming back tomorrow.

Mr. SCANTLEBURY. Yes.

Senator EAGLETON. You anticipate in your testimony, and that is the bottom line, that there are significant variances in terms of scope and function in the Department of Defense wherein, in your opinion, the traditional mode Inspector General does not in all particulars obtain. Is that correct?

Mr. SCANTLEBURY. I would not change it too much, but I do feel very strongly about the title in the Department of Defense.

Senator EAGLETON. What is your bottom line on IDCA and AID? What kind of IG should there be—traditional or a variant of the traditional? Henceforth, traditional means the 1978 basic law.

Mr. SCANTLEBURY. The problem, I guess, with IDCA is that we are not sure that that is the right organization in which to have an Inspector General housed.

As to type, I think the traditional would be best.

Senator EAGLETON. What is your bottom line recommendation? Should it be housed in IDCA, housed in AID, or housed somewhere in neutral no-man's land in between?

Mr. ZAPPACOSTA. Actually, Mr. Chairman, IDCA is basically a policy organization.

Senator EAGLETON. That is right.

Mr. ZAPPACOSTA. It has a very limited staff. If you impose a staff of auditors and investigators of about 150 on top of it when they do not have operational responsibility at the present time it could pose some problems from a management standpoint.

Senator EAGLETON. That is correct.

Mr. ZAPPACOSTA. The basic question remains, as we presented in our testimony, that you really have to determine what role is the basic function of IDCA. Is it to coordinate all U.S. policies and programs in development assistance as well as operational responsibility, or just coordination?

I would like to point out that in the foreign assistance legislation at the present time they provide for an Inspector General that would be housed in AID. The Inspector General would have the right—after consultation with the Administrator of AID and the Director of IDCA—to review the functions of IDCA.

At the present time we are doing a review of the AID Auditor General, as we pointed out, and will be looking into this matter.

Senator EAGLETON. All right.

What is the number of the full time executive staff of IDCA? How many figures are on the IDCA board of thinking?

Mr. ZAPPACOSTA. I do not have that figure.

Senator EAGLETON. Is it 30-some-odd?

Mr. ZAPPACOSTA. Yes, something like that.

Senator EAGLETON. What is their full time staff supporting these thought-provokers?

Mr. ZAPPACOSTA. Offhand, I cannot tell you.

Senator EAGLETON. Does anyone have a ballpark estimate? Is anyone from IDCA floating around?

Mr. ERB. There are 56.

Senator EAGLETON. I see. They have a full-time staff of 56, so if we slap an Inspector General in there we will triple their staff. A personnel load of 150 is about triple their current operational staff. That does not seem like a very good thing to do.

Mr. ZAPPACOSTA. Actually, in our report that we issued on IDCA, and which we noted in the testimony, we indicated that IDCA should have at its disposal an evaluation type of group. However, we do not specifically state that it should be housed in IDCA.

Senator EAGLETON. All right.

Thank you very much, gentlemen. We appreciate it.

Our next witness is Mr. Carswell, Deputy Secretary of the Treasury.

Mr. Carswell, could we submit your testimony for the record and ask you a couple of questions?

Mr. CARSWELL. I would be delighted to submit it.

Senator EAGLETON. Without objection, Mr. Carswell's statement will be included in the record at the conclusion of his testimony.

We have perused your statement. I have perused it. The staff has devoured it.

First of all, tell me what kind of grant-type programs or money spending outside the Department of the Treasury-type programs come under the Treasury Department. General revenue sharing is one, is it not?

TESTIMONY OF ROBERT CARSWELL, DEPUTY SECRETARY, DEPARTMENT OF THE TREASURY

Mr. CARSWELL. Yes, if you call general revenue sharing a grant-type program. We do not consider it that, but that is the only one that might qualify.

Senator EAGLETON. Is that the only one of any size? Do you have a few piddlies around?

Mr. CARSWELL. I am not aware of any piddlies. We have consultant contracts in some of the other bureaus, but grant-type programs as such we have not.

Senator EAGLETON. Revenue sharing is basically, or at least it was conceived to be—a no-strings-attached distribution of money on a population basis to States, counties, and municipalities. Is that right?

Mr. CARSWELL. That is right.

Senator EAGLETON. However, we did add on a couple of provisos. There is a civil-rights-type proviso. Did we add on one or two others?

Mr. CARSWELL. Yes. You added an accounting audit standard.

Senator EAGLETON. Within the Department of the Treasury to date, what is your internal audit, investigation, and inspection system at this time under existing law?

Mr. CARSWELL. Under existing law we have an Inspector General who is the head of both activities; that is, both internal security and audit activities.

However, he does not have most of the staff reporting directly to him. Most of the staff in both of those areas is at the bureau level. Thus, in Alcohol, Tobacco, and Firearms there are 23 auditors and 28 investigators at that level. Each bureau has that kind of situation.

The Inspector General has supervisory responsibility over all of it and can draw on the personnel in any of the bureaus.

Senator EAGLETON. Is he cloaked with that kind of draw-on authority by reason of an internal working order in the Department?

Mr. CARSWELL. That is correct, and he does do that.

Senator EAGLETON. In fact, he does do it.

Do you see a reason why the Department of the Treasury should not have an Inspector General in the 1978 traditional mode?

Mr. CARSWELL. I think it does in effect have that, except that he does not report to the Congress. All you would be doing is adding another reporting responsibility to him.

Senator EAGLETON. To whom does the Inspector General in the Department of the Treasury report?

Mr. CARSWELL. He reports to the Secretary and to me.

Senator EAGLETON. Who picks him?

Mr. CARSWELL. The Secretary picks him.

Senator EAGLETON. Is he a career civil servant serving at the pleasure of the President, or is he a person who serves at the pleasure of the Secretary?

Mr. CARSWELL. He is in fact a career civil servant. He does serve at the pleasure of the Secretary.

Senator EAGLETON. Can you shed any light on the question of how well the revenue sharing moneys—that being the big operational program of the Department—are accounted for and audited, or how poorly?

Mr. CARSWELL. I do not think there is any problem with the money disbursement as such. That is audited both at a departmental level, and I think GAO has been in a couple of times to audit it. That is not where the problem comes in in revenue sharing.

The problem comes in as to whether or not the ancillary responsibilities that the Congress has added to the disbursement have been properly discharged. From time to time that is contested.

In other words: Do we disburse revenue to a city that does not have an adequate civil rights program, and so on, or to some jurisdiction that violates the Davis-Bacon Act, or does not have proper audit standards? That kind of thing has been contested from time to time.

Senator EAGLETON. Mr. Carswell, would you clarify the following thing for the record. On page 5 of your prepared testimony, in the middle of the fourth paragraph on that page, you say:

The present structure of the integrity investigators and the Internal Revenue auditors would continue and their appropriations would remain with the bureaus.

Although I understand the IG could centralize these functions if he wished to, exactly who are the integrity investigators and where are they now located?

Mr. CARSWELL. The bulk of them, as I said, are with the various bureaus. That is, today the larger bureaus in the Treasury Department have their own inspection service. The IRS is the largest. It has an Assistant Commissioner for Inspection. Under him are 363 investigators plus another 67 paraprofessionals who may or may not be in that category.

They are at that level and they would stay there under the bill. The Inspector General either would or would not call upon them to work for him on specific cases.

The appropriation for them would continue at the Internal Revenue Service level. That is the way it would continue.

Senator EAGLETON. The 363 integrity investigators investigate whom? Do they investigate IRS agents to see that they have been fair and square?

Mr. CARSWELL. Yes. Basically, they investigate complaints, usually emanating from the general public, but they could come from any source that a particular IRS person did not act properly. That kind of complaint is referred to Inspection and Inspection investigates it.

The way it now works is that if there is an allegation against a very senior official or a Commissioner in the Internal Revenue Service, that allegation would be brought to the attention of the Inspector General of the Department. If it were the Commissioner, for example, it might very well not be investigated by the Assistant Commissioner for Inspection. The Inspector General of the Treasury Department might decide to do that one himself, in which case he would use his limited personnel or he might draw upon personnel from, say, the Customs Service in order to get an absolutely independent investigation.

Senator EAGLETON. Does all of this mean—including the IRS and Customs Service that you have just mentioned—that these various auditors and investigators would not be under the control of the Inspector General unless he saw fit to centralize them?

Mr. CARSWELL. I think the bill now requires the centralization of the audit side, except for the Internal Revenue Service, so that will be centralized under the bill as it is now drafted. I think my testimony indicates that the legislative history will show that he has some flexibility in how rapidly he accomplishes that so that we do not destroy the operation in the process.

On the integrity side that would stay the way it is. Again, at any point the Secretary of the Treasury could send out another order and centralize the whole thing. It can be done. It is just that operating the way it does now, it would stay at the bureau level.

Senator EAGLETON. Why would the IG choose not to centralize the integrity investigators and the Internal Revenue auditors? In other words, what makes them unique in the scheme of operations at Treasury today?

Mr. CARSWELL. There are two problems. One is a special one related to the Internal Revenue Service. There, I think, we feel very strongly in the Department that the Internal Revenue Service ought to remain basically decentralized. The reason is that through the years, as you know, there have been repeated instances where in the political process has intruded into the tax collection efforts of the Internal Revenue Service.

It goes all the way back to the Truman era. We have had repeated instances wherein people have tried to use the tax service for political reasons.

Senator EAGLETON. You project back to Truman. Don't forget good old Warren G. Harding.

Mr. CARSWELL. I suppose so, but in our history. In any event, that is a recurring problem.

If you set up an Inspector General who has an audit service that goes directly into the Internal Revenue Service at every level, what you have done is put a conduit into every sensitive part of the Internal Revenue Service, into every tax return, and into the hands of an Inspector General who reports directly to the Congress.

I would think that as a matter of political theory you do not want to do that. The history of what has gone on indicates that that is a real problem area and we are better off being sure that the Internal Revenue Service has an adequate organization to be sure that they have integrity but that you try to keep it away from political control as best you can.

I would think, the way the bill is now drafted is a good compromise. I think, for that reason, we really ought not to force that particular type of centralization.

It is different with the rest of the Department. If you wanted a centralized integrity staff in the Inspector General's office for the rest of the Department and audit, as the bill has it, I do not think that that is a terribly important issue.

I think the major reason for not doing it is that it is working pretty well now. Rather than force a big change that will not have any substantive impact, I think leaving it to the discretion of the Department is probably a more sensible way to go. I do not see what the real improvement would be by doing it.

Senator EAGLETON. When I gave my opening statement, I mentioned that practically every department that we heard from 2 years ago gave testimony similar to yours, namely, "We are doing everything just real peachy keen as it is. We do not need a law."

By the way, the administration wanted a law. The White House wanted a law but the departments did not, and each one came and testified that the way they were doing it was absolutely perfect—perfection personified.

They said, "We do not need a law. We are really doing a bangup job as it is." GAO reports piled 4 feet high belied that statement by the Departments with which we dealt 2 years ago.

I will consider the unique nature of the Internal Revenue Service, with heavy emphasis on confidentiality, et cetera, and ponder that. Its operations are, in a sense, unique. There is no doubt about that.

Assuming that as a given, I query whether the treatment should be different. It may very well be that it should be. We will ponder that.

There is one other point I might make. Let us assume arguendo that the functioning of the IG in the Treasury today is top rate. I am willing to assume that. I have no nasty evidence to the contrary. I am not hurling any charges at the Department or at you, Mr. Carswell.

However, since it is not statutorily created and since it does not have statutory clout, as these other departments do, a future administration of any political stripe, Democrat or Republican, can alter it internally as long as it does not have statutory focus and clear statutory authority as have these 12 or more other departments.

Would you acknowledge that that is a pragmatic fact?

Mr. CARSWELL. I think that is right.

We, of course, were not called upon to testify in 1978 so we set the thing up voluntarily. We got it done, as a matter of fact, before the bill had passed.

I have no problem with making it a statutory position. I do think that in doing that you have to take into account the special position of the Internal Revenue Service.

Senator EAGLETON. We will ponder that. That is a worthy point.

Mr. CARSWELL. The bill does take account of that. All I am doing is supporting it.

The only reason I am supporting it is that the GAO pointed out that that deserves further study. I think it is appropriate that the committee understand what it is doing on that.

It is not by accident that that is the way we think that ought to come out.

Senator EAGLETON. Thank you very much, Mr. Carswell. We appreciate it.

[The prepared statement of Mr. Carswell follows:]

STATEMENT OF
ROBERT CARSWELL
DEPUTY SECRETARY
DEPARTMENT OF THE TREASURY
BEFORE THE
SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY
UNITED STATES SENATE
ON AUGUST 26, 1980
CONCERNING S.3025 - TO EXTEND THE
INSPECTOR GENERAL ACT OF 1978
TO THE TREASURY DEPARTMENT

MR. CHAIRMAN, I AM PLEASED TO HAVE THE OPPORTUNITY TO TESTIFY TODAY ON THE BILL TO EXTEND THE INSPECTOR GENERAL ACT OF 1978 TO THE TREASURY DEPARTMENT.

AS YOU KNOW, TREASURY HAS HAD AN ADMINISTRATIVELY CREATED OFFICE OF INSPECTOR GENERAL SINCE JULY 1978, AND I WOULD LIKE TO BEGIN BY DESCRIBING FOR YOU THE WAY IN WHICH THAT OFFICE CAME TO BE ESTABLISHED, HOW IT HAS EVOLVED, AND SOME OF ITS ACCOMPLISHMENTS TO DATE.

THE MAJOR RESOURCES OF THE TREASURY DEPARTMENT ARE CONCENTRATED IN FOUR BUREAUS, THE INTERNAL REVENUE SERVICE, THE CUSTOMS SERVICE, THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, AND THE SECRET SERVICE. BECAUSE OF THE LAW ENFORCEMENT AND REVENUE COLLECTION RESPONSIBILITIES OF THESE FOUR BUREAUS, THEY HAVE ALL HAD INTERNAL AFFAIRS UNITS WHICH HAVE BEEN OPERATING SINCE THE EARLY 1950'S. THESE INTERNAL AFFAIRS UNITS CONDUCT INTERNAL AUDITS AND INTERNAL INSPECTIONS UNDER THE SUPERVISION OF AN ASSISTANT COMMISSIONER OR ASSISTANT DIRECTOR WHO REPORTS DIRECTLY TO THE HEAD OF THE BUREAU.

WHEN I RETURNED TO TREASURY IN EARLY 1977, I FELT THAT THERE WAS A NEED TO ESTABLISH AN OFFICE OF INSPECTOR GENERAL, REPORTING DIRECTLY AND EXCLUSIVELY TO THE SECRETARY AND DEPUTY SECRETARY, TO OVERSEE THE OPERATIONS OF THE EXISTING BUREAU INTERNAL AFFAIRS UNITS; TO CONDUCT INVESTIGATIONS IN THOSE SECRETARIAL OFFICES AND BUREAUS WHICH HAD NO INTERNAL AFFAIRS UNITS; AND TO CONTROL INVESTIGATIONS AGAINST SENIOR LEVEL OFFICIALS THROUGHOUT THE DEPARTMENT. HOWEVER, BECAUSE WE DID NOT WISH TO CREATE AN ADDITIONAL LAYER OF BUREAUCRACY, OR DUPLICATE OR DISRUPT INTERNAL AFFAIRS OPERATIONS WHICH ALREADY EXISTED AND WHICH WERE FUNCTIONING EFFECTIVELY, WE AUTHORIZED TWO PROFESSIONAL POSITIONS ON THE STAFF OF THE INSPECTOR GENERAL, AND PROVIDED THAT HE COULD DETAIL INVESTIGATIVE AND OTHER SUPPORT PERSONNEL FROM THE BUREAUS AS NEEDED TO CARRY OUT HIS RESPONSIBILITIES. AFTER ONE YEAR OF OPERATION, THREE ADDITIONAL PROFESSIONAL POSITIONS WERE AUTHORIZED.

THE DECISION TO CREATE THE OFFICE OF INSPECTOR GENERAL, THE SEARCH FOR THE BEST POSSIBLE CANDIDATE, AND THE SELECTION OF THE INCUMBENT WERE ALL MADE BEFORE THE ENACTMENT OF THE INSPECTOR GENERAL ACT OF 1978.

THE INCUMBENT WAS SELECTED AFTER A WIDE SEARCH. HE IS A CAREER EMPLOYEE WHO SERVED FOR 27 YEARS IN THE OFFICE OF THE CHIEF COUNSEL OF THE INTERNAL REVENUE SERVICE, MOST RECENTLY AS DEPUTY CHIEF COUNSEL (GENERAL), BEFORE ASSUMING THE POSITION OF INSPECTOR GENERAL. THE STAFF OF THE OFFICE OF THE INSPECTOR GENERAL ARE ALL WELL SEASONED, HIGHLY PROFESSIONAL, CAREER EMPLOYEES.

SHORTLY AFTER THE OFFICE BECAME OPERATIONAL, AS A RESULT OF THE PRESIDENT'S INITIATIVE TO COMBAT WASTE, FRAUD AND ERROR IN GOVERNMENT PROGRAMS, THE INSPECTOR GENERAL WAS ALSO ASSIGNED THE RESPONSIBILITY TO COORDINATE, IN TREASURY, THE GOVERNMENTWIDE PROGRAM TO ELIMINATE AND PREVENT WASTE, FRAUD AND ABUSE.

ONCE THE INTERNAL INSPECTION FUNCTION OF THE INSPECTOR GENERAL'S OFFICE WAS OPERATING EFFECTIVELY, THE INSPECTOR GENERAL AND THE ASSISTANT SECRETARY (ADMINISTRATION) WERE ASKED TO CONDUCT A STUDY TO CONSIDER THE DESIRABILITY AND FEASIBILITY OF CENTRALIZING ALL INTERNAL SECURITY AND INTERNAL AUDIT FUNCTIONS WITHIN THE INSPECTOR GENERAL'S OFFICE. AFTER WEIGHING THE ADVANTAGES AND DISADVANTAGES OF SUCH AN APPROACH, WE DECIDED TO DEFER THE DECISION ON TOTAL CENTRALIZATION. INSTEAD, WE ADOPTED THEIR RECOMMENDATION TO TRANSFER THE OFFICE OF AUDIT FROM THE ASSISTANT SECRETARY (ADMINISTRATION) TO THE INSPECTOR GENERAL, AND INCREASED THE LEVEL OF OVERSIGHT AND CONTROL OVER BOTH THE AUDIT AND INSPECTION FUNCTIONS IN SEVERAL SIGNIFICANT WAYS.

FIRST, THE DEPUTY SECRETARY WAS DESIGNATED AS THE APPOINTING AUTHORITY FOR PERSONNEL ACTIONS WITH RESPECT TO THE KEY BUREAU INSPECTION AND AUDIT FUNCTIONS. IN ADDITION, THE INSPECTOR GENERAL WAS AUTHORIZED TO REVIEW, APPROVE, AND EVALUATE BUREAU AND OFFICE AUDIT AND INSPECTION PROGRAMS AND PLANS; AND TO REQUIRE, RECEIVE, REVIEW, AND ANALYZE REPORTS INFORMING THE SECRETARY OR DEPUTY SECRETARY OF ANY SIGNIFICANT PROBLEMS, ABUSES OR DEFICIENCIES DISCLOSED IN BUREAU AUDITS AND INVESTIGATIONS, AND THE ACTIONS TAKEN TO CORRECT THEM. THE TRANSFER OF THE AUDIT FUNCTION AND THE ASSIGNMENT OF ADDITIONAL AUTHORITIES TO THE INSPECTOR GENERAL WERE THE LATEST OF A SERIES OF STEPS DESIGNED TO ESTABLISH, WITH MINIMUM DISRUPTION TO THE OPERATIONS OF THE DEPARTMENT, AN EFFECTIVE AND INDEPENDENT INSPECTOR GENERAL. IT HAS BEEN AND WILL CONTINUE TO BE MY INTENTION PERIODICALLY TO RE-EXAMINE THE FUNCTIONS AND OPERATION OF THE INSPECTOR GENERAL'S OFFICE AND SEEK WAYS TO STRENGTHEN THE INDEPENDENCE AND EFFECTIVE FUNCTIONING OF THAT OFFICE.

I WOULD ALSO LIKE TO DESCRIBE SOME OF THE ACCOMPLISHMENTS OF THIS OFFICE TO DATE.

ON THE DAY THE OFFICE BECAME OPERATIONAL, ON SEPTEMBER 11, 1978, I ASSIGNED TO THE INSPECTOR GENERAL AN INVESTIGATION INVOLVING CONFLICT OF INTEREST ALLEGATIONS INVOLVING THE FORMER DIRECTOR AND OTHER EMPLOYEES OF THE BUREAU OF ENGRAVING AND PRINTING. FOLLOWING A LENGTHY INVESTIGATION UTILIZING MANY DETAILED INVESTIGATORS AND AUDITORS, THE DIRECTOR AND ONE OTHER OFFICIAL WERE INDICTED AND SUBSEQUENTLY CONVICTED. I UNDERSTAND THAT THESE WERE THE FIRST TWO CONVICTIONS OF FORMER FEDERAL OFFICIALS FOR VIOLATION OF THE CONFLICT OF INTEREST STATUTE (18 U.S.C. 208).

THIS INVESTIGATION WAS ONE OF 236 INVESTIGATIONS CONDUCTED OR CONTROLLED BY THE INSPECTOR GENERAL SINCE THAT OFFICE WAS CREATED. OTHER ALLEGATIONS INVESTIGATED INCLUDE SECURITY VIOLATIONS; FALSE OVERTIME CLAIMS; FALSE TIME AND ATTENDANCE REPORTS; ACCEPTANCE OF UNLAWFUL GRATUITIES; OUTSIDE INTERFERENCE IN OFFICIAL MATTERS; AND SEXUAL HARASSMENT. FINDINGS OF THESE INVESTIGATIONS HAVE RESULTED IN BOTH CRIMINAL AND ADMINISTRATIVE ACTIONS AGAINST EMPLOYEES.

EVEN MORE IMPORTANT THAN THE FINDINGS OF ANY PARTICULAR INVESTIGATION HAVE BEEN THE RECOMMENDATIONS MADE BY THE INSPECTOR GENERAL TO MANAGEMENT OFFICIALS. AS A RESULT OF HIS RECOMMENDATIONS, CHANGES IN OPERATIONS, PROCEDURES AND REGULATIONS, DESIGNED TO INCREASE ECONOMY AND EFFICIENCY AND REDUCE THE POTENTIAL FOR FRAUD AND ABUSE, HAVE BEEN EFFECTED IN VARIOUS OFFICES AND BUREAUS.

ONE ILLUSTRATIVE EXAMPLE IS THE INVESTIGATION CONDUCTED AT THE BUREAU OF ENGRAVING AND PRINTING. IN ADDITION TO THE CONFLICT OF INTEREST VIOLATIONS UNCOVERED, IT WAS FOUND THAT THE PROCUREMENT PROCEDURES WHICH WERE IN PLACE WERE NOT BEING FOLLOWED, AND THAT THE AUDITS CONDUCTED AT THAT BUREAU FAILED TO UNCOVER THESE DEFICIENCIES.

AS A RESULT OF THESE FINDINGS, THE INSPECTOR GENERAL MADE SEVERAL RECOMMENDATIONS WHICH HAVE BEEN ADOPTED BY THE DIRECTOR OF THAT BUREAU. THESE INCLUDE THE ESTABLISHMENT OF AN INTERNAL AFFAIRS UNIT DESIGNED TO STRENGTHEN THE EXISTING AUDIT FUNCTION AND ADD TO IT AN INTERNAL INSPECTION FUNCTION TO INVESTIGATE MISCONDUCT WITHIN THE BUREAU; AND THE CREATION OF A TASK FORCE, UNDER THE DIRECTION OF THE HEAD OF THE NEW INTERNAL AFFAIRS UNIT, TO REVIEW AND MAKE RECOMMENDATIONS FOR IMPROVEMENT OF THE INTERNAL CONTROLS IN ALL FUNCTIONS WITHIN THE BUREAU.

A SIMILAR RESULT FOLLOWED FROM AN INVESTIGATION OF SHORTAGES OF GOLD AT THE BUREAU OF THE MINT ASSAY OFFICE. IN ADDITION TO CONDUCTING AN INVESTIGATION TO DETERMINE IF THE SHORTAGES WERE

THE RESULT OF THEFT BY EMPLOYEES, THE INSPECTOR GENERAL HAD A VULNERABILITY SURVEY CONDUCTED AT ALL GOLD PROCESSING AND STORAGE FACILITIES, AND REQUESTED THAT A MANAGEMENT REVIEW OF THE OPERATIONS OF THE UNITED STATES ASSAY OFFICE BE CONDUCTED. RECOMMENDATIONS MADE BY THE INSPECTOR GENERAL FOR ADDITIONAL MANAGEMENT AND OTHER INTERNAL CONTROLS HAVE SINCE BEEN ADOPTED BY THE MINT.

OTHER RECOMMENDATIONS MADE BY THE INSPECTOR GENERAL HAVE RESULTED IN CHANGES IN PROCUREMENT PROCEDURES; IMPROVEMENTS IN PHYSICAL AND DOCUMENT SECURITY PROCEDURES; INCREASED TRAINING IN THE HANDLING OF FUNDS AND IN THE PREPARATION OF TRAVEL VOUCHERS; STRICTER REPORTING AND CERTIFICATION REQUIREMENTS ON TIME AND ATTENDANCE REPORTS; AND A TASK FORCE TO REWRITE THE DEPARTMENT'S MINIMUM STANDARDS OF CONDUCT.

IN ADDITION TO SUPERVISING AND CONTROLLING THE CONDUCT OF INVESTIGATIONS OF ALLEGATIONS OF MISCONDUCT, THE INSPECTOR GENERAL HAS ALSO PERFORMED OVERSIGHT REVIEWS OF THE INTERNAL AFFAIRS UNITS IN THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, THE CUSTOMS SERVICE, AND THE SECRET SERVICE. THESE OVERSIGHTS ARE DESIGNED TO ASSESS THE EXISTING POLICIES, PROCEDURES AND OPERATIONS OF THE BUREAU INTERNAL AFFAIRS UNITS TO INSURE THAT THEIR INVESTIGATIONS ARE CONDUCTED COMPLETELY, THOROUGHLY, OBJECTIVELY, AND IN ACCORDANCE WITH APPLICABLE LAWS AND REGULATIONS, AND TO MAKE RECOMMENDATIONS FOR CHANGE WHERE APPROPRIATE.

THE INSPECTOR GENERAL ALSO DID AN ASSESSMENT OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY, AND RECOMMENDED THE ESTABLISHMENT OF AN INTERNAL AFFAIRS UNIT IN THAT BUREAU. THE COMPTROLLER AGREED, AND THE INSPECTOR GENERAL HAS BEEN ASSISTING HIM IN ESTABLISHING SUCH A UNIT.

THE INSPECTOR GENERAL AND HIS STAFF HAVE ALSO ESTABLISHED A GOOD WORKING RELATIONSHIP WITH THE HEADS OF ALL BUREAUS AND SECRETARIAL OFFICES, AND WITH THEIR TOP MANAGEMENT OFFICIALS. HE AND MEMBERS OF HIS STAFF HAVE BEEN MEETING WITH THESE OFFICIALS TO DISCUSS THE ROLE OF THE INSPECTOR GENERAL IN THE DEPARTMENT, AND THE NEED TO ESTABLISH PROACTIVE PROGRAMS IN EACH BUREAU TO EVALUATE AND IMPROVE INTERNAL CONTROLS.

THESE FEW EXAMPLES ARE REPRESENTATIVE OF THE WAY IN WHICH THE INSPECTOR GENERAL HAS DEVELOPED HIS OFFICE AS A VERY EFFECTIVE MANAGEMENT TOOL. NOT ONLY DOES HE INVESTIGATE AND UNCOVER INDIVIDUAL MISCONDUCT, BUT HE IS SENSITIVE TO THE WEAKNESSES IN PROCEDURES AND CONTROLS WHICH ALLOW MISCONDUCT TO OCCUR, AND HE MAKES RECOMMENDATIONS TO THE APPROPRIATE MANAGEMENT OFFICIALS TO CORRECT THOSE WEAKNESSES, IMPROVE THEIR INTERNAL CONTROLS AND STRENGTHEN THEIR OPERATIONS.

THE INSPECTOR GENERAL HAS NOW BEEN DELEGATED, AND HAS ALREADY BEGUN TO EXERCISE, THE AUTHORITY TO INITIATE, CONDUCT, AND REVIEW INTERNAL AUDITS IN ALL AREAS OF THE DEPARTMENT, AND TO REVIEW BUREAU AUDIT PLANS BEFORE THEY ARE FINALIZED. THE OFFICE HAS RECENTLY CONDUCTED SURPRISE AUDITS OF IMPREST FUNDS AND OVERTIME CLAIMS. THE AUTHORITY OF THE INSPECTOR GENERAL IN THE AUDIT AREA INSURES THE DEPARTMENT THAT ANY DEFICIENCIES NOTED IN BUREAU OPERATIONS WHICH GO UNCORRECTED, OR WHICH SUGGEST THE NEED FOR STRONGER OR IMPROVED CONTROLS OR PROCEDURES, CAN BE BROUGHT TO THE ATTENTION OF HIGHER LEVEL MANAGEMENT OFFICIALS FOR CORRECTIVE ACTION. IT ALSO INSURES THAT PRIORITIES ARE ASSIGNED TO THE HIGH RISK AUDITABLE AREAS WHICH ARE MOST VULNERABLE TO FRAUD AND WASTE.

WE SHARE THE CONCERN OF THIS COMMITTEE FOR THE NEED TO INSURE THAT TREASURY OPERATIONS ARE CONDUCTED EFFICIENTLY, EFFECTIVELY AND FREE FROM THE ABUSES OF WASTE, FRAUD AND ERROR, AND UNDERSTAND AND APPRECIATE THE KEY ROLE THAT AUDITING STAFFS PLAY IN ACHIEVING THESE OBJECTIVES.

I WOULD LIKE TO MAKE SOME OBSERVATIONS ON THE EFFECT OF S.3025 ON THE TREASURY DEPARTMENT. THIS BILL IS DESIGNED TO AMEND THE INSPECTOR GENERAL ACT OF 1978. UNDER SECTIONS 2 AND 4 OF THE INSPECTOR GENERAL ACT OF 1978, THE RESPONSIBILITY TO CONDUCT, SUPERVISE AND COORDINATE AUDITS AND INVESTIGATIONS THROUGHOUT THE WHOLE DEPARTMENT WOULD BE VESTED IN THE INSPECTOR GENERAL WHO WOULD BE APPOINTED BY THE PRESIDENT AND CONFIRMED BY THE SENATE. SECTION 3 OF S.3025 TRANSFERS THE AUDIT STAFFS OF THE LISTED BUREAUS TO THE NEW OFFICE OF INSPECTOR GENERAL. I UNDERSTAND THAT THE SPONSORS INTENDED TO INCLUDE THE INTERNAL AUDIT DIVISION OF THE CUSTOMS SERVICE IN THAT SECTION, AND THAT THIS OVERSIGHT WILL BE CORRECTED.

AS WE INTERPRET THE INTERPLAY OF THE VARIOUS SECTIONS, THE INSPECTOR GENERAL WOULD HAVE COMPLETE SUPERVISION AND CONTROL OF ALL AUDIT AND INTEGRITY INVESTIGATIVE FUNCTIONS WITHIN THE DEPARTMENT. HOWEVER, THE PRESENT STRUCTURE OF THE INTEGRITY INVESTIGATORS AND THE INTERNAL REVENUE AUDITORS WOULD CONTINUE AND THEIR APPROPRIATIONS WOULD REMAIN WITH THE BUREAUS. IT APPEARS THAT THE STATUTORY INSPECTOR GENERAL HAS THE INHERENT AUTHORITY TO EFFECT CENTRALIZATION OF ANY OF THESE STAFFS. THUS, EXCEPT FOR THE CENTRALIZED AUDIT FUNCTION, THIS BILL IS SUBSTANTIALLY IN ACCORD WITH OUR PRESENT OPERATIONS, BUT MAKES THE INSPECTOR GENERAL A PRESIDENTIAL APPOINTEE RATHER THAN A CAREER SECRETARIAL APPOINTEE.

THE GENERAL COUNSEL HAS INFORMED ME THAT UPON SIGNATURE OF THIS BILL BY THE PRESIDENT, THE POSITION OF THE INCUMBENT INSPECTOR GENERAL WOULD BE ELIMINATED. THEREFORE, WE BELIEVE IT APPROPRIATE TO PROVIDE AUTHORITY TO THE SECRETARY TO MAKE AN IMMEDIATE APPOINTMENT OF AN ACTING INSPECTOR GENERAL UNTIL SUCH

TIME AS THE PRESIDENT HAS NOMINATED AND THE SENATE HAS CONFIRMED A STATUTORY INSPECTOR GENERAL. OTHERWISE, THE FUNCTIONING OF THE PRESENT INSPECTOR GENERAL'S OFFICE WOULD BE ADVERSELY AFFECTED BY THE OPERATION OF LAW.

THE BILL WOULD ADD THE SUBPOENA AUTHORITY CONTAINED IN SECTION 6(A)(4) OF THE INSPECTOR GENERAL ACT. THIS ADDITIONAL AUTHORITY WOULD BE AVAILABLE TO ALL INTERNAL AUDITORS AND INTEGRITY INVESTIGATORS WITHIN THE DEPARTMENT SINCE THEY ARE WORKING UNDER THE DIRECTION AND CONTROL OF THE INSPECTOR GENERAL.

TO SUMMARIZE, WE FULLY APPRECIATE THE CONCERNS OF THE COMMITTEE TO STRENGTHEN THE INSPECTOR GENERAL'S FUNCTION BY THE ESTABLISHMENT OF A STATUTORY OFFICE. BASED UPON OUR ASSESSMENT OF THESE ISSUES, WE DO HAVE RESERVATIONS AS TO WHETHER IMMEDIATE AND TOTAL TRANSFER OF THE LISTED AUDIT OFFICES TO THE INSPECTOR GENERAL'S OFFICE IS THE BEST WAY TO ACHIEVE OUR COMMON OBJECTIVES. WE WOULD ASSUME THAT THE LEGISLATIVE HISTORY WILL MAKE IT CLEAR THAT THE INSPECTOR GENERAL WILL HAVE SOME REASONABLE PERIOD OF TIME AFTER HE OR SHE IS SWORN IN TO ORGANIZE THE NEW OFFICE AND MAKE NECESSARY PREPARATIONS PRIOR TO THE ACTUAL TRANSFER OF THE BUREAU AUDIT OFFICES.

I APPRECIATE THE OPPORTUNITY TO PRESENT OUR VIEWS AND WOULD BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

Senator EAGLETON. Our next witness is Mr. Ben Read, Under Secretary for Management of the Department of State.

Mr. Read, may we put your testimony into the record and confine your presentation to a few questions?

Mr. READ. Certainly, Mr. Chairman, or I can highlight it, as you wish.

Senator EAGLETON. Without objection, Mr. Read's statement will be included in the record following his testimony.

TESTIMONY OF BEN H. READ, UNDER SECRETARY OF STATE FOR MANAGEMENT, DEPARTMENT OF STATE, ACCOMPANIED BY ROBERT C. BREWSTER, INSPECTOR GENERAL, DOS

Mr. READ. I am accompanied by Ambassador Bob Brewster, who is the Inspector General.

Senator EAGLETON. What grant-type programs, if any, does the Department of State directly operate?

Mr. READ. One, the refugee program, which, of course, has grown very fast in the last couple of years. It is now in the neighborhood of \$600 million.

Senator EAGLETON. That is a pretty big one.

The second question is this. What kind of Inspector General setup do you have in the Department of State today?

Mr. READ. We have a statutory one which goes back to 1906. It was reconstituted in 1924 and 1946 in statutes which codified, as of those points in time, the foreign service legislation.

We are now proposing to codify the position of the Inspector General in the foreign service bill, which is pending on the Senate and House calendars. It has been approved by the Senate Foreign Relations Committee and their counterparts in the House.

Senator EAGLETON. You have read the 1978 act or have analyzed it, have you not?

Mr. READ. Yes.

Senator EAGLETON. Are there any reasons why the thrust of the 1978 act should not be made applicable to the Department of State?

Mr. READ. None, as they are in the pending foreign service bill, Senator Eagleton. We do think that the 1978 act alone is insufficient in that it needs to take into account, as the foreign service bill does, two or three distinctive issues that are peculiar to State and State alone.

I will just mention them very briefly. One is the fact that the inspectors traditionally have monitored the effectiveness of the conduct of relations of the embassies in other countries. There is no point in having a well-run embassy if it is not relating to the host government in a sensible fashion. That is obviously an added factor.

The second is this. Under the 1974 statute and a subsequent Presidential directive the Ambassadors and the Secretary are responsible for the direction, coordination, and supervision of all U.S. Government activities abroad, outside the jurisdiction of military commanders. Therefore, a very important facet of those inspections relates to the interagency coordination, direction, and supervision function.

We think, as the foreign service bill does, that those should be given special recognition.

In addition, there is, of course, national security information involved and that does require special treatment as specified in that bill.

Senator EAGLETON. You do not advocate having, as it were, two teams of Inspectors General—one team that does nothing but look at ledger sheets, vouchers, expense accounts, and what have you, and then a separate team that goes out and evaluates on a judgmental basis how well embassy X is relating to the host government.

Mr. READ. I think that is very wasteful, and I think it can be done sensibly and properly together.

Senator EAGLETON. I see.

At one point in time did the Department of State have within it an Inspector General, or as part of its operation an Inspector General-type person who audited and inspected the foreign aid program?

Mr. READ. No. That is a point of confusion in some of the earlier testimony. It was a part of the Foreign Assistance Act of 1960. It was never part of the Department in the sense of being created under other legislation.

The relationship between AID and State has changed somewhat over the years. Under the latest reorganization—

Senator EAGLETON. Let me get it straight. In 1960 there was a Foreign Assistance Act that did give the State Department some auditing and investigating functions with respect to AID?

Mr. READ [continuing]. It created the Office of the Inspector General for Foreign Assistance, or IGA.

Senator EAGLETON. That was created within the Department of State?

Mr. READ. AID was then in the Department of State. It had a quasi-independent existence.

Senator EAGLETON. When was AID split out of the Department of State?

Mr. READ. By the latest reorganization plan of IDCA, it is given a more independent status than existed previously.

Senator EAGLETON. Was it at that point in time that this person sort of left the ambit of State and went over to AID?

Mr. READ. It really has not been thought of as part of State in the traditional sense. It had an independent life. Congress terminated the Office of IGA in 1978 and the functions, to the degree that they are performed, are performed in the Auditor General's Office in AID.

Senator EAGLETON. Therefore, from 1960 to 1978 there was a quixotic situation wherein there was a person technically under the control of the Department of State but he functioned really in a separate and autonomous way outside of the Department.

In any event, that has all been cleared up by the 1978 act.

Mr. READ. That is past history. Those were Presidential appointments—the Director and Deputy Director of the IGA.

Senator EAGLETON. Thank you, Mr. Read.

Mr. READ. It was my pleasure.

[The prepared statements of Mr. Read and Mr. Brewster follow:]

STATEMENT OF BEN H. READ
 UNDERSECRETARY OF STATE FOR MANAGEMENT
 BEFORE THE SUBCOMMITTEE ON GOVERNMENTAL
 EFFICIENCY AND THE DISTRICT OF COLUMBIA
 OF THE SENATE ON AUGUST 26, 1980

I am pleased to present the Department of State's views on S. 3025, a bill which would amend the Inspector General Act of 1978 to establish an Office of the Inspector General in the Department of State and other agencies.

The Department of State supports the provisions of Section 209 on the Inspector General in H.R. 6790, the Foreign Service Act of 1980, reported on May 15, 1980 by the House Committee on Post Office and Civil Service, as modified by the Senate Committee on Foreign Relations on August 5. This Inspector General provision is derived primarily from the Inspector General Act of 1978, but also draws upon the currently applicable section 681 of the Foreign Service Act of 1946 which provided for Foreign Service inspectors. This pending legislation establishes an independent Inspector General for the Department of State who will have all the powers of Inspectors General under the 1978 Act with respect to financial audit and investigation. In addition, the pending legislation continues the important authority for the Inspector General to review compliance with U.S. foreign policy objectives and to examine whether the interests of the United States are being accurately and effectively represented overseas. The bill thus amplifies the

long existing mandate of the Inspector General of the Department of State, which has had a statutory inspection function since 1906.

In one key respect the Inspector General of the Department of State must have an additional responsibility different from that set out in the Inspector General Act of 1978. State inspections must be oriented towards the management of overall implementation of U. S. foreign policy as well as all traditional and newly specified audit functions. The Secretary of State has responsibility for oversight and coordination of the activities of other agencies of the United States operating overseas. Principal diplomatic officers of the Department of State, as the President's representatives, have specified, carefully defined statutory and other responsibilities for the overall effectiveness of U. S. activities and representation in the countries where they are accredited including those of other federal agencies operating under embassy jurisdiction in those countries. Section 209 of both versions of the Foreign Service Bill specifically recognizes this oversight responsibility and charges the Inspector General of the Department of State with reviewing this aspect of the implementation of our national foreign policy at the Mission level. Additionally, it charges the Inspector General to include an examination of "whether

policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented." The 1978 Act is silent on these important broad obligations.

The question of audit and investigative responsibilities was given careful consideration in connection with the deliberation by Congressional Committees on the Foreign Service Act of 1980. We believe that strong emphasis on the detection and prevention of fraud, waste and mismanagement is achieved by the Senate Foreign Relations Committee version of Section 209 of that bill. That bill contains all the important features of the Inspector General Act of 1978 including all the authorities granted to Inspectors General under Section 6 of that Act.

S. 3025 would transfer the portion of the Office of Inspector General that performs audits and investigations to a new Office of Inspector General, thus separating those functions from the evaluation of the achievement of the nation's foreign policy goals. The Department believes both of these functions merit review and investigation. We believe that it would be difficult and wasteful to separate evaluations of economy and efficiency from evaluations of the effectiveness of policy implementation. Experience demonstrates that both aspects should be evaluated simultaneously.

The Secretary and the officers in leadership positions of the Department of State find that the inspection and audit function is one of the most valuable means that we have for assessing how well we are carrying out the foreign policy of the United States. The Inspector General's is the only office in the Department that is capable of stepping back from the routine and making an objective assessment of how well we are doing, with no particular policy or no particular policy or bureaucratic position to defend. If the Inspector General operations did not exist, we would have to invent them if we were to manage foreign policy with any effectiveness.

We look to the Inspector General to serve four primary needs of the Department and of the Foreign Service. First, Inspectors provide the best independent view of how all the aspects of our foreign policy are being implemented, both overseas and by units in Washington. Most of the information flowing onto my desk and that of other managers comes in bits and pieces. Inspection Reports provide the most comprehensive views of how well particular missions or bureaus and offices in the Department are doing overall. They cover management, political, economic/commercial, consular, administrative and all other activities of the posts or units being inspected. Most importantly, the

Inspectors also evaluate how well post or Department managers are doing in coordinating and overseeing the activities of all foreign affairs agencies with an interest in a particular area or program. In fact, Inspection Reports are the best source of information on the important inter-agency facet of implementing foreign policy.

Second, in my capacity as manager of the Department's budget, I rely heavily on the Inspector General's evaluation of how efficiently resources are being managed. The Department's budget group could not function with any reasonable certainty without the stream of on-site assessments of resource requirements that the Inspectors provide. The Inspector General's long-standing mandate on fraud and waste detection and prevention is vital in this regard.

Third, we depend upon the Inspector General to keep track of particular programs in which the US public, the Congress, the Administration and Department management have a strong interest, but which might be overlooked in the press of day-to-day diplomatic business. For example, the Inspector General is charged with special oversight over how well Consular Sections abroad are doing in assisting American citizens who have been jailed by foreign governments, how well we are carrying out the Equal Employment Opportunity program, how well posts are preparing required periodic substantive reporting plans, whether managers of posts and

offices in the Department are meeting all requirements in preparing their Zero-Based Budget Submissions and a number of other important programs.

Lastly, and in many ways most significantly, I look to the Inspector General as a force for stimulating change in the Department. Inspection and audit reports routinely point out deficiencies in the manner in which we implement foreign policy, and sometimes even suggest that the premise on which a certain policy is based needs to be reexamined. The Reports just as routinely recommend changes or corrections that should be made to improve our performance. I have learned from experience that if the Inspector General's suggestions are not carried out immediately, they do not go away. The Inspector General keeps after us until satisfactory responses or actions are taken at my level or above to decide unresolved issues. In most cases, the Inspector General has an easy time getting inspected posts and offices to change their ways. The overall rate of compliance with Inspector recommendations is remarkably high. I believe this stems from the fact that the Inspectors perform solidly, leaving little room to avoid complying with their findings. Another reason is the reputation the Inspection Corps has for professionalism and competence.

The Secretary and I believe the Office of the Inspector General of the Department of State already functions well

and is a potent force for stimulating management improvements and correcting abuses within the Department. The Senate Foreign Relations Committee version of Section 209 of the Foreign Service Act of 1980 will further strengthen the Office in a manner that we believe is fully compatible with the Inspector General Act of 1978. For these reasons, we prefer the approach to the Inspector General function provided in Section 209 of the Senate version of the proposed Foreign Service Act, which will achieve for the Department of State the objectives of the Inspector General Act of 1978. If the Congress enacts S. 3025, we believe that any provisions relating to the Department of State should conform to the Senate versions of the Foreign Service Bill.

STATEMENT OF ROBERT C. BREWSTER
INSPECTOR GENERAL, DEPARTMENT OF STATE,
BEFORE THE SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY
AND THE DISTRICT OF COLUMBIA OF THE SENATE
AUGUST 26, 1980

I am pleased to testify in respect to S. 3025, a bill which would amend the Inspector General Act of 1978 to establish an Office of the Inspector General in the Department of State and other agencies. Under Secretary Read has presented the Department's views. I would like to describe briefly how the Office of the Inspector General is organized and what it does.

The inspection function had its inception in 1906 when the Congress provided for inspection of the Consular Service. Foreign Service Inspectors were legislatively authorized both in the 1924 Rogers Act and the 1946 Foreign Service Act. The position of Inspector General of the Foreign Service was created in 1957. Appointed by the Secretary, the Inspector General is administratively equivalent to an Assistant Secretary. In 1971 the Audit Staff of the Department was merged with the Inspection Corps and the Inspector General's responsibilities were extended to cover the Department of State as well as the Foreign Service. In 1978 the title of Inspector General of the Foreign Service was changed to Inspector General of the Department of State coincident with a greater focus on the Department of State itself.

As presently constituted, the Office of the Inspector General has 77 full-time positions. The headquarters and support staff positions number 26. The inspection staff positions number 51, of which 27 are for Foreign Service officers with experience in program direction, management, political, economic, commercial, consular or administrative work, and 24 are for senior management Inspectors or audit-qualified Inspectors, the majority with work experience in the General Accounting Office.

The Office of the Inspector General has a role similar in most respects to other Inspectors General. It

- examines operations for economy and efficiency;
- reviews operations for compliance with laws and regulations;
- discerns and follows-up on cases of waste or fraud due to misfeasance or malfeasance; and
- reviews operations to assure adequacy of controls and systems.

However, given the Department's foreign policy responsibilities, the Office of the Inspector General is charged to go beyond other Inspectors General in some key areas. Thus it

- reviews the processes by which policy is developed, coordinated and disseminated to the field;

- reviews how policy is being carried out in both the field and Washington; and
- assesses how well Ambassadors are carrying out their responsibilities for the coordination and direction of other agency activities overseas.

In the last several years the Office of the Inspector General has modified its emphases in various important respects:

- More attention has been given to broad overall inspections and audits of programs, functions and activities of the Department. We have completed evaluations of Foreign Service substantive reporting plans world-wide, the Financial Management of the Refugee and Migration Program, International Narcotics Affairs, Foreign Service National Employees, and a Management Audit of the Kampuchean Relief Program. The inspection of International Narcotics Affairs, for example, included reviews in the countries with major narcotic problems, assist audits by the Drug Enforcement Agency and U.S. Customs of the use of training funds, and evaluation of management and coordination of the Bureau of International Narcotics Matters. Currently, an audit of accounts and loans receivables and cash management is being done. Earlier this year we participated in a government-wide audit of property management. More recently we participated in the government-wide review of agencies' plans for controlling

consulting services and improving procurement practices.

- Personnel evaluations have been deemphasized and will with minor exceptions cease entirely this year.
- In anticipation of action on the Foreign Service Bill of 1980, the previous two-year inspection cycle for Foreign Service posts has been slipped to three years or more and an increasing number of inspections and audits are concentrating on the Department itself.
- The Inspector General's function with respect to waste and fraud has been strengthened through the Secretary's designation of him to head the Departmental Committee on Waste, Fraud and Mismanagement. Directives to the Department and Foreign Service have reiterated the Inspector General's responsibilities in this area and made clear employees' responsibilities to bring questions of waste and fraud to the attention of the Inspector General. Specific allegations of abuses are investigated promptly. All inspections and audits or other reviews undertaken include examination of controls, systems, and methods employed to prevent fraud and waste. I believe the problem is receiving adequate and effective attention.

In summary, Mr. Chairman, I believe that the Office of the Inspector General is effectively performing its functions.

Senator EAGLETON. Our next witness is Mr. Douglas Bennet, Administrator of the Agency for International Development. He will be accompanied by Michael Hershman, Deputy Auditor General of AID.

Mr. Bennet, if you do not mind, may we put your prepared testimony into the record as though read?

Mr. BENNET. Certainly, Mr. Chairman.

Senator EAGLETON. Without objection, Mr. Bennet's statement will become a part of the record at the conclusion of his testimony.

TESTIMONY OF DOUGLAS J. BENNET, JR., ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT, ACCOMPANIED BY MICHAEL J. HERSHMAN, DEPUTY AUDITOR GENERAL, AID

Senator EAGLETON. You have been present and heard some of this morning's testimony, especially that of Mr. Read. Do you concur in terms of your reading of past history from 1960 to 1978 there was this sort of quixotic situation wherein the AID Inspector General came sort of under the control of the Department of State but in pragmatic functioning on a day-to-day basis it operated in a somewhat separate and independent mode?

Mr. BENNET. That is right, Mr. Chairman. I do not have personal familiarity with that function, but I would add that during that same period, the history is that my predecessors continued to build up an audit and inspection function within AID itself. The AID Auditor General was finally, as you know, made statutory in 1978.

Senator EAGLETON. The picture is much clearer now. That is, as of 1978 the picture became much clearer insofar as line operating authority of the Inspector General is concerned. He is clearly in AID. Is that correct?

Mr. BENNET. That is correct.

Senator EAGLETON. Do you appoint the Inspector General?

Mr. BENNET. Yes.

Senator EAGLETON. Does he serve at your pleasure?

Mr. BENNET. That is correct.

Senator EAGLETON. Is he a career civil service person?

Mr. BENNET. In this instance, no. The present incumbent, Herbert Beckington, is an ex-Marine Corps general and lawyer who was incumbent in the office when I took over AID last year.

Senator EAGLETON. How big a professional staff does he have?

Mr. BENNET. He has 127 auditors and inspectors.

Senator EAGLETON. Besides support clerical people of appropriate size?

Mr. BENNET. That is correct; yes.

Senator EAGLETON. In your opinion, is that staff adequate to do the job that is assigned to it?

Mr. BENNET. The job is extremely difficult because of the size of the program we operate, and the environment in which we function. We have AID programs in 70 countries, and we are talking about \$5 billion a year.

The auditors themselves are spread around in four or five missions abroad. It is hard to meet the test of adequacy under those circumstances.

I guess I would have to answer your question by saying that it is barely adequate.

Senator EAGLETON. Because of the nature of AID, these auditors and inspectors have to audit and inspect, in essence, worldwide.

Mr. BENNET. That is correct. Of course, they are dealing continuously with foreign countries, foreign governments, complicated exchange rate problems, and so forth.

Senator EAGLETON. How long have you been the head of AID, Mr. Bennet?

Mr. BENNET. Slightly over 1 year, Mr. Chairman.

Senator EAGLETON. Based on that experience, would you comment on the pending bill, S. 3025, insofar as it would apply to AID, IDCA, et cetera. Please give us your views of it pro and con.

Mr. BENNET. There is one piece of background which was mentioned by the GAO people, Mr. Chairman, which is that there is pending legislation, the Foreign Assistance Authorization Act, which addresses this issue and which would permit the IDCA Director, after consultation with the Administrator of AID, to have available to him the services of the Inspector General in AID.

S. 3025 permits the establishment of the Inspector General function within AID for administrative purposes. I think it is the intention of IDCA that if the bill were passed the Inspector General would be within AID, not only for administrative purposes but under the supervisory authority of the Administrator of AID.

I think the committee will want to clarify that language in the bill if the bill is to be adopted in its present form.

The supervisory functions with respect to appointment, removal, staff size, and general functioning of the office are absolutely critical for the Administrator of AID. AID cannot function without those authorities.

Senator EAGLETON. Thank you very much, Mr. Bennet.

Mr. BENNET. Thank you, Mr. Chairman.

[The prepared statement of Mr. Bennet follows:]

STATEMENT
BEFORE THE
SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY
OF THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
AUGUST 26, 1980
BY
DOUGLAS J. BENNET, JR.
ADMINISTRATOR
AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. Chairman, I appreciate this opportunity to testify regarding the Agency for International Development's audit and investigative functions and to provide the Agency's views on extending Public Law 95-452 (the Inspector General Act of 1978) to include AID.

AID administers over \$5 billion a year, including bilateral Development Assistance, the Economic Support Fund and PL 480 programs in the field. We have a staff of about 5,200 people, with programs in about 70 countries overseas.

Auditing is important to AID for many reasons. We spend taxpayers' dollars and have an obligation to protect them. More than other US agencies abroad, our activities involve complex procurement procedures and foreign currency transactions. Much of our foreign assistance is actually spent by host governments and voluntary organizations, not by our own employees, further increasing the importance of an effective auditing operation. The viability

of our program -- which is important to America's interests in the Third World -- depends upon the support of Congress and the public. We can hardly ask for that support unless we can show that we are making every effort to meet our obligations.

In AID, the Auditor General has the highest possible degree of independence and freedom of action. There are no restrictions on the scope and depth of the Auditor General's jurisdiction to probe, review and examine any aspect of the Agency's operations, responsibilities or legislatively-imposed duties, internally within the Agency's own organization or externally in discharge of our foreign aid functions.

The Auditor General has a staff of 102 US auditors and 25 inspectors. Currently 71 of these are stationed abroad, operating out of regional offices in Cairo, Karachi, Nairobi, Manila and Panama.

The Auditor General reports to only one individual --the Administrator. In addition, existing law provides that the Auditor General must submit an annual report to the Congress which, while transmitted through the Administrator, cannot be changed by him. I consider the Auditor General to be a key member of my management team, while recognizing the necessity to allow him the independence he needs to pursue his work.

Over the past decade, recognition of the importance of a strong audit and investigative effort for AID has led to several changes in the structure and function of the Auditor General's office.

Prior to 1969, the audit function in AID was strictly financial and was located within the Office of Comptroller. In June, 1969, the AID Administrator, acting pursuant to a commitment contained in the President's message on foreign aid earlier that year, administratively established the Office of Auditor General. This office, which reports to the Administrator, became responsible for all audit and investigative activities within AID.

Toward the mid-1970's, the audit function, in accordance with OMB and GAO guidelines, began to broaden in scope -- going from strictly financial to a management-type audit. This audit became of even greater use to management because it included not only a financial analysis but also a review of the efficiency and effectiveness of the audited entity. This audit allows us to evaluate our programs to ensure that intended results are being obtained.

The next major change regarding the Auditor General's office occurred in 1978. On October 6, 1978, Congress amended the Foreign Assistance Act of 1961 to provide, by law, for an Auditor General in AID, appointed by the Administrator and under the direct supervision of the Administrator. This amendment requires the Auditor General to supervise and direct all audit and investigative activities in AID and to submit an annual report to the Administrator to be provided to Congress without further clearance or approval.

Earlier this year, as a further step in strengthening the authorities of the AID Auditor General, the Senate Foreign Relations Committee and the House Foreign Affairs Committee passed amendments to the 1981 Foreign Assistance authorization bill. These amendments would:

- Change the title Auditor General to Inspector General;
- Grant subpoena authority to the AID Inspector General in line with that given to the statutory Inspectors General;
- Give the Inspector General the same authority to receive and investigate employee complaints as provided by the Inspector General Act of 1978;
- Require the Inspector General to comply with GAO standards, establish guidelines for use of non-federal auditors and assure that work performed by non-federal auditors complies with GAO standards;
- Require the Administrator to provide adequate and appropriate office space at central and field office locations;
- Allow the Inspector General to audit and investigate IDCA components at the request of the Director of the International Development Cooperation Agency (IDCA).

This amendment, combined with existing statutory authorities and administrative procedures used by the Auditor General, will bring audit and investigative responsibilities in IDCA and AID essentially in line with those of the statutory Inspectors General. Some differences are that the Inspector General of AID would not be a Presidential appointee, and his report to Congress would occur annually, as it does now, rather than semi-annually.

I believe that the Auditor General is already able to carry out his responsibilities in a manner fully consistent with the Inspector General Act, and that his position will be further reenforced when the pending Foreign Assistance authorization bill

amendments are adopted. They take into account the fact that IDCA is intended to be a small policy-making and coordination body while AID has operational responsibility for administering the U.S. bilateral assistance program.

As Chairman Ribicoff explained during Senate debate on Reorganization Plan No. 2 of 1979 which established IDCA: "AID will operate as a separate identifiable unit within IDCA. The Director of IDCA will not administer day-to-day activities of the aid program, so that IDCA may exercise most effectively its broad policy responsibilities."

With respect to the audit function specifically, Mr. Eric Hirschhorn, Counsel, President's Reorganization Project, testified on behalf of the Administration during a May 21, 1979 hearing before the House Committee on Government Operations:

"...The problem that we see with placing an audit function...directly into IDCA is that the President has decided that the Agency itself will be a relatively small entity with no more than 70 people and perhaps a good number less than that. To add to that an audit function of well over 100 people would substantially change the character that the President has intended for it.

"The IDCA Director will have the authority, whenever he deems it necessary, to get the component agencies to conduct financial audits or evaluations of any of their programs. In addition, he will have an independent, but small, evaluation function of his own."

In my letter of May 23, 1980 to Chairman Ribicoff commenting on an earlier Inspector General bill (S.1548) being considered by your Committee, which would have established an Inspector General in IDCA, I stated the Administration's preference for a different approach: "IDCA and AID are in agreement that the amendment to H.R. 6942 (the pending Foreign Assistance authorization legislation) is a desirable way to strengthen the audit and investigative function in the foreign assistance program. IDCA will have full access to these services, but the operating unit will remain in AID where almost all of the program activity occurs."

S.3025 as drafted would provide authority to the IDCA Director to locate the Inspector General in AID or another IDCA component "for administrative purposes." IDCA has stated that, should S.3025 be enacted, the IDCA Director would locate the Inspector General in AID. Because of the limitation in Section 3(a) of the Inspector General Act of 1978 on delegation of supervisory authority over Inspectors General, the Committee should make clear with respect to section 4(b) of S.3025 that the AID Administrator would have direct supervisory authority over an Inspector General if located in AID, while the Director of IDCA would have access to the Inspector General functions as appropriate.

Not only am I responsible for the administration of the bilateral foreign assistance program, I am also accountable. I rely on the audit and inspection function to ensure that AID's programs are run efficiently, effectively, and honestly. If I have a concern about a program or operation, I ask the Auditor General to conduct a review. My managers similarly rely on the Auditor

General. Hardly a week goes by without a request from an AID Mission Director for audit assistance. This is not to say that the Auditor does not initiate his own work as well. He does and must. His independence is critically important to my credibility and that of the entire Agency. Any organizational arrangement which distances the Administrator from the Inspector General can only diminish the effective functioning of AID. However, the arrangement provided for in this year's Foreign Assistance authorization legislation or S.3025 with the clarifications I have mentioned would meet this concern and the audit needs of both IDCA and AID.

Senator EAGLETON. Our next witness is Mr. Guy Erb, Deputy Director of the International Development Cooperation Agency.

Without objection, Mr. Erb's statement will be included in the record at the conclusion of his testimony.

I believe you were here during Mr. Read's and Mr. Bennet's testimony, were you not? You heard their testimony.

**STATEMENT OF GUY F. ERB, DEPUTY DIRECTOR,
INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**

Mr. ERB. Yes, sir.

Senator EAGLETON. Will you comment on their testimony from your perspective as Deputy Director of IDCA.

Mr. ERB. Of course, I think the most relevant comment is the one that Administrator Bennet just made to you, namely, that it is our understanding that the bill before you, S. 3025, would enable the IDCA Director to delegate to the AID Administrator all of the authorities he would need to supervise the operation of the Inspector General.

It is our wish and our hope that as a result of this or the other pending legislation that in the IDCA structure there would be an Inspector General with sufficient authorities to carry out functions with regard to IDCA's components.

Senator EAGLETON. Does IDCA operate any grant-type programs directly?

Mr. ERB. No, sir. We are the policy and budget guides body that operates through AID and the Overseas Private Investment Corporation and the Trade and Development program. We also share with the Treasury Department responsibility for U.S. policy toward the multilateral banks, and through the Development and Coordination Committee the P.L. foreign aid programs with the Department of Agriculture.

Senator EAGLETON. In other words, it is a policy formulation agency. Is that correct?

Mr. ERB. That is correct.

Senator EAGLETON. It is not an operational agency.

Mr. ERB. That is correct. To the IDCA Director were delegated the authorities under the Foreign Assistance Act and were redele-

gated, most particularly with regard to the bilateral program in this instance, to the AID Administrator.

Senator EAGELTON. Therefore, it would be in your opinion incongruous if we put the Inspector General division of AID under your direct control, supervision, and administration, would it not?

Mr. ERB. That is correct. That is our view. It would be best located in the major operational agency.

I think, as Mr. Bennet pointed out, it is our view that under the authority of S. 3025, should it be enacted, the IDCA Director could so redelegate the authority, but it would be helpful if that were reclarified by report or in some other way.

Senator EAGLETON. Why do we put IDCA into it at all? Why do we not just let well enough alone, and let IDCA go on and do its thinking thing and its policy formulation thing and its planning thing? Why do we involve IDCA in it even tangentially?

Mr. ERB. The organization plan did consolidate policy and budget formulation toward a variety of foreign assistance programs and vested in the IDCA Director the authorities that had hitherto been vested in the Secretary of State or the AID Administrator for the bilateral program.

We do have an opportunity through this legislation to provide, after consultation with the Administrator and the Inspector General, auditing functions to other IDCA components; that is, the operational components of IDCA or the Office of the Director itself.

The intent of the reorganization plan was to consolidate in a way different than had been the case in the past our foreign assistance functions. Therefore, it would be appropriate to consider IDCA as a whole while retaining the actual operational authority as it has been described to you.

Senator EAGLETON. Thank you very much, Mr. Erb.

Mr. ERB. Thank you.

[The prepared statement of Mr. Erb follows:]

STATEMENT OF GUY F. ERB
DEPUTY DIRECTOR
INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
BEFORE THE
SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF
COLUMBIA
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
AUGUST 26, 1980

Mr. Chairman, I am pleased to have the opportunity to appear before this Subcommittee today and to participate in its consideration of S.3025, which would amend the Inspector General Act of 1978.

Let me begin by briefly describing the International Development Cooperation Agency and its role in establishing U.S. development policy. Following the leading role taken by your Committee on Reorganization Plan No. 2 of 1979, IDCA was established on October first of last year. As this Committee stated in its Report on the Reorganization Plan, the purpose of IDCA is "to formulate U.S. development policies towards the developing world, and to serve as a focal point within the U.S. Government for consideration of matters which significantly affect the developing world." The IDCA Director is the "President's principal advisor on development matters." He has "primary responsibility for setting overall development assistance policy and coordinating international development activities supported by the United States." To achieve this purpose, the IDCA Director is vested by Congress and the President with, among other authorities, the principal development

assistance authorities under the Foreign Assistance Act. The Agency for International Development, a component of IDCA, has been delegated authority to administer virtually all of the bilateral assistance programs.

IDCA has within it, as organizational units, in addition to AID, the Trade and Development Program and the Overseas Private Investment Corporation. Additionally, the IDCA Director has lead responsibility for budget and policy concerning United States participation in the organizations and programs of the United Nations and the Organization of American States whose purposes are primarily developmental. The IDCA Director participates in the selection of U.S. Executive Directors of the multilateral development banks and advises them on development policy and proposed projects and programs. Moreover, the IDCA Director is responsible for the PL 480 Title II Program and considers food aid issues in the course of formulating development assistance policies and planning the development budget.

As the President stated in his Message to Congress accompanying Reorganization Plan No. 2, the IDCA Director has the authority to "establish and control the budgets and policies of the Agency for International Development and the bilateral assistance programs it administers." Moreover, "a principal responsibility" of the IDCA Director is "the achievement of consistency and balance among the policies, major programs, and budgets of the component agencies."

Accordingly, the IDCA Director, as the head of the Agency, is responsible for the establishment and coordination of development assistance priorities and policies and their coordination among its components and other elements of the development assistance community.

S. 3025 would establish in IDCA an Office of Inspector General and authorize the IDCA Director, with the agreement of the Inspector General, to locate that Office in AID or any other IDCA component. There already exists in AID an Office of Auditor General whose responsibilities, when enhanced by the additional authorities provided by the pending FY 1981 Foreign Assistance Authorization bill, would approximate those given the Inspector General by the Inspector General Act.

If S. 3025 were enacted, it would be the intention of the IDCA Director to locate the Inspector General in AID. Since the activities of the Office of Inspector General are operational in nature, it is appropriate that the Inspector General be located in AID, the largest operational component of IDCA. AID administers virtually all of the bilateral assistance programs which we understand will be a major focus of the activities of the Inspector General. Moreover, if S. 3025 were enacted, it would be the intention of the IDCA Director to delegate the authorities now exercised by the Administrator of AID with respect to the AID Auditor General to him for purposes of the Inspector General.

In this regard, it would be helpful for the Committee to clarify that in locating the Inspector General in AID for administrative purposes, the AID Administrator can be given direct supervisory authority over the Inspector General, as IDCA intends. The IDCA Director would, of course, retain access to the functions of the Inspector General relating to programs and operations of the Office of the IDCA Director and the IDCA components.

Let me briefly review pending legislation amending the Foreign Assistance Act which would affect the authorities of the AID Auditor General. Section 707 of the House version and Section 602 of the Senate version of the International Security and Development Cooperation Act of 1980 (H.R. 6942 and S. 2714) amend Section 624(g) of the Foreign Assistance Act in a way that takes into account both the creation of IDCA and the need for enhancing the authorities of the current Auditor General. These provisions would authorize the Inspector General to audit activities relating to programs and operations within IDCA. In other words, the Inspector General shall audit any component of IDCA at the request of the IDCA Director (after consultation with the Administrator). While this legislation has not yet been enacted -- it awaits Conference action -- we are hopeful that it will be enacted soon.

These provisions of the House and Senate versions of the FY 1981 Foreign Assistance Authorization bill would also effect other changes designed to strengthen the audit and investigative functions of the Auditor General. They would change the name of the Auditor General to Inspector General, and give the Office responsibilities more consistent with the authorities vested in Inspectors General in the Inspector General Act of 1978, including a subpoena power to require the production of all information, documents, and other documentary evidence necessary to perform its functions.

Mr. Chairman, from IDCA's perspective, there are three major concerns. First, that within the IDCA structure there be an Inspector General with sufficient authorities to carry out the role of an Inspector General. Second, that the Inspector General be empowered to carry out his functions with regard to all the IDCA components. Third, that there be the ability to administratively locate the Inspector General in AID and to give the AID Administrator supervisory authority over the Inspector General, while maintaining access to the Inspector General by the IDCA Director. The arrangement provided for in this year's Foreign Assistance authorization legislation, or in H.R. 7893 with the clarification I have mentioned, would meet these concerns.

More detailed comment on the current Auditor General function, and on the nature of the proposed changes through the establishment of an Inspector General, will be provided by AID Administrator Bennet in his testimony.

Thank you, Mr. Chairman.

Senator EAGLETON. That concludes today's hearing on this subject matter.

The subcommittee will stand in recess until tomorrow morning at 9:30 a.m.

[Whereupon, at 11:35 a.m., the Subcommittee on Governmental Efficiency and the District of Columbia stood in recess, subject to the call of the Chair.]

96TH CONGRESS
2D SESSION**S. 3025**

To amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments and agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 12), 1980

Mr. EAGLETON (for himself and Mr. CHILES) introduced the following bill; which was read twice and referred to the Committee on Government Affairs

A BILL

To amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments and agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SHORT TITLE

4 SECTION 1. This Act may be cited as the "Inspector
5 General Act Amendments of 1980".

ESTABLISHMENT

7 SEC. 2. (a) Section 2(1) of the Inspector General Act of
8 1978 is amended—

1 (1) by inserting "the Department of Defense" im-
2 mediately after "the Department of Commerce";

3 (2) by inserting "the Department of Energy, the
4 Department of Health and Human Resources" immedi-
5 ately after "the Department of Education,";

6 (3) by inserting "the Department of Justice," im-
7 mediately after "Interior,";

8 (4) by inserting "the Department of State," im-
9 mediately after "Labor,";

10 (5) by inserting "the Department of the Treas-
11 ury," immediately after "Transportation,"; and

12 (6) by inserting "the International Development
13 Cooperation Agency," immediately after "General
14 Services Administration,".

15 (b) Paragraph (1) of section 11 of the Inspector General
16 Act of 1978 is amended—

17 (1) by inserting "Defense," immediately after
18 "Commerce,";

19 (2) by inserting "Energy, Health and Human
20 Services" immediately after "Education,";

21 (3) by inserting "State," immediately after
22 "Labor,";

23 (4) by striking out "or Transportation" and insert-
24 ing in lieu thereof "Transportation, or the Treasury,
25 the Attorney General,"; and

1 (5) by inserting "the International Development
2 Cooperation Agency," immediately after "General
3 Services,".

4 (c) Paragraph (2) of section 11 of the Inspector General
5 Act of 1978 is amended—

6 (1) by inserting "Defense (including the Depart-
7 ments of Army, Navy, and Air Force)," immediately
8 after "Commerce,";

9 (2) by inserting "Energy, Health and Human
10 Services" immediately after "Education,";

11 (3) by inserting "Justice," immediately after "In-
12 terior,";

13 (4) by inserting "State," immediately after
14 "Labor,";

15 (5) by striking out "or Transportation" and insert-
16 ing in lieu thereof "Transportation, or the Treasury";
17 and

18 (6) by inserting "the International Development
19 Cooperation Agency (including the Agency for Interna-
20 tional Development)," immediately after "General
21 Services Administration,".

22 TRANSFERS

23 SEC. 3. Section 9(a)(1) of the Inspector General Act of
24 1978 is amended by striking out "and" at the end of subpar-

1 agraphs (L) and (M) and by inserting at the end thereof the
2 following new subparagraphs:

3 "(N) of the Department of Defense, the of-
4 fices of that Department referred to as the 'De-
5 fense Contract Audit Agency', the Defense Audit
6 Service and the 'Office of Inspector General, De-
7 fense Logistics Agency', and that portion of the
8 office referred to as the 'Defense Investigative
9 Service' which has responsibility for the investiga-
10 tion of alleged criminal violations and program
11 abuse;

12 "(O) of the Department of Justice, the offices
13 of that Department referred to as the 'Internal
14 Audit Staff, Justice Management Division', the
15 'Evaluation Staff, Justice Management Division',
16 and the 'Office of Audit and Investigations, Law
17 Enforcement Assistance Administration';

18 "(P) of the Department of State, that portion
19 of the office of the Department referred to as the
20 'Office of the Inspector General of the Foreign
21 Service' which is engaged in auditing and investi-
22 gative activities;

23 "(Q) of the Department of the Treasury, the
24 offices of that Department referred to as the
25 'Office of Inspector General, Office of the Secre-

1 (b) For administrative purposes, the Office of Inspector
 2 General of the International Development Cooperation
 3 Agency may be located in such bureau or component of that
 4 Agency as the head of that Agency, with the agreement of
 5 the Inspector General, shall prescribe by regulation.

6 (c) The Department of Energy shall have a centralized
 7 audit system in which all departmental auditors engaged in
 8 internal auditing and contract auditing will be a part of the
 9 Office of Inspector General. There shall be transferred to the
 10 Office of Inspector General on the effective date of this legis-
 11 lation the following positions:

12 (1) The auditor positions that were in existence as
 13 of October 1, 1979, or the current auditor positions,
 14 whichever number is greater, at the following Depart-
 15 ment of Energy Offices: Albuquerque, Chicago, Idaho,
 16 Nevada, Oak Ridge, Richland, San Francisco and Sa-
 17 vannah River Operations Offices; Clinch River and
 18 Grand Junction Project Offices; Pittsburgh and Sche-
 19 nectady Naval Reactors Offices; and the Bonneville
 20 Power Administration.

21 (2) The auditing clerical and support positions
 22 that were in existence as of October 1, 1979, or the
 23 current auditing clerical and support positions, which-
 24 ever number is greater, at the above-mentioned De-
 25 partment of Energy offices.

1 (3) Such administrative positions, numbering not
 2 less than five, as are needed to enable the personnel
 3 transferred pursuant to subsection (a) (1) (2) and (3) to
 4 discharge their responsibilities.

5 (d) There shall also be transferred to the Office of In-
 6 spector General of the Department of Energy the personnel,
 7 assets, liabilities, contracts, property, records, and unexpend-
 8 ed balances of appropriations, authorizations, allocations, and
 9 other funds employed, held, used, arising from, available or
 10 to be made available, of any office or agency the functions,
 11 powers, and duties of which are transferred under sub-
 12 section (a).

13 (e) Personnel transferred pursuant to subsection (d) shall
 14 be transferred in accordance with applicable laws and regula-
 15 tions relating to the transfer of functions except that the clas-
 16 sification and compensation of such personnel shall not be
 17 reduced for one year after such transfer.

18 (f) Personnel engaged in compliance and enforcement
 19 auditing in the Federal Energy Regulatory Commission and
 20 the Energy Regulatory Administration shall not be trans-
 21 ferred to the Office of Inspector General under this section.

22 AMENDMENTS TO THE DEPARTMENT OF ENERGY

23 ORGANIZATION ACT

24 SEC. 5. (a) Section 208 of the Department of Energy
 25 Organization Act is repealed.

1 (b) Section 643 of the Department of Energy Organiza-
 2 tion Act is amended by inserting "(a)" after the section des-
 3 ignation and by adding the following new subsection at the
 4 end thereof:

5 "(b) The authority of the Secretary under this section
 6 does not extend to the abolition of the Office of Inspector
 7 General established in the Department by the Inspector Gen-
 8 eral Act of 1978, or of any organizational unit or component
 9 of such office, or to the transfer of functions vested by that
 10 Act in such Office."

11 REPEAL OF CERTAIN PROVISIONS

12 SEC. 6. Title II of the Act entitled "An Act to author-
 13 ize conveyance of the interests of the United States in certain
 14 lands in Salt Lake County, Utah, to Shriners' Hospitals for
 15 Crippled Children, a Colorado corporation." (90 Stat. 2429,
 16 approved October 15, 1976, is repealed.)

17 CONFORMING AND TECHNICAL AMENDMENTS

18 SEC. 7. (a) Section 5315 of title 5, United States Code,
 19 is amended by adding at the end thereof the following
 20 paragraphs:

21 "Inspector General, Department of Defense.

22 "Inspector General, Department of Justice.

23 "Inspector General, Department of State.

24 "Inspector General, Department of the Treasury.

25 "Inspector General, Department of Energy."

1 (b) Section 5316 of title 5, United States Code, is
 2 amended by adding at the end thereof the following new
 3 paragraph:

4 "Inspector General, International Development
 5 Cooperation Agency."

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END