

# Appendix A: Legislative History and Key Characteristics of Federal Inspectors General

## Inspectors General Through History – The Rise of Accountability

Although generally regarded as a 20th century development, the inspector general concept in the United States dates to the Revolutionary War period. In October 1777, General George Washington met with 14 general officers and decided that an inspector general (IG) for the Army was desirable. The IG would be the commander’s agent to ensure tactical efficiency of the troops. At the same time, the Continental Congress recognized the need for an IG to provide it with information concerning the significant public investment. The Congress wanted an agent in the Army to help with accountability over the military investments and also wanted assurances the military would remain subordinate to its authority.<sup>1</sup>

Foreshadowing struggles over IG authorities that continue today, this parallel requirement created tension between the military and both legislative and executive authorities. On December 13, 1777, Congress created the “Inspector General of the Army.” The Congressional resolution directed that this IG would:

- Review the troops.
- See that officers and soldiers were instructed in exercise maneuvers, established by the Board of War.
- Ensure that discipline be strictly observed.
- Ensure that officers command properly and treat soldiers with justice.

General Washington’s preference for an IG answerable to the Army chain of command prevailed, and subsequently IGs were ordered to report to the commander in chief. The first effective U.S. Army IG was Baron Frederick William Augustus von Steuben, a former captain in the Prussian Army who was recruited in Paris by Benjamin Franklin in 1777. Baron von Steuben’s valuable wartime services have been described as being second in importance only to those of General Washington himself.

The IG concept remained unique to the Army until the 20th century when the demand for accountability began to spread throughout government. The General Accounting Act of 1921 (Public Law 67-13) elevated accountability by providing a national budget system and an independent audit of government accounts.<sup>2</sup> For the first time, the president would be required to submit an annual budget for the entire federal government to Congress. The Act created what later became the Office of Management and Budget to review funding requests from government departments and consolidate the budget. Although not an IG by name, the Act also created the General Accounting Office (GAO), the nonpartisan audit, evaluation, and investigative arm of Congress, and placed it under the control and direction of the Comptroller General of the United States. Section 312 (a) of the Act states:

“The Comptroller General shall investigate, at the seat of government or elsewhere, all matters relating to the receipt, disbursement, and application of public funds, and shall make to the

President ... and to Congress at the beginning of each regular session, a report in writing of the work of the [GAO] containing recommendations...looking to greater economy or efficiency in public expenditures.”

GAO’s auditors conduct not only financial audits but also a wide assortment of performance audits. Often called the “congressional watchdog,” or “The taxpayers’ best friend,” the GAO’s work is done at the request of congressional committees or subcommittees, or is mandated by public laws or committee reports. The name of the GAO was later changed to the Government Accountability Office to better reflect the mission of the organization.

The first modern civilian IG, as we have come to understand the term, was created by the Mutual Security Act of 1959. The Act established the position of inspector general and comptroller under the International Cooperation Administration “to check up on the efficiency and effectiveness of mutual security operations.” The purpose was to give a single individual, with the necessary supporting personnel, a sufficiently high place in the executive hierarchy, sufficient independence from control by operating officials, together with sufficient authority and money to assure that he will be able to detect shortcomings in the mutual security program and to make recommendations for correction, which cannot be disregarded by those administering the program.<sup>3</sup> Section 401 (h) of the Act refers to investigations of two congressional subcommittees and the GAO that:

“...have provided evidence of waste and poor administration in the carrying out of the mutual security program in some countries. On the basis of this evidence, it appears that, while a continued review of the mutual security program by committees of the Congress and by the [GAO] will continue to be essential, the [ICA’s] efforts to control and evaluate its own operations have been less effective than they should be.”

Under the Act for International Development of 1961, (Public Law 87-195) the position was renamed Inspector General Foreign Assistance (IGA), was given significantly increased powers, and was made a presidential appointment with Senate confirmation.<sup>4</sup> The IGA was to report directly to the secretary of state and was charged with expanded duties and responsibilities including jurisdiction over the newly created Peace Corps and Agricultural Trade Development. The IGA was to maintain continuous observation and review of programs and report directly to the secretary of state. To eliminate duplication, the Act required that the IGA “give due regard” to the audit and investigation functions of the various agencies including the GAO and the military IGs. The Act also mandated that the IGA have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material of United States agencies under its jurisdiction, and all agencies were instructed to cooperate and furnish assistance to the IGA upon request. More than just advisory, the IGA was given the authority under the Act to suspend all or any part of any project or operation with respect to which he is conducting an inspection, audit, or review provided that he first gives notice to the secretary of state. In his book, *Monitoring Government*, author Paul C. Light refers to this program suspension authority as a “doomsday sanction.”<sup>5</sup>

Notwithstanding its unprecedented powers, the IGA was superseded on June 20, 1977, when the secretary of state directed the IG of the foreign service to perform the functions of the IGA. The International Development and Food Assistance Act of 1977 (Public Law 95-88) formally authorized this transfer of functions.<sup>6</sup>

The demand for accountability in government ratcheted upward in the wake of two key scandals that underscored the need for reforms and pointed the way for new approaches to attack fraud and waste in federal programs. First, there was the Billy Sol Estes scandal in the 1950s and 1960s. Then there was the extensive fraud, mismanagement, and abuse within the Department of Health, Education, and Welfare (HEW) that surfaced during the 1970s.<sup>7</sup>

Billy Sol Estes, a Texas businessman, defrauded banks and the Department of Agriculture of millions of dollars through mortgages on nonexistent fertilizer tanks and the fraudulent transfer of cotton allotments. An extensive Congressional investigation and hearings by the House Committee on Government Operations-Subcommittee on Intergovernmental Relations uncovered ineffective administration and ineptitude on the part of Agriculture Department officials. In response to the scandal, then-Secretary of Agriculture Orville Freeman created an IG for the department in 1965. The office consolidated the activities of audit and investigation. Moreover, the IG reported directly to the secretary and had the authority to review virtually any activities in the department and engage all parties with whom it had business relations.

A key weakness in the structure of the administratively created agriculture IG was that it was created by, and served at the will of, the secretary. Notwithstanding the office's successful record, it was summarily dismantled in 1974 under President Nixon's agriculture secretary, Earl Butz, who again split the functions of audit and investigations. During House Agriculture Appropriations Subcommittee hearings, Chairman Jamie Whitten objected vehemently, but the decision stood and no action was subsequently taken to create the office statutorily.

### **Congress Takes Action - Statutory Inspectors General**

While the Agriculture Department's IG was being dismantled, Senate and House committee investigations documented substantial fraud and ineffective administration in HEW. During the spring of 1975, the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations held hearings on "HEW Procedures and Resources for Prevention and Detection of Fraud and Program Abuse." In his opening statement, Subcommittee Chairman Lawrence H. Fountain cited the committee's responsibility for examining government operations at all levels with respect to economy and efficiency.<sup>8</sup> He went on to say:

"All of us recognize fraud and abuse in Federal programs can result in unwarranted expenditure of huge amounts of tax dollars. Moreover, it can greatly reduce the effectiveness of the programs involved....The subcommittee has been concerned for some time about the adequacy of the resources and procedures utilized by HEW to prevent and detect fraud and abuse in its programs."

Chairman Fountain also expressed concern over the special danger of fraud and abuse at HEW because of the sheer magnitude of the department's budget—more than \$100 billion in FY 1975 or over one-third of the entire federal budget at that time. In a January 1976 report following these hearings, the committee concluded:

“HEW's investigative resources were ridiculously inadequate. Its central investigative unit had only 10 investigators with a 10-year backlog of uninvestigated cases. Information needed by both HEW and Congress for effective action against fraud and abuse was simply not available.

Units responsible for combating fraud and abuse were scattered throughout HEW in a haphazard, fragmented, and confusing pattern with no single unit having the overall responsibility and authority necessary to provide effective leadership.

Personnel of most of these units lacked independence because they reported to and were hired by officials directly responsible for the programs being investigated. Consequently, honest and thorough reports concerning serious problems might often embarrass their own bosses.”

In its report, the subcommittee indicated that it would consider the establishment of a statutory HEW OIG during the 94th Congress. During the second session, the Intergovernmental Relations and Human Resources Subcommittee held specific hearings on HR 5302 “To Establish the Office of [IG] in the Department of Health, Education and Welfare.”<sup>9</sup>

HR 5302, as introduced, contained the following key provisions and authorities for the OIG:

- The IG would serve for a term of 10 years, could be removed only by impeachment, and could not be reappointed.
- The IG was to investigate each program administered by HEW that involved the application or disbursement of federal funds, in order to:
  - Determine compliance with applicable laws and regulations.
  - Recommend correction of deficiencies in, or improvements of, the organization, plans, or procedures of such program.
- The IG would transmit an annual report to Congress and the secretary of HEW, with a summary of each complaint, the findings of each investigation, and recommendations with respect to program changes. The report was to be submitted directly to Congress without being required by any person to submit such report for approval before such transmission.
- The IG could secure directly from any agency, department, corporation, independent establishment, or other entity of the executive branch, any information deemed necessary.
- The IG could hold hearings, take testimony, and receive evidence.
- The IG would have the power to issue subpoenas requiring the testimony of witnesses and the production of any evidence.

The sponsor of the bill, Representative Benjamin S. Rosenthal, expressed his view that an investigatory office must be provided certain tools if it is to be effective. These include an adequate and capable staff, access to information including the ability to subpoena, and complete independence from those responsible for operating programs and those in high organizational positions. After some modifications and melding with other similar bills, the establishment of a statutory IG within HEW was signed into law (Public Law 94-505) by President Gerald R. Ford on October 15, 1976.

After the creation of the statutory HEW IG, momentum was building in Congress to spread the IG concept. Light attributes the movement in part to the expansion of congressional staff and oversight activity, particularly in the House. According to Light, in the five years between 1973 and 1978, House committee and subcommittee staff more than doubled from 878 to 1,844, and Senate committee and subcommittee staff grew from 873 to 1,151.<sup>10</sup> This growth reflected an ever-increasing need and demand for “grist” for the expanding Congressional oversight “mill.”

### **The Inspector General Act of 1978**

Congressional efforts during the 95th Congress to spread the IG concept were seen as a test of the “separation of powers” doctrine and were met with great opposition. Representative Fountain authored HR 2819, which was introduced in February 1977, to establish IGs within six departments and four agencies. The potentially affected departments and the Department of Justice (DOJ) had particular concerns about the dual reporting channel, seeing it as an infringement on executive branch privilege.

The eventual House-passed version, HR 8588, established OIGs in six departments and six agencies for a total of 12 statutory IGs. The bill had been substantially weakened through compromise with changes in pay, removal provisions, reporting channel, and budget protection.<sup>11</sup> However, the bill was restored and strengthened in the Senate, with the addition of whistleblower protections and authority to review existing and proposed legislation and regulations. A key Senate amendment to bolster IG independence remains today at section 3 (a) of the Act: “... Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.”<sup>12</sup>

The House agreed to the Senate amendments, and HR 8588 was signed into law by President Jimmy Carter on October 12, 1978. In his signing remarks, President Carter said:

“I think it’s accurate to say that the American people are fed up with the treatment of American tax money in a way that involves fraud and mismanagement and embarrassment to the Government. I consider, and these Members of the House and Senate behind me consider, the tax money to be a matter of public trust. We’ve not yet completely succeeded in rooting out the embarrassing aspects of government management—or mismanagement. This bill will go a long way toward resolving that problem.”<sup>13</sup>

## The Inspector General Act of 1978

Since the passing of the IG Act of 1978, the emphasis on accountability has continued to ramp upward. Several pieces of subsequent legislation have amended the Act to create additional IGs, strengthen some existing provisions, and add new responsibilities.

The Inspector General Act Amendments of 1988 (PL 100-504), originally sponsored by Senator John Glenn, Jr., created 30 additional OIGs at designated federal entities (usually smaller agencies). The Act provided essentially the same powers and duties as those IGs appointed by the president; however, these IGs are appointed by, and can be removed by, the agency head with notice to both houses of Congress.<sup>14</sup>

The Homeland Security Act of 2002 (PL 107-296) amended the IG Act of 1978 authorizing the exercise of law enforcement authority, including carrying firearms, making arrests, and executing warrants, to special agents of 24 presidentially appointed OIGs. Prior to this Act, four other OIGs possessed law enforcement authority pursuant to separate legislation.<sup>15</sup>

The Inspector General Reform Act of 2008 (PL 110-409) created the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and enhanced the independence of IGs by strengthening appointment and removal provisions, adding budget protections, and amending reporting and pay provisions. Removal provisions for both establishment and designated federal entity OIGs now required 30 days advance notice to both houses of Congress.<sup>16</sup>

The Intelligence Authorization Act for FY 2010 (PL 111-259) established the Intelligence Community IG and established four Defense Intelligence components as designated federal entities with IGs appointed by the agency head.<sup>17</sup>

The Whistleblower Protection and Enhancement Act of 2012 (PL 112-199) established that each presidentially appointed, Senate-confirmed IG must designate a Whistleblower Protection Ombudsman responsible for educating agency employees about prohibitions on retaliation for protected disclosures and the rights and remedies against retaliation for protected disclosures.<sup>18</sup>

The Inspector General Empowerment Act of 2016 (PL 114-317) is indicative of Congress' continuing support of the IG model and the need for OIG independence. In 2010, the DOJ and other agencies began vetting and redacting sensitive documents before giving them to IGs, increasing the amount of time it took for IGs to receive those documents, limiting the IGs' ability to fully investigate issues, and generally impeding the oversight process. This restriction was bolstered in 2015 when the DOJ Office of Legal Counsel (OLC) released an opinion stating that the DOJ IG did not have complete access to all of the agency's documents.<sup>19</sup> The Act sets forth standards regarding IG access to agency records, the timeliness of their access, and procedures for their requests for access to federal grand jury materials. It also exempts IGs from: 1) information privacy protections under the Computer Matching and Privacy Protection Act of 1988, and 2) procedural requirements for information collections under the Paperwork Reduction Act. The Act expands IG reporting requirements, increases the types of reports given to Congress, and increases whistleblower protections.<sup>20</sup>

## The Inspector General Act of 1978

The 72 federal OIGs fall into two distinct categories: “Establishment IGs,” and “Designated Federal Entity (DFE) IGs.” Establishment IGs are appointed by the president with Senate confirmation, whereas DFE IGs are appointed by the agency head, which may be an individual, a board, or a commission. With few exceptions, both types of IGs share the same authorities and responsibilities spelled out in the IG Act. The IG Act contains a variety of statutory guarantees of OIG independence, designed to ensure the objectivity of OIG work and to safeguard against efforts to compromise that objectivity or hinder OIG operations. These provisions, highlighted in a paper produced by the Council of Inspectors General on Integrity and Efficiency and titled the Inspectors General, are as follows:<sup>21</sup>

### *1. Selection and Appointment*

Under the IG Act, all OIGs must be selected without regard to political affiliation and based solely on “integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.”

### *2. Removal or Transfer*

Although IGs generally serve at the pleasure of the president or Designated Federal Entity (DFE) head, the IG Act contains procedural safeguards to help ensure the independence of OIGs. These safeguards are meant to prevent IGs from being removed for political reasons or simply because they are doing an effective job of identifying fraud, waste, and abuse. An Establishment or DFE IG may be removed from office or transferred to another position within the agency by the president or entity head, respectively; however, the president or entity head must communicate the reasons for the action in writing to both houses of Congress at least 30 days before the removal or transfer.

### *3. General Supervision of an OIG*

The IG Act specifically prohibits agency management officials from supervising the OIG. Neither the head of the establishment (agency or department) nor the officer next in rank below such head shall prevent or prohibit the OIG from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. This important organizational independence helps to limit the potential for conflicts of interest that exist when an audit or investigative function is placed under the authority of the official whose particular programs are being scrutinized. This insulates IGs against reprisal and promotes independent and objective reporting.

### *4. IG Access to Agency Head*

Each IG under the Act is to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under the Act. This provision ensures that the agency head hears first-hand about serious problems within the entity and can make sure that the OIG gets prompt and thorough access to the necessary records.

## 5. Reporting

The IG Act creates a dual reporting obligation for OIGs to keep both the head of the agency and the Congress “fully and currently informed” about deficiencies in agency programs and operations, and progress in correcting those deficiencies. OIGs must issue semiannual reports detailing, among other items, significant problems and deficiencies identified by the OIG during the preceding six-month period; listing current and pending recommendations; and summarizing prosecutorial referrals made during the period. Section 5(d) of the IG Act authorizes an IG to report immediately to the agency head when the OIG becomes aware of “particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations.” In turn, the agency head must transmit the report—and any comments—to the appropriate committees or subcommittees of Congress within seven calendar days. In addition, OIGs brief their agency heads on important audits, investigations, and other issues, as appropriate; testify frequently before Congressional committees; and respond to Questions for the Record (QFRs). They also field requests, provide briefings to, and participate in meetings with Congressional members and their staff on a regular basis.

## 6. Budget

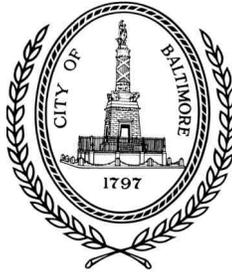
The IG Act also bolsters OIG independence through individual reporting of OIG budgets. Section 6(f) of the IG Act specifically requires that each OIG’s requested budget amounts be separately identified within their agency budgets when submitted to the Office of Management and Budget (OMB) and by OMB to the Congress. Also, section 6(f)(3) of the IG Act authorizes IGs to comment to Congress on the sufficiency of their budgets if the amount proposed in the president’s budget would “substantially inhibit the [OIG] from performing the duties of the office.”

## 7. Access to Records, Subpoenas, Oaths and Affidavits

In passing the IG Act, Congress recognized that access to records would be critical to effective OIG investigations, audits, and other inquiries. In response, each OIG is given a broad statutory right of access to all records within its agency. If an agency employee refuses to provide records to the OIG, the OIG is to report the circumstances to the agency head immediately and to include the incident in his/her semiannual report.<sup>22</sup> The IG Act provides OIGs with broad authority to subpoena all information “necessary in the performance of the functions assigned by the Act” and the subpoenas are enforceable in Federal District Court. Also, OIGs may take from any person an “oath, affirmation, or affidavit” when necessary in performing their duties under the IG Act.<sup>23</sup>

## 8. Whistleblowers

Each OIG is authorized to receive complaints from agency employees and may not disclose the identity of these whistleblowers, except when disclosure is “unavoidable during the course of the investigation.” Importantly, agency managers may not take action against an employee for making a complaint or disclosing information to the OIG unless the disclosure was knowingly false or made with willful disregard to its truth.<sup>24</sup>



## **EXECUTIVE ORDER**

WHEREAS, the citizens of Baltimore have a right to expect that City government will operate with maximum efficiency, accountability, and integrity; and

WHEREAS, the values of efficiency, accountability, and integrity are best able to thrive in government when there are mechanisms in place specifically addressed to promoting these values; and

WHEREAS, persons charged with preventing fraud, waste, and abuse of office in government must be able to investigate vigorously and speak candidly without fear of retribution; and

WHEREAS, persons charged with promoting efficiency, accountability, and integrity in government must themselves exemplify these values;

NOW THEREFORE, I, MARTIN O'MALLEY, Mayor of the City of Baltimore, by virtue of the authority vested in me, do hereby issue the following Executive Order:

BE IT ORDERED that the Office of the Inspector General is established and will function as follows:

### *Establishment of the Office of the Inspector General*

1. There shall be within the Department of Law an Inspector General of the City of Baltimore.

### *Responsibilities of the Inspector General*

2. The Inspector General shall be responsible for
  - (a) the promotion of efficiency, accountability, and integrity in City government; and

- (b) the investigation of complaints of fraud, waste, and abuse of Office in City government.

*Duties of the Inspector General*

- 3. The Inspector General shall
  - (a) record and consider all complaints of fraud, waste, or abuse of office involving
    - (1) any municipal officer, including all heads of City departments, agencies, bureaus, and authorities and all persons exercising comparable authority;
    - (2) any member of a City board or commission;
    - (3) any City employee;
    - (4) any individual, organization, or business receiving City-granted funds or other benefits, including, but not limited to, loans, grants, tax credits, below market rate property transfers, Tax Increment Financing, Payments in Lieu of Taxes, or other City subsidies of any kind;
    - (5) any individual, organization, or business providing goods or services to the City pursuant to a contract; or
    - (6) any individual, organization, or business seeking certification of eligibility to provide goods or services to the City pursuant to a contract.
  - (b) establish procedures for receiving such complaints; and
  - (c) take appropriate steps to build public awareness of the Office of the Inspector General and of all procedures established by the Inspector General for receiving complaints pursuant to subsection (b).
- 4. The Inspector General shall provide information to City employees about the identification and prevention of fraud, waste, and abuse of office in City government.
- 5. The Inspector General shall, on any matter of policy or practice, make recommendations to the Mayor or to the head of any City department or agency, if the Inspector General believes that the implementation of such recommendation would assist in the promotion of efficiency, accountability, and integrity in City government.

*Duties of City Employees and Persons Doing Business with the City*

- 6. Any municipal officer, member of a City board or commission, City employee, individual providing goods or services to the City, or employee of an organization or business providing goods or services to the City who receives a complaint within the scope of matters described in section 3(a) shall immediately refer such complaint to the Inspector General.

7. Any municipal officer, member of a City board or commission, City employee, individual providing goods or services to the City, or employee of an organization or business providing goods or services to the City who has knowledge of an incident of fraud, waste, or abuse of office shall report all relevant information to the Inspector General.

#### *Complaint and Investigation*

8. (a) Upon receipt of a complaint within the scope of matters described in section 3(a), the Inspector General shall determine whether the complaint is suitable for informal resolution.
- (b) A complaint is not suitable for informal resolution if it
- (1) involves allegations of criminal wrongdoing; or
  - (2) involves the conduct of a municipal officer.
- (c) The Inspector General may refer any complaint suitable for informal resolution to the head of the appropriate department, agency, bureau, or authority.
- (d) When the Inspector General refers a complaint for informal resolution pursuant to subsection (c), the person to whom the complaint is referred shall, within 40 days, report in writing the result of the informal resolution to the Inspector General.
- (e) Upon receipt of a report described in subsection (d), the Inspector General may request that the head of the department, agency, bureau or authority making the report take any further action that the Inspector General deems appropriate.
- (f) The Inspector General may, at any time, discontinue informal resolution of a complaint and initiate a formal investigation pursuant to section 10.
9. (a) The Inspector General shall refer to the Board of Ethics any complaint that alleges a violation of Article 8 of the Baltimore City Code.
- (b) The Inspector General shall investigate a complaint referred to the Board of Ethics pursuant to subsection (a) only to the extent that
- (1) the Board of Ethics requests that the Inspector General conduct an investigation of the complaint; or
  - (2) the complaint contains matters not within the jurisdiction of the Board of Ethics.
10. The Inspector General shall undertake a formal investigation of all complaints within the scope of matters described in section 3(a), except to the extent that the complaint is
- (a) under referral for informal resolution pursuant to section 8; or
  - (b) under referral for resolution by the Board of Ethics pursuant to section 9.

11. The Inspector General may undertake a formal investigation of any matter if it appears to the Inspector General that such matter falls within the scope of responsibilities described in section 2. The City Solicitor shall have no authority to limit the scope of the Inspector General's investigations.

12. (a) The Inspector General may, with the approval of the City Solicitor, hire employees of the Office of the Inspector General who shall be compensated as provided in the Ordinance of Estimates.

(b) When the Inspector General undertakes a formal investigation pursuant to section 10 or section 11, he or she may request that the City Solicitor appoint members of the staff of the Department of Law to assist in the investigation.

13. All municipal officers and City employees shall promptly provide to the Inspector General any information, document, report, record, account, or other material requested by the Inspector General in connection with any formal investigation pursuant to section 10 or section 11, provided, however, that the Inspector General shall not become a custodian of such material for purposes of the Maryland Public Information Act, Md. Code Ann., State Gov't § 10-611 *et seq.*

14. (a) In connection with an investigation pursuant to this Article, the Inspector General may, with the approval of the City Solicitor, issue a subpoena

(1) to require any person to appear under oath as a witness;  
or

(2) to require the production of any information, document, report, record, account, or other material.

(b) The Inspector General may enforce any subpoena issued pursuant to subsection (a) in any court of competent jurisdiction.

#### *Reporting and Referral*

15. (a) A complainant who provides his or her name, address, and phone number to the Inspector General may request that the Inspector General inform him or her of any action taken in response to the complaint.

(b) If a request is made pursuant to subsection (a), the Inspector General shall notify the complainant, to the extent permitted by law, of any action taken in response to the complaint.

(c) The Inspector General shall not, however, disclose to any person any confidential personnel information pertaining to any municipal officer or City employee.

16. Except as provided in section 20, the Inspector General shall provide a report of the findings of any formal investigation pursuant to section 10 or section 11 to the Mayor and to the City Solicitor.
17. If, after formal investigation, the Inspector General determines that there is reason to believe that a criminal act occurred, the Inspector General shall refer such complaint to the appropriate prosecutorial authority.
18. If, after formal investigation, the Inspector General determines that the complaint may involve conduct by a City employee subject to disciplinary sanction, the Inspector General shall
- (a) in the case of an at-will employee, refer the matter to the head of the department, agency, bureau, or authority in which the employee works; or
  - (b) in the case of a civil service employee, refer the matter to the Civil Service Commission.
19. (a) Any record generated by the Inspector General or a person acting under the authority of the Inspector General pursuant to an investigation of the conduct of a municipal officer, member of a City board or commission, or City employee shall be deemed a personnel record for purposes of the Maryland Public Information Act, Md. Code Ann., State Gov't § 10-611 *et seq.*
- (b) The following shall be deemed records of an investigation of a city attorney for purposes of the Maryland Public Information Act:
- (1) any record of any complaint received by the Inspector General;
  - (2) any record generated by the Inspector General or a person acting under the authority of the Inspector General in response to a complaint received by the Inspector General;
  - (3) any report to the Inspector General prepared pursuant to section 8(d);
  - (4) any record generated by the Inspector General or a person acting under the authority of the Inspector General in connection with a formal investigation pursuant to section 10 or section 11.
- (c) Any person who makes a complaint to the Inspector General shall be deemed a confidential source for an investigation of a city attorney for purposes of the Maryland Public Information Act.
20. The Inspector General shall not disclose to any person the identity of any complainant without the consent of that complainant, except when required by law.

*Retaliation Prohibited*

21. No person shall retaliate or threaten to retaliate against any person for complaining to, submitting information to, or cooperating in any way with the Inspector General.

*Annual Report*

22. (a) No later than September 1 of each year, the Inspector General shall provide a formal report to the citizens of Baltimore of all of the activities of the Office of the Inspector General during the preceding twelve months.

(b) All reports prepared pursuant to subsection (a) shall include the number of complaints received, the number referred for informal resolution, the number referred to the Board of Ethics, the number for which a formal investigation was undertaken, and the number of those formally investigated in which the Inspector General found that fraud, waste, or abuse of office had occurred.

(c) A report prepared pursuant to subsection (a) shall not disclose any information that, if contained in a public record, would be exempt from disclosure pursuant to the Maryland Public Information Act, Md. Code Ann., State Gov't § 10-611 *et seq.*

IN WITNESS WHEREOF, I HAVE  
HEREUNTO PLACED MY HAND  
THIS 27<sup>th</sup> DAY OF JULY, 2005.



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MARTIN O'MALLEY, MAYOR  
CITY OF BALTIMORE

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