



**Testimony of Jake Wiens, Investigator,
Project On Government Oversight,
before the House Committee on Oversight and Government Reform
on “Where Are All the Watchdogs? Addressing Inspector General Vacancies”
May 10, 2012**

Chairman Issa, Ranking Member Cummings, Members of the Committee, thank you for inviting me to testify today and thank you for helping to focus attention on the issue of vacancies in the Inspector General (IG) system. My name is Jake Wiens and I am an Investigator at the Project On Government Oversight, also known as POGO.

Founded in 1981, POGO is a nonpartisan independent watchdog that champions good government reforms. POGO’s investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable, open, and ethical federal government. In that regard, POGO shares many commonalities with IGs, the federal government’s independent watchdogs.

POGO views IGs as an essential component of a well-functioning federal government, and over the past few years we have undertaken a number of efforts to study and improve the IG system. In 2008, POGO released a report on the need for more independence in the IG system.¹ And in 2009, POGO released a follow-up report on the importance of balancing an IG’s need for independence with the need to hold IGs accountable for their conduct and for the quality of their work.² Both of those reports have contributed to important reforms that have put IGs in a better position to succeed.³

Our most recent effort to strengthen and improve the IG system is a campaign we launched in February to bring attention to the large number of IG offices that are operating without permanent leadership. To that end, POGO created a web page called “Where Are All the Watchdogs?” which continually tracks the overall number of IG vacancies, the length of those vacancies, and whose responsibility it is to fill the positions.⁴

¹ Project On Government Oversight, *Inspectors General: Many Lack Essential Tools for Independence*, February 28, 2008. <http://www.pogo.org/pogo-files/reports/government-oversight/inspectors-general-many-lack-essential-tools-for-independence/go-ig-20080226.html> (hereinafter *Inspectors General: Many Lack Essential Tools for Independence*)

² Project On Government Oversight, *Inspectors General: Accountability is a Balancing Act*, March 20, 2009. <http://www.pogo.org/pogo-files/reports/government-oversight/inspectors-general-accountability-is-a-balancing-act/go-igi-20090320.html> (hereinafter *Inspectors General: Accountability is a Balancing Act*)

³ *Inspectors General: Accountability is a Balancing Act*, Appendix A; Project On Government Oversight, “Inspector General Community Posts Recommended Practices for Hotlines,” November 15, 2011. <http://pogoblog.typepad.com/pogo/2010/11/inspector-general-community-posts-recommended-practices-for-hotlines.html>

⁴ Project On Government Oversight, “Where Are All the Watchdogs?” <http://www.pogo.org/resources/good-government/go-igi-20120208-where-are-all-the-watchdogs-inspector-general-vacancies1.html> (hereinafter “Where Are All the Watchdogs?”)

POGO firmly believes that the effectiveness of an IG office can be diminished when that office does not have permanent leadership, especially when that vacancy exists for an extended period of time, as many of the current vacancies have.⁵ But we also acknowledge that IG vacancies can begin and continue for a variety reasons, some of which are problematic and some of which are completely appropriate. It is important to note that the negative aspects of an IG vacancy must be balanced against the need to identify highly qualified candidates and to vet those candidates thoroughly, a process which can—and should—take time.

Background

Congress created the first statutory IGs in 1978, in reaction to both the Watergate scandal and to a series of investigations into fraud, corruption, and mismanagement at the General Services Administration (GSA).⁶ The statutory IGs are distinct from non-statutory IGs, which existed long before 1978 and are generally found in the military chain of command.⁷

Statutory IGs are considerably more independent than non-statutory IGs.⁸ They derive much of that independence from their unique dual-reporting structure, which requires that they report their findings to both their agency head and to Congress. The statutory IGs also have a number of other tools that help keep them independent, including access to their own counsel, control over the content of their websites, and the discretion to audit and investigate matters of their choosing without agency interference.⁹

Those tools enable IGs to be very effective. A recent report by the Government Accountability Office (GAO) found that, in fiscal year 2009, IGs reported they had identified \$43.3 billion in potential savings as a result of their audits and investigations.¹⁰ That total represents a return of about \$18 in potential savings for every dollar invested in an IG, according to a GAO calculation.¹¹ Beyond identifying cost savings, IGs also routinely conduct investigations into misconduct that can lead to criminal prosecutions and other sanctions. And, as evidenced by the IG audit that uncovered the recent GSA conference scandal, most IGs have the independence necessary to publish findings that implicate officials at the highest levels of their agency.¹²

⁵ “Where Are All the Watchdogs?”

⁶ *Inspectors General: Many Lack Essential Tools for Independence*, p. 9.

⁷ *Inspectors General: Many Lack Essential Tools for Independence*, pp. 8-9.

⁸ *Inspectors General: Many Lack Essential Tools for Independence*, pp. 8-9.

⁹ Inspector General Act of 1978, as amended.

¹⁰ Government Accountability Office, *Inspectors General: Reporting on Independence, Effectiveness, and Expertise (GAO-11-770)*, September 21, 2011, p. 11. <http://www.gao.gov/products/GAO-11-770> (Downloaded May 8, 2012) (hereinafter *Inspectors General: Reporting on Independence, Effectiveness, and Expertise (GAO-11-770)*)

¹¹ *Inspectors General: Reporting on Independence, Effectiveness, and Expertise (GAO-11-770)*, p. 11.

¹² Project On Government Oversight, “Interview: David Kotz, Former SEC Inspector General,” April 30, 2012. <http://pogoblog.typepad.com/pogo/2012/04/interview-david-kotz-former-sec-inspector-general.html>

Currently, there are 73 statutory IGs, most of which fall under the authority of the Inspector General Act of 1978, as amended.¹³ Those IGs can be divided broadly into two categories: (1) IGs that must be nominated by the President and confirmed by the Senate, and (2) IGs that are appointed by the leadership of their agency.¹⁴ The former category generally involves larger agencies, while the latter generally involves smaller agencies, most of which are known as designated federal entities.¹⁵ Thirty-two IGs require a presidential nomination, while forty-one require an appointment by the agency.¹⁶

Because the vast majority of IG positions do not have term limits,¹⁷ the positions generally become vacant only when an IG resigns or is removed. In that event, one of the Deputy IGs generally becomes the Acting IG until a permanent IG is selected.

Current Number and Length of Vacancies

As of today, 10 of the 73 statutory IG positions are vacant.¹⁸ Of those 10 vacancies, 8 fall into the category of IGs that require a nomination by the President and 2 fall into the category that require an appointment by the agency.¹⁹ Of the 8 positions that require a nomination by the President, only 2 have nominees pending confirmation. The longest vacancy is at the State Department, where the IG office has now been without permanent leadership for 1,576 days without a nominee pending confirmation. The shortest vacancy is at the Securities and Exchange Commission, which has been vacant for 104 days as of today and requires an appointment by the agency.

Table 1, below, shows which IG offices are currently operating without permanent leadership, how many days those positions have been vacant, whether the vacant IG position has a nominee, and, if relevant, how long the nominee has been awaiting confirmation, as of May 10, 2012.

¹³ Inspector General Act of 1978, as amended; Congressional Research Service, Frederick M. Kaiser, *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), September 25, 2008, p. 3. <http://www.fas.org/sgp/crs/misc/98-379.pdf> (Downloaded May 7, 2012) (hereinafter *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379)) ; Council of the Inspectors General on Integrity and Efficiency, “Inspectors General Directory & Homepage Links.” <http://www.ignet.gov/igs/homepage1.html> (Downloaded May 9, 2012)

¹⁴ *Inspectors General: Many Lack Essential Tools for Independence*. The Special Inspector General for Afghanistan Reconstruction is the one exception, as it requires an appointment by the President without Senate confirmation: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 3.

¹⁵ All IGs that require an appointment by their agency are DFEs, except the Special Inspector General for Iraq Reconstruction, Architect of the Capitol, GAO, Government Printing Office, Library of Congress, and Capitol Police: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 5.

¹⁶ Inspector General Act of 1978, as amended; *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379)

¹⁷ The only IGs with term limits are the Postal Service IG, 7 years; the Architect of the Capitol, 5 years; and the Capitol Police, 5 years: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 3.

¹⁸ The figure is current as of March 10, 2012.

¹⁹ SIGAR requires an appointment by the President, but does not require Senate confirmation: *Statutory Offices of Inspector General: Past and Present* (Order Code 98-379), p. 3.

Table 1: Current Status of Inspector General Vacancies

Agency	Days Vacant	Vacancy Date	Nominee	Days Since Nomination	Nomination Date	Who Nominates
State	1,576 days	01/16/2008	-	-	-	President
Interior	1,172 days	02/23/2009*	-	-	-	President
CNCS	1,064 days	06/11/2009	Deborah J. Jeffrey	177 days	11/15/2011	President
Labor	1,032 days	07/13/2009	-	-	-	President
Humanities	468 days	01/28/2011	-	-	-	Agency
SIGAR	461 days	02/04/2011	-	-	-	President
DHS	438 days	02/27/2011	Roslyn A. Mazer	294 days	7/21/2011	President
USAID	208 days	10/15/2011	-	-	-	President
DOD	138 days	12/24/2011	-	-	-	President
SEC	104 days	01/27/2012	-	-	-	Agency

Sources: POGO defines the start of a vacancy as the last date on which a permanent IG served in that capacity. The initial list of vacancies was obtained from a directory of IGs maintained by the Council of the Inspectors General on Integrity and Efficiency (CIGIE): <http://www.ignet.gov/igs/homepage1.html>. Vacancy dates for IG positions that require a presidential appointment were obtained from a database maintained by the GAO: <http://www.gao.gov/legal/fedvac/vacancies.html>. Vacancy dates for IG positions not listed in the GAO database were obtained from a variety of sources, including IG resignation letters and agency press releases. Information regarding presidential nominations was obtained from a database maintained by the White House: <http://www.whitehouse.gov/briefing-room/nominations-and-appointments>

Notes: *Earl Devaney, the most recent permanent Inspector General at the Department of the Interior, was appointed Chair of the Recovery Accountability and Transparency Board on February 23, 2009. Devaney took a leave of absence from his position at Interior at that point, leaving Acting IG Mary Kendall responsible for running the office. Devaney resigned from federal service in December 2011. POGO considers the position effectively vacant at the time Devaney was appointed Chair of the RAT Board. However, it should be noted that the Obama Administration could not appoint a permanent IG until Devaney resigned.

Impact of IG Vacancies

In some ways, very little changes when an IG office is led by an Acting IG rather than a permanent IG. Acting IGs are often experienced, competent, and have a good understanding of how to run an IG office. Furthermore, IG offices generally have an Assistant IG for Investigations and an Assistant IG for Audits, both of whom are involved more directly in the day-to-day operations of the office than the actual IG. Even so, the absence of permanent leadership can have a serious impact on the effectiveness of an IG office.

IG's have the power to conduct independent audits and investigations, but they do not have the power to compel an agency to take action based on their findings—they can only make recommendations. Therefore, it is extremely important that the bodies that **are** empowered to take action based on an IG's findings—agency officials and Congress—view the IG as credible and independent. Any indication to the contrary, regardless of fact, can provide those bodies with justification to disregard or cast doubt on the IG's findings, rendering the work of an IG far less effective.

Credibility

Permanent IGs are in a better position to be viewed as credible than are Acting IGs for a number of reasons. One is that permanent IGs are selected for the position on the basis of their qualifications to lead an IG office, whereas a temporary IG may be a good auditor or investigator, but may not be as qualified for a leadership role. That is especially true for the IGs that require a nomination by the President with confirmation by the Senate—they go through a rigorous vetting process, which helps establish that both Congress and the President believe they are qualified for the position.

Another reason is that a permanent IG has the time to establish a reputation for leading an office that conducts audits and investigations that are accurate and thorough. That reputation can insulate the IG office from criticism involving politically sensitive investigations and make agency officials and Congress more likely to take action based on the IGs recommendations.

Independence

According to a report on Quality Standards published by the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), independence is a crucial component of an IG.²⁰ Independence is important both in fact and in appearance, the report states, so that "opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties."²¹

Structurally, permanent IGs are in a better position to be independent than are Acting IGs. For example, most permanent IGs can serve for as long as they please, unless the President or the agency head removes them. The political consequences of removing a permanent IG without sufficient justification can be severe,²² making such action unlikely. Acting IGs, on the other hand, are temporary by nature, making it much easier for the President or agency head to take steps, either through a nomination or appointment, that lead to their removal. In other words, an aggressive Acting IG is easier to replace than an aggressive permanent IG.

In addition, as evidenced by a review of the historical list of IGs maintained by Council of the Inspectors General for Integrity and Efficiency (CIGIE), it is not at all uncommon for an Acting IG to become a permanent IG.²³ And it's not hard to imagine that a large number of other Acting

²⁰ The report was authored by the precursors to the Council of Inspectors General on Integrity and Efficiency, the PCIE and the ECIE. President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE), *Quality Standards for Federal Offices of Inspector General*, October 2003, p. 12. <http://www.ignet.gov/pande/standards/igstds.pdf> (Downloaded May 8, 2012) (hereinafter *Quality Standards for Federal Offices of Inspector General*)

²¹ *Quality Standards for Federal Offices of Inspector General*, p. 12.

²² "The White House Fires a Watchdog: The curious case of the inspector general and a Presidential ally," June 17, 2009. <http://online.wsj.com/article/SB124511811033017539.html> (Downloaded May 9, 2012)

²³ Council of Inspectors General for Integrity and Efficiency, "INSPECTOR GENERAL HISTORICAL DATA FEDERAL DEPARTMENTS," Revised May 17, 2007. <http://www.ignet.gov/igs/ighistory.pdf> (Downloaded May 9, 2005)

IGs have aspired to become a permanent IG. But in order to become a permanent IG, an Acting IG must be nominated by the President or appointed by the agency. That structure, regardless of the integrity of the Acting IG, creates at least the appearance of a conflict of interest because the employment prospects of the Acting IG depend on the goodwill of the Administration that official is charged with investigating. It is hard to imagine that an Acting IG known for conducting hard-hitting investigations and audits that implicate high-level administration officials would be asked by that same administration to serve as IG on a permanent basis.

Regardless of whether the prospect of becoming a permanent IG has any actual impact on the behavior of the Acting IG, the appearance of that conflict alone can put the IG office in the difficult position of having its independence and objectivity questioned by third parties. For example, a recent probe by the Justice Department IG office into politically sensitive allegations that agents working for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) were directed to allow suspected straw buyers to purchase weapons on behalf of drug cartels, including AK-47s, and then subsequently lost track of those weapons, elicited congressional concerns about the independence of the Justice IG office, which at the time was led by an Acting official.

In a March 2011 letter to CIGIE, Senator Charles Grassley (R-IA) requested that the ATF inquiry be handled by an outside IG office, citing the lack of a permanent IG at DOJ as one of the reasons:

In my experience, acting inspectors general tend to function as caretakers of the office. They are not necessarily equipped to take on an entrenched bureaucracy and challenge senior officials with the tough questions necessary to get to the bottom of a controversy as serious and far-reaching as this one. That would be especially true if the acting inspector general is seeking the nomination to fill the position on a long-term basis.²⁴

CIGIE responded that it did not have the authority to require that the Justice IG office recuse itself and added that, even if it had the authority, it viewed the request as unwarranted because the DOJ IG office had “established itself as a model of independence, objectivity, and above all, integrity in every aspect of its daily pursuits.”²⁵ Even if CIGIE is correct that no conflict exists, the perception of a conflict can cast a shadow of doubt on the findings of that office, rendering them far less meaningful.

The perception of a conflict can also have an impact on the interaction between an IG office and whistleblowers, a critically important source of information about agency wrongdoing. POGO

²⁴ Letter from Senator Grassley to Kevin L. Perkins, Chair Integrity Committee Council of Inspectors General on Integrity and Efficiency, regarding “Whistleblower allegations involving Operation Fast and Furious, a Project Gunrunner case at the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF),” March 8, 2011. <http://www.grassley.senate.gov/about/upload/Judiciary-03-08-11-OCIE-letter-ask-for-DOJ-IG-to-be-removed-from-ATF-case.pdf> (Downloaded May 9, 2005)

²⁵ Letter from Patrick McFarland, Inspector General, to Senator Grassley, regarding concerns about the independence of the DOJ OIG, March 16, 2011. <http://www.mainjustice.com/files/2011/04/Response-to-Chairman-Issa-4-8-11.pdf> (Downloaded May 9, 2005)

has experienced first-hand the impact that an Acting IG can have on the willingness of whistleblowers to provide tips to an IG office. After POGO released a letter in 2009 involving wrongdoing by private security contractors working for the State Department in Afghanistan,²⁶ we were flooded with tips from whistleblowers who claimed they were providing those tips to POGO because they were not comfortable contacting the State Department IG office. Although the whistleblowers generally did not have direct evidence that the IG office was captured by management, many cited the recurrent pattern of former management officials serving as Acting IG as a factor contributing to their concern.

Management and Strategic Direction

An award-winning academic study, published in 2009, found that vacancies in top agency positions promote agency inaction, create confusion among career employees, make an agency less likely to handle controversial issues, result in fewer enforcement actions by regulatory agencies and decrease public trust in government.²⁷ Although the study was focused primarily on agency positions, vacancies can cause similar problems in the IG context.

An effective IG understands the most serious risks facing his or her agency and creates a long-term plan tailored to meet those risks. While many agency risks are static, others can emerge dynamically, requiring an IG office to recalibrate its approach. While an Acting IG may be qualified to understand those risks and create a new audit and investigative approach, the temporary status of their position makes it difficult for them to do so, considering that they could be replaced at any time by a permanent IG who might favor a different approach.

So rather than plan ambitious audits, current and former IG staff have told POGO, Acting IGs are more likely to favor short-term projects that are not controversial, essentially serving as a caretaker until a permanent IG is appointed.

Examples of Current Vacancies

While the overall number and length of IG vacancies are important, the true implication of a particular vacancy can only be understood in context. IG positions can become vacant for a variety of reasons, some of which are troubling, while others are completely appropriate—and in some occasions might even be beneficial.

For example, it would be extremely troubling if an IG position became vacant because the President removed an aggressive IG without good reason. But it would be completely appropriate—and arguably beneficial—if an IG position became vacant because members of Congress pushed

²⁶ Letter from Project On Government Oversight to the Honorable Hillary Clinton, Secretary of State, about the U.S. Embassy in Kabul, September 1, 2009. <http://www.pogo.org/pogo-files/letters/contract-oversight/co-gp-20090901.html>

²⁷ Anne Joseph O'Connell, "Vacant Offices: Delays in Staffing Top Agency Positions," *Southern California Law Review*, Vol. 82, 2009. http://www.law.yale.edu/documents/pdf/LEO/AOConnell_VacantOfficesforYLS.pdf (Downloaded May 9, 2012)

an IG who lacked integrity or was ineffective to resign, or a President removed an IG for engaging in serious misconduct.

Likewise, IG vacancies can continue for extended periods of time for a variety of reasons. For example, IG positions can remain vacant simply because the President has not taken action to nominate a candidate, which is a problem. But IG positions can also remain vacant when negative information about a nominee emerges during the confirmation process, raising previously unknown doubts about the qualifications of that nominee. In that situation, the benefits of keeping an unqualified candidate from becoming a permanent IG might outweigh the costs of extending the vacancy.

It's useful to look at some of the current vacancies to understand how they began, why they have continued, and what the implications of those vacancies might be.

The State Department

The State Department IG has now been vacant for 1,576 days, longer than the entire course of the Obama Administration. The position first became vacant when State's most recent permanent IG, Howard Krongard, resigned amid allegations that he was blocking politically sensitive criminal investigations into contractors operating in Iraq.²⁸

The circumstances of Krongard's resignation show that, even though permanent IGs may be better positioned structurally to be independent from the agencies they are charged with overseeing, the integrity of the individual responsible for running the IG office, regardless of structure, can be a significant determinant of actual independence.

The initiation of the vacancy, following Krongard's resignation, created an opportunity to fill the position with a highly qualified and well-respected permanent IG who would restore credibility to the IG office. But that opportunity has not been realized, as the position has remained vacant without a nominee since the last year of the Bush Administration.

Deputy IG Harold Geisel has been responsible for leading the office since June 2008.²⁹ Under Geisel's leadership, the IG office has had a mixed record. The overall number of audits and inspections conducted by the office has risen significantly since he took over in 2008.³⁰ The overall quality of audits is far more important quantity, however, and at least some of the audits

²⁸ Warren P. Strobel, "Embattled State Department inspector general resigns," McClatchy Newspapers, December 7, 2007. <http://www.mcclatchydc.com/2007/12/07/22736/embattled-state-department-inspector.html> (Downloaded May 9, 2012)

²⁹ State Department Office of Inspector General, "Biography." <http://oig.state.gov/aboutoig/bios/145675.htm> (Downloaded May 9, 2012)

³⁰ Timothy R. Smith, "Issa sets hearing on inspector general vacancies," *The Washington Post*, May 8, 2012. http://www.washingtonpost.com/politics/issa-sets-hearing-on-inspector-general-vacancies/2012/05/08/gIQAFCPIAU_story.html (Downloaded May 10, 2012) It's important to note, however, that the quality of an audit is far more important than the quantity of audits.

conducted under Geisel have had real impact.³¹ Current and former IG staff have also told POGO that Geisel has been an improvement over Krongard.

But the office has also experienced its share of problems under Geisel, including an October 2010 external peer review which identified numerous deficiencies in the section of State's IG office that was responsible for "oversight and assistance for high-cost, high-risk Department programs located in crisis and post conflict areas and countries," called the Middle East Regional Office (MERO).³² The review found, among other issues, that MERO regularly issued audit reports in which conclusions were not supported by evidence. In response to the finding, Geisel reclassified many of MERO's audits as assessments (which require a lower threshold of evidence) and folded MERO into its main audit section.³³

Perhaps most concerning, as an Ambassador, Geisel fits into a troubling pattern at the State IG office in which officials with Foreign Service backgrounds serve as Acting IG. Concerns involving that pattern have been analyzed in a number of GAO reports and were raised at a recent House Foreign Affairs Committee Hearing.³⁴ Regardless of whether Geisel's background actually makes him too close to management, there is no doubt that perception exists in the State Department—countless whistleblowers have come to POGO expressing concerns that they did not trust the State IG. That perception, regardless of fact, can have a devastating impact on the ability of an IG office to be successful because whistleblowers are such a critical source of information.

The Corporation for National and Community Service

The Corporation for National and Community Service (CNCS) IG position has now been vacant for 1,064 days. The position first became vacant in June 2009 when President Obama removed CNCS's most recent permanent IG, Gerald Walpin, under controversial circumstances.

The initial justification for the removal was that the President had lost faith in Walpin as an IG.³⁵ But after pressure from Congress to better explain its justification, the Obama Administration cited a range of "troubling and inappropriate conduct," including that an Acting U.S. Attorney for the Eastern District of California had filed a complaint with a committee charged with reviewing allegations of IG misconduct. The complaint alleged that Walpin had hindered a DOJ

³¹ Frank James, "U.S. Ambassador Exits Europe Post Before Scathing Report About Her," National Public Radio, February 4, 2011. <http://www.npr.org/blogs/itsallpolitics/2011/02/04/133506783/u-s-ambassador-exits-europe-post-before-scathing-report-on-her-style> (Downloaded May 9, 2012)

³² National Aeronautics and Space Administration, Report No. IG-11-002, October 12, 2010. oig.state.gov/documents/organization/149869.pdf (Downloaded May 9, 2012) (hereinafter Report No. IG-11-002)

³³ Report No. IG-11-002

³⁴ House Committee on Foreign Affairs, "Ros-Lehtinen Opening Statement at Oversight Hearing on State Department Inspector General Office," April 05, 2011. http://foreignaffairs.house.gov/press_display.asp?id=1777 (Downloaded May 9, 2012)

³⁵ Letter from President Barack Obama to Speaker Nancy Pelosi, regarding Gerald Walpin, June 11, 2009. ga.abcnews.go.com/images/Politics/Obama_letter_%20to_Pelosi.pdf (Downloaded May 9, 2012)

investigation by withholding exculpatory evidence and had ignored DOJ warnings about dealing with the press.³⁶

Following Walpin's termination, the committee completed its investigation, finding that Walpin's response to the allegations "sufficiently and satisfactorily addressed the matter and that further inquiry or an investigation regarding the matter was not warranted."³⁷

Since Walpin's termination, the Obama Administration has nominated two candidates for the position. The first, Jonathan Hatfield, was nominated in February 2010, but his nomination has since been withdrawn. The second, Deborah Jeffrey, was nominated in November 2011 and has been awaiting Senate confirmation for 177 days.

The continued vacancy, regardless of fault, comes at a terrible time for the CNCS IG office, as its budget was inexplicably cut in half during FY 2012 appropriations.³⁸ In reaction to the budget reduction, the CNCS IG office announced that it was in the process of cutting 79 percent of its staff (26 of its 33 employees) and is "revamping its original 2012 workplan to eliminate most audits and evaluations."³⁹

The CNCS IG office will essentially have to start from scratch in FY 2013, employees have told POGO. That process would be difficult under any circumstance, but the lack of permanent leadership at the CNCS IG office will only make it more challenging.

The Special Inspector General for Afghanistan Reconstruction

The Special Inspector General for Afghanistan Reconstruction (SIGAR) position has now been vacant for 461 days. The position became vacant after the original SIGAR, Arnold Fields, resigned his office amid scrutiny from a bi-partisan group of Senators and POGO, who had arrived at the conclusion that he was not qualified for such an important position.⁴⁰ POGO cited numerous deficiencies in SIGAR's audits and operations in calling for Fields' removal. Fields fired his two top deputies a week before resigning.⁴¹

The resignation of Fields shows that the initiation of a vacancy can sometimes be beneficial, as it creates the opportunity for a more qualified candidate to take the position. But the fact that a

³⁶ Integrity Committee, Re: IC 614, October 19, 2009.

http://www.politico.com/static/PPM130_walpinlearedltr.html (Downloaded May 9, 2012)

³⁷ http://www.politico.com/static/PPM130_walpinlearedltr.html

³⁸ Rick Cohen, "CNCS Inspector General Dealt Budget Blow: Bad Move for Nonprofits," January 11, 2012.

http://www.nonprofitquarterly.org/index.php?option=com_content&view=article&id=19051:cncs-inspector-general-dealt-budget-blow-bad-move-for-nonprofits&catid=155:nonprofit-newswire&Itemid=986 (Downloaded May 9, 2012)

³⁹ Sean Reilly, "Bulk of IG office's staff likely to be laid off, reassigned," January 27, 2012.

<http://www.federaltimes.com/article/20120127/AGENCY01/301270001/> (Downloaded May 9, 2012)

⁴⁰ Project On Government Oversight, "Fields Resigns as Special IG for Afghanistan Reconstruction," January 11, 2011. <http://pogoblog.typepad.com/pogo/2011/01/fields-resigns-as-special-ig-for-afghanistan-reconstruction.html#more> (hereinafter "Fields Resigns as Special IG for Afghanistan Reconstruction")

⁴¹ "Fields Resigns as Special IG for Afghanistan Reconstruction"

replacement has not been appointed by the President, even though it has been more than a year since Fields resigned, also shows that it can be easier to create outside pressure for a removal than for an appointment, even though the impact of not having a permanent SIGAR is arguably as bad as having an ineffective permanent SIGAR.

POGO has repeatedly called on the Obama Administration to fill this position, which requires an appointment by the President, but does not require Senate confirmation.

The Department of Homeland Security

The Department of Homeland Security IG has been vacant for 438 days. The position became vacant when Richard Skinner resigned in March 2011.

The Obama Administration nominated Roslyn Mazer to fill the position in July 2011. Mazer was thought by many to be a qualified candidate.⁴² An attorney by training, Mazer has spent much of her career in the IG community. After serving seven years in the Oversight & Review Division of the DOJ IG office, Mazer served as the IG of the Office of the Director for National Intelligence (ODNI).

But her confirmation vote was delayed after Senator Susan Collins (R-ME) announced she would vote to oppose the nomination, citing letters she had received from two of Mazer's top deputies at the ODNI IG office. The letters raised concerns about Mazer's management style, with one describing her leadership as "directive, controlling, stifling, without focus—and to me exemplified a form of mental abuse." Mazer has rejected those charges and pointed to the "many meaty and significant reports" produced during her tenure as ODNI IG.⁴³

Mazer's confirmation process shows how a vacancy can be extended when negative information that raises serious questions about a candidate's qualifications emerges unexpectedly.

How the Obama Administration Compares with Previous Administrations

As the individual examples show, a large number of factors can contribute to the initiation and continuation of an IG vacancy. To truly understand the implications of those vacancies, the details are extremely important. But it is also useful to look at IG vacancy numbers over previous Administrations to get a sense of how the Obama Administration compares.

⁴² "CONFIRMATION HEARING FOR ROSLYN A. MAZER INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE," November 15, 2011. http://www.cardin.senate.gov/newsroom/statements_and_speeches/confirmation-hearing-for-roslyn-a-mazer-inspector-general-department-of-homeland-security-homeland-security-and-governmental-affairs-committee (Downloaded May 9, 2012)

⁴³ Jennifer Scholtes, "White House Asks Panel to Postpone Vote on Its Nominee for DHS Inspector General," December 14, 2011.

Unfortunately, the data available to POGO from previous Administrations is incomplete, which does not allow for a perfect comparison. The data is limited to the category of IGs that require a nomination by the President with Senate confirmation. And key details are missing about the average time between the beginning of an IG vacancy and a nomination (nomination lag) and the average time between the nomination and confirmation (confirmation lag) during previous Administrations. But the data is nonetheless useful for getting a general sense of how the Obama Administration might compare.

Table 2, below, compares the average length of IG vacancies across the four Administrations preceding the Obama Administration. The data shows that IG vacancies were, on average, shortest during the Reagan Administration and longest during the Clinton Administration.

Table 2: Average IG Vacancy Length Under Previous Administrations

Administration	Position	Average Number of Days
Reagan	Inspector General	224
Bush 41	Inspector General	337
Clinton	Inspector General	453
Bush 43	Inspector General	280
Obama	Inspector General	379*

Source: The data on previous Administrations comes from an academic study on vacancies: Anne Joseph O’Connell, “Vacant Offices: Delays in Staffing Top Agency Positions,” *Southern California Law Review*, Vol. 82, 2009. http://www.law.yale.edu/documents/pdf/LEO/AOConnell_VacantOfficesforYLS.pdf (Downloaded May 9, 2012) According to the study, the raw vacancy data was obtained from the Office of Personnel Management. The data on the Obama administration was compiled by POGO and is preliminary: See Table 4.

Note: POGO obtained the data from the previous Administrations directly from the study and has not conducted its own analysis of the raw data.

In order to get a better understanding of which part of the process generally contributes most to the length of the IG vacancy, Table 3 shows the average nomination lag and the average confirmation lag between 1987 and 2005, which does not cover the entire course of the Reagan or Bush 43 Administrations, but is the only data available to POGO.

Table 3: Average IG Nomination and Confirmation Lag Between 1987 and 2005

Date Range	Average Nomination Lag	Average Confirmation Lag
1987-2005	290	120

Source: The data comes from an academic study on vacancies: Anne Joseph O’Connell, “Vacant Offices: Delays in Staffing Top Agency Positions,” *Southern California Law Review*, Vol. 82, 2009. http://www.law.yale.edu/documents/pdf/LEO/AOConnell_VacantOfficesforYLS.pdf According to the study, the raw vacancy data was obtained from the Library of Congress.

Note: POGO obtained the data in this table directly from the study and has not conducted its own analysis of the raw data.

Considering that President Obama has not completed a full term in office, it is too early to know for certain how his Administration will compare to previous ones in terms of average IG vacancy length. And the limited data from previous Administrations on nomination and confirmation lags allows for only an imperfect comparison. Nonetheless, Table 4, below, shows that, as of today, the total IG vacancy length under President Obama has lasted an average of about 379 days, with an average nomination lag of 264 days and an average confirmation lag of 115 days. In terms of the average total number of days vacant, the Obama Administration has the second longest average, with only President Clinton having longer vacancies, on average. The Obama Administration's average nomination lag, however, is 26 days faster than the average between the period of 1987 and 2005, the only years for which nomination data is available. That data is skewed, however, because it does not include the majority of the Reagan Administration, which had the shortest average IG vacancy.

Table 4: IG Vacancy Lengths Under the Obama Administration

Nominee	Agency	Position	Vacancy Date	Nomination Date	Nomination Lag	Confirmation Date	Confirmation Lag	Total Vacancy
Buckley, David Brent	CIA	IG	3/14/09	8/5/2010	509	9/29/2010	55	564
Elkins, Jr., Arthur Allen	EPA	IG	3/3/06*	11/18/2009	302	6/22/2010	216	518
Gratacos, Osvaldo Luis	EIB	IG	10/1/09	5/13/2010	224	9/29/2010	139	363
Gustafson, Peggy E	SBA	IG	6/29/09	7/6/2009	7	9/24/2009	80	87
Heddel, Gordon S	DOD	IG	7/14/08	6/1/2009	132	7/10/2009	39	171
Horowitz, Michael Evan	DOJ	IG	1/28/11	7/29/2011	182	3/29/2012	244	426
Linick, Steve Alan	FHFA	IG	6/30/08*	4/12/2010	447	9/29/2010	170	617
Martin, Paul Kenneth	NASA	IG	4/11/09	10/1/2009	173	11/20/2009	50	223
Montoya, David Alfred	HUD	IG	10/12/10	7/18/2011	279	11/18/2011	123	402
Tighe, Kathleen Susanne	DOEd	IG	7/1/08*	11/20/2009	304	3/10/2010	110	414
Romero, Christy Lynne	TREAS	SIGTARP	3/31/11	2/1/2012	307	3/29/2012	57	364
McCullough, III, Irvin Charles	DNI	IG	10/7/10	8/2/2011	299	11/7/2011	97	396
AVERAGE					264		115	378.75

Sources: The initial list of vacancies was obtained from a directory of IGs maintained by CIGIE: <http://www.ignet.gov/igs/homepage1.html>. Vacancy dates for IG positions that require a presidential appointment were obtained from a database maintained by the GAO: <http://www.gao.gov/legal/fedvac/vacancies.html>. Vacancy dates for IG positions not listed in the GAO database were obtained from a variety of sources, including IG resignation letters and agency press releases. Information regarding presidential nominations was obtained from a database maintained by the White House: <http://www.whitehouse.gov/briefing-room/nominations-and-appointments>

Notes: POGO defines the start of a vacancy as the last date on which a permanent IG served in that capacity. The nomination lag was calculated from the first day of the Obama Administration when the vacancy began during the previous Administration. The total vacancy numbers do not include the time the position was vacant under the previous administration. The FHFA IG position and DNI position were created by Congress during the course of the Obama Administration. POGO calculated the initial vacancy date for those positions beginning on the day the law creating that position was signed into law.

Conclusion

POGO firmly believes that IG offices are in a much better position to succeed when led by a permanent IG, as compared to an Acting IG. And we strongly urge both the Obama Administration and Congress to make filling those vacancies a priority. But we also caution that filling those vacancies quickly should not come at the expense of identifying highly qualified candidates, a process that does take time.

Jake Wiens, Investigator, joined the Project On Government Oversight (POGO) staff as a Fellow in 2007. As a Fellow, he undertook an investigation into a grant program at the Department of Justice (DOJ), exposing conflicts of interest and patronage in the awarding of DOJ's discretionary grants. Mr. Wiens also aided in the research and planning of a number of POGO's investigations, including an evaluation of the Inspector General system. As an Investigator, Mr. Wiens has continued looking into the Inspector General system. He authored a letter raising concerns about systemic conflicts of interest at the State Department Office of Inspector General, which led to a hearing by the House Committee on Foreign Affairs. Mr. Wiens also created a webpage that continually tracks vacancies across the Inspector General system, an issue that has garnered considerable attention in recent months. Mr. Wiens has been a guest on numerous radio stations, including *National Public Radio* and *Federal News Radio*, and he has been quoted in *The New York Times*, *The Washington Post*, *The Wall Street Journal* and *USA Today*, among others.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name: Jake Wiens

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2009. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Project On Government Oversight, employee

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

I certify that the above information is true and correct.
Signature:

Date:

5-9-2012