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BROOKINGS CAFETERIA PODCAST
WHO ARE THE INSPECTORS GENERAL AND
WHAT DO THEY DO?

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PROCEEDINGS

DEWS: Welcome to the Brookings Cafeteria, the podcast about ideas and the experts who have them. I'm Fred Dews. There is one group of Federal officials, whose job it is to discover fraud, waste, abuse, and mismanagement in the government and to encourage efficient and effective operations. This is the U.S. Inspector General, a nonpartisan role that reports to both Congress and to the agency where they work.

In a new book from the Brookings Institution Press titled *U.S. Inspectors General: Truth Tellers in Turbulent Times*, authors Charles Johnson and Kathryn Newcomer explore the strategic environment in which IGs operate and explain how these public servants do their work. Johnson is Professor Emeritus of Political Science and Dean Emeritus of Liberal Arts at Texas A&M University. Newcomer is a Professor at the Trachtenberg School of Public Policy and Public Administration at George Washington University.

Also, on today's program Senior Fellow Molly Reynolds tells us what's happening in Congress. No surprise that it's impeachment, but she'll explain what could happen in the Senate should impeachment of the President be affirmed in the House. You can follow the Brookings Podcast Network on Twitter @policypodcasts to get information about and links to all of our shows, including Dollar and Sense, the Brookings trade podcast; The Current, and our Events podcast. If you like the show, please go to Apple Podcasts and leave us a review. It helps others find it.

And now, here's Brookings Press Director Bill Finan, and Charles Johnson

by phone and Kathryn Newcomer in the Brookings Podcast Network studio.

FINAN: Thank you, Fred. Kathryn and Charlie, welcome. When this book first came to me, I thought it would find a place as a book that explains how a government office works, as you note in your intro, that occasionally finds its way into the headlines or some financial malfeasance. Little did I realize that as the book came to us from the printer, that the term “Inspector General” would not only be in the headlines, but nearly everywhere else, the State Department IG, the Intelligence Agency IG, the Justice Department IG. I’m sure I’m missing one or two. My question to you is how did you make that happen?

NEWCOMER: I wish. (Laughter)

FINAN: That’s not really the question. My first question is what is an Inspector General in the most simplified definition?

JOHNSON: An Inspector General is a federal officer who is nonpartisan, or who is supposed to be nonpartisan, and whose job it is to ferret out waste and fraud and mismanagement and to improve the efficiency of the federal government. Kathy, would you add to that?

NEWCOMER: Right. And it’s the only federal official that is in a very interesting position that is juxtaposed between answering to both Congress and the head of the agency at the same time, literally at the same time, and is viewed as someone who is totally impartial and not actually a member of either branch of government but is actually serving both at the same time. There is actually two kinds of Inspector Generals.

FINAN: I was going to ask you about that.

NEWCOMER: There are some that are presidentially appointed and they need to go through Senate confirmation. Those are for the large agencies, the large departments, but actually the majority of about 74 are DFE or designated federal entities. For example, it can be very small organizations like the FCC and they do not go through Senate confirmation and they are actually hired like you would do for a senior executive in any federal agency.

FINAN: How many IGs are there approximately in government?

NEWCOMER: Seventy-four, right?

JOHNSON: The IG offices are, of course, created by Congress and then signed into law. As Kathy just mentioned, roughly half of them are presidentially appointed and the other half are appointed by the executive agencies themselves.

FINAN: And those that are presidentially appointed have to be confirmed by the Senate, you note.

NEWCOMER: Yes.

FINAN: And the ones who are appointed by agency heads are not Senate confirmed?

NEWCOMER: No.

FINAN: An entire chapter in your book explained how someone becomes an Inspector General. What are some of the essential aspects of becoming one, Charlie?

JOHNSON: There are no particular standards for it, except the legislation indicates there is some background in auditing or investigation. That is that they

would bring some knowledge and wisdom in those areas. Those are the areas for the government for this particular position. And that they should be a nonpartisan appointment.

In fact, a number of current IGs have a legal background and many of the current IGs are drawn from federal agencies and have had federal appointments before, many of them in Offices of Inspector General. Although, those are not requirements in law.

FINAN: So, there is also the confirmation process, the background checks that are essential to this role, too?

JOHNSON: That is correct. The appointment process for the presidentially appointed and Senate confirmed IGs is really quite extensive. A presidential appointed IG would first have to go through the personnel process in the White House, which involves filling out a lot of forms and giving information about your background and the like. If their nomination gets to the point of actually going to Congress, then the relevant committees in Congress have another set of questions that are posed to the prospective nominees and there is the actual Senate hearing and confirmation process itself.

FINAN: So, there is this conundrum that came to me when I was reading about these appointees and IGs. They are political appointees in a sense. The ones who are appointed by the President are considered political appointees and they are not like many of the others in government, as you know, 2.6 million employees of the government, but they are not supposed to be partisan. But isn't there a suggestion

of a political tilt in an appointee when one administration wholesale dismisses all of the IGs from a previous administration or even some of them?

NEWCOMER: Well, actually you can't do that.

FINAN: Oh, you can't? Okay.

NEWCOMER: No. And I hesitate to call them political appointees because I don't want people to think that they have anything in common with people who may have, for example, worked on the campaign and get appointed to a position.

FINAN: Right.

NEWCOMER: These positions are very different in that you do have very clear expectations of background and, in fact, if someone was perceived as too much of a partisan, they would probably not be able to get through the process.

FINAN: You note that I think it was the head of OMB, the IG for Office of Management and Budget, had been in this position for 20 years. So, that's over a couple of administrations. There's a lot of carryover.

NEWCOMER: Oh, yes.

JOHNSON: It's an open-ended appointment. Any IG may be dismissed at the will of the President or the FE appointees at the executive head or for where there is a board as a hiring authority where the board votes for termination. And if there is a decision by the President, and there has been very few of such decisions, to fire an IG, then the President is obligated to inform Congress under current law 30 days before the termination as to the reasons the IG is being terminated.

FINAN: One thing that struck me in reading through your book is that

Inspectors General have an enormous array of powers given to them, including subpoenas and access to information. Can you enumerate some of these powers that they have to do their investigations?

JOHNSON: They are granted access to all documents within the agency. That is, they can go in and ask to see anything. They also have the authority to speak directly to the agency head, that is the Secretary of State, the Attorney General. They don't have to go through some process to have an appointment with their heads. They also have acquired over time subpoena power, although it's not the same level as subpoena power that you have as a prosecutor, for example, or U.S. attorney. And if you are on the investigative side of IG, the Office of Inspector General, you are a federal law enforcement officer and are authorized, for example, to carry a weapon.

NEWCOMER: Could I just add on to something that Charlie mentioned? Is that the Inspector General offices are not just unitary. In fact, they usually have three separate divisions. So, you have the investigators, and Charlie was just alluding to that, who are like law enforcement officers. They are the ones that really go after the fraud and abuse sort of things that lead to prosecution. They don't do the prosecutions. They hand it over to the Department of Justice or it could be a state or local office. But the other two parts are the financial auditors and they are literally following the money, doing financial auditing. The third and almost all of the agencies have a group that do — they are called the Office of Inspections and Evaluations or Inspections. Actually what they do is much closer to program evaluation work, to look at programs that may be perceived to be weak. For

example, to look at strengthening internal controls, but not solely looking at financial. So, if you say it like, I work for the IG, you could be in three very different kinds of roles.

FINAN: Another role IG has played has to do with whistleblowers, something else that has been in the news recently. What official is a whistleblower?

NEWCOMER: Well, there are hotlines in every agency where people can either report anonymously, in other words, they could literally send in a piece of paper without their name, or they can go into the email address. There are literally thousands and thousands of entries, submissions to hotlines in the agencies. For example, Department of Energy may get 7,000 a year.

So, then you have to have a sorting process. The IG offices are not going to be able to follow up on 7,000 or 14,000 of these submissions. They will sort. Some of them may be very minor and some of them may be more broad. So, it could be you just feel you were looked over for a raise or it could be that a VA Hospital is doing something that they feel is fraudulent. So, it's a huge range of these submissions that go into hotlines.

FINAN: So, the Inspector General role when it comes to whistle-blowing is to vet these?

NEWCOMER: Yes.

FINAN: And then they take —

NEWCOMER: And act on them.

FINAN: Okay.

JOHNSON: Part of the structure of the office, they send a report both to the Executive Office and to the Congress. That is an important authority in and of itself. So, for example, a recent IG case in which they receive something from the whistleblower, the IG felt compelled to report that to the agency, which they did. This is the Inspector General for the intelligence community. But also felt compelled to report this to Congress. Otherwise, that could have been bottled up.

FINAN: So, what are some of the results we've seen from Inspectors General collectively in terms of savings and criminal prosecutions. They seem to be the gold standards to rooting out waste mismanagement and abuse. You note in the book a few of these and sort of more important cases that have been on the horizon in the last few years.

NEWCOMER: Well, actually in our book we talk about making a difference. It's typically not one report, but when you have a series of reports of the Department of Energy about the weatherization program, then you really get the attention of Congress. So, Congress can go either like they're interested in something and then they look for the IG reports or a series of IG reports will bring something to their attention and they will take notice.

If you look back historically, IG reports have brought up some very interesting things that were not acted on and yet later, when things really got bad, for example, financial crisis or poor security airports, then you look back and you go, oh, we actually did have some reports, but nobody paid attention.

JOHNSON: Often because there are numbers involved and it's usually large

numbers, billions and millions of dollars, there is a focus on waste as to how many dollars spent in a way that's difficult to justify. IG offices deal also with the nonfinancial and also where there are no arrests, where they talk about processes and whether they are efficient. So, across the 74 offices, there are a series of reports that often deal with some finances, some kind of investigations and fraud, but sometimes just talking about process and saying you don't have the right process involved or they are not running very efficiently. An interesting turn of events is many of those reports are now online in a website called oversight.gov that's run by the Council of Inspectors General.

FINAN: And that website is accessible to anyone in the public?

NEWCOMER: Yes. Every IG has their own website and all of the reports by law go up on. So, there are those reports. They also have semiannual reports where they summarize how many recommendations they made.

There are basically two categories of money that citizens might be interested in. One, the wasted money or incorrectly used money. Say a contractor used money for something they should not have used it for. So, they will say you should not have used money for that; that was illegal.

There is another they call "better use funds" where they are really looking for better efficiencies to say, well, if you would just change the process, you would be able to save money. So, if you see my point is not all of the monetary figures are things that have been misspent and somebody needs to go to jail for. Some of them, yes, but others are looking at internal process improvements to save money going

forward.

There is lots of millions of dollars, as Charlie mentioned, that are listed and reported to CIGIE. CIGIE is an entity that we talk about in our book. It stands for Council of Inspectors General on Integrity and Efficiency. And CIGIE, if you just look up CIGIE, you will see all sorts of data about numbers and recommendations and so on. They are the focal point that organizes and holds meetings on a monthly basis on the various members of the community.

FINAN: From reading your book, you also give the history of the evolution of the Office of Inspector General. It began formally in 1978. That was part of the post-Watergate reform era, I guess, we can think of it that way. So, it's only really been around a little bit over 40 years. It seems to be an element of government that performs well.

NEWCOMER: It's sort of a secret. Most people, most citizens have no idea what Offices of Inspector General are, what they do, and, in fact, they are very behind the scenes making improvements in the federal government that are extremely important. Inspector Generals are going to be that one office that knows where the weaknesses are and what needs to be fixed in any agency. The Government Accountability Office, GAO, every other year has a high-risk series, which they identify areas and might be contracting, for example, across the government, but no IG is ever going to be surprised. They're the ones that actually know where there are areas that need attention in any agency. So, they are an amazing resource. Coming in as a new Secretary or a new Director of an agency, that

would be the first person, I think, they should consult. Tell me everything that I need to know about this agency.

FINAN: There are these islands of excellence in this so-called swamp that is Washington, D.C.

NEWCOMER: Yeah.

FINAN: Charlie, did you want to add anything?

JOHNSON: An important role that the IGs have assumed, but it wasn't really anticipated in the originating legislation in 1978, is that they are really critical to Congress as they perform their oversight function. Congress increasingly relies on the results of these reports that they file and the information they develop for the oversight of the agencies by various committees. In many instances, for a routine and sometimes for extraordinary occasions, the IG is one of the lead witnesses regarding a congressional oversight hearing. Because congressional staff has not grown as the government has grown, there has been simply increased reliance on IGs for information to fulfill their oversight responsibilities.

FINAN: You end your book by facing the challenges facing Inspectors General. Can you tell us some of the most important of those challenges?

NEWCOMER: I think that going forward the CIGIE that I mentioned, the Council of Inspectors General on Integrity and Efficiency, is really the only group that could really support the community. The problem is they are severely under-resourced. Basically Congress does not give them an ongoing budget. They just get

money that is provided from the various Inspector Generals. Obviously, that's a hard way to get a budget, because no one really wants to give up more of their own money for something, yet they are in the unique position to actually do better, for example, recruiting and vetting candidates for Inspector General offices and so on. They are totally separate from either the executive or the congressional branch. And so, they are in that sweet spot and the ability to do a lot more.

For example, they could provide some sort of peer reviews for Inspector General. Please don't get me wrong, we have wonderful Inspector Generals that have been vetted, but there is no means other than if they do something really wrong, like illegal or something that just looks unethical. Basically, you don't remove them from office, but nobody is watching the watch dogs. Literally, unlike anybody listening to this, they don't have an annual performance review. Nobody sits down with them and says how you doing. That would be something, for example, CIGIE as a totally independent group, could organize some kind of a peer review.

There are peer reviews of reports, but that's different. To look at the quality of the reports, that's just to say are you adhering to the basics in the yellow book or blue book of government auditing standards? That's not what I'm talking about. I'm talking about it just seems that anyone should have some kind of performance appraisal.

FINAN: Right, some kind of oversight like that. Charlie?

JOHNSON: Another challenge that faces the federal government and the IG community is the appointment of IGs. Increasingly, there has been a delay in the

process for the appointment of IGs. For example, it's to the point now where it can take literally over a year for a presidential appointment to be made in a routine process. It has been increasing over time. There are various explanations for what is happening, whether it's intentionally slow by the President, whether it's a slowdown in the Senate, whether there's a problem when a President of one party nominates a person to go to Congress that's controlled by another party. Some of those explanations may be true, or it depends on the particular IG to be appointed, but the process has slowed down. And what that means is that the Office of Inspector General may be headed by an acting IG. While the GAO office last year completed a study about acting appointments and concluded that it may not make much of a difference, our informal discussions with IGs and with agency leaders suggested that an acting may not be viewed as having the same level of authority as fully appointed and vetted IG.

NEWCOMER: So, for example, an acting IG might be wanting to become the IG. So, there is the perception that they may be less aggressive because they don't want to do anything that might affect their chances of being appointed. There is that. We actually, when we were formulating our recommendations, thought seriously about recommending terms and term limits, for example, say, a five-year term, renewable for one more. However, upon consulting with a variety of experts, including actually GAO had done a little study about 14 years ago in which a lot of experts said no, no, no, no, don't do that, because that could even be worse because

if somebody is just right up for renewal, again it might have a chilling effect, and then you'd also have lame duck. So, we ended up not recommending the set ter

But Charlie is right. I just want to point out that it's been both during the Obama administration and during the Trump administration that we've had an alarming number of acting IGs because of the slowness of taking to get an IG appointed, just not a good situation.

FINAN: Is the Office of Inspector General under threat in any way today? I'm thinking in larger terms how so many of our institutions and norms have come under attack since January of 2017 and more dramatically with the beginnings of impeachment proceedings.

JOHNSON: I've not encountered anyone who said we need to get rid of the Office of Inspector General. I think they are supported to varying degrees in different agencies, but I don't think anyone is out to constrain any IG or to impose more obligations on them. If there is a threat, it's that they are being asked to do a lot of things and not getting the resources, as Kathy points out, to accomplish those particular tasks.

Let me mention that on issue of the term limits is a bit constrained when you understand that the average presidential appointment IG is only in office for about four years. Some are longer, some much longer, some as few as two years. A DFE appointee IG, the average time in office is about five years. So, the idea of term limits, they're ineffectively not there for a very long time, and when they leave, they

leave a lot of organizational memory. The office misses the organizational memory that the IG may possess.

NEWCOMER: It is noteworthy that you have assistant IGs for inspections, assistant IG for financial audits, assistant IG for investigations. So, the people that are right below the top have longer tenures and so you don't have to worry as much about the fact that you have somebody from the top leave as you would, for example, if you didn't have some longer term senior executives in place.

FINAN: Kathryn and Charlie, thank you for this tour through the Inspector General system. I don't think IGs will be far away from the headlines anytime soon. Your book is invaluable for understanding that office. Thanks for writing it and thanks for taking the time to talk about it today.

NEWCOMER: Thank you very much, Bill.

JOHNSON: Thank you.

FINAN: And now here's Senior Fellow Molly Reynolds with another edition of what's happening in Congress.

REYNOLDS: I'm Molly Reynolds, a Senior Fellow in Government Studies at the Brookings Institution. With the hearing featuring four constitutional law professors testifying before the House Judiciary Committee, the House's impeachment proceedings have moved into a new phase. Speaker of the House Nancy Pelosi reinforced the shift in a press conference where she announced that she was asking the White House Committee Chairman to proceed with Articles of Impeachment. What does the shift mean?

First, it appears that the investigative part of the inquiry focusing un recent weeks on depositions and public hearings in front of the House Intelligence Committee exploring the Trump administration's conduct in Ukraine and meant to gather evidence is largely complete. Up next is a phase involving the presentation and consideration of that evidence. This discussion will take place in front of the House Judiciary Committee, but will also involve a presentation from the Intelligence Committee scheduled for next week, as well as other hearings and presentations.

This multi-committee dance coordinated by the House's Democratic leadership, which is also included for other House panels, Oversight and Reform, Financial Services, Ways and Means, and Foreign Affairs that have been conducting investigations of the President, illustrates a key dynamic of the Democratic House, the degree to which strategic decision-making in the chamber is primarily concentrated in the hands of the Speaker and her leadership team. What Speaker Pelosi left unsaid in her recent press conference in terms of details about the timing and the potential scope of the articles of impeachment illuminates another, that one of the most important underlying goals of the Speaker is to maintain her majority in the House.

In the context of impeachment, pursuing that end means having to balance some of the competing parts of the House Democratic Caucus. Some more moderate members, especially those from electorally vulnerable districts, have indicated they would prefer a narrower set of articles focused on the Ukraine episode. It was the

emergency in that story, after all, that marked a change in the tide of impeachment earlier this fall, bringing many previous reluctant members on board in favor of an inquiry. Some more liberal members of the party, however, have pushed for a broader set of articles that have included material from the report issued by Special Counsel Robert Muller earlier this year. Pelosi is likely to favor an approach that minimizes public division on the floor of the House, especially given that the prospect of getting Republican votes in favor of articles of impeachment remains dim, but exactly what approach the House takes remains to be seen.

Should the House approve one or more articles, the process would be sent over to the Senate for a trial, but there are also a large number of unanswered questions about how events would unfold. The Senate does have a set of rules for impeachment trials which were last revised in 1986. They provide a basic schedule for a Senate trial, as well as the basic procedural outlines for how a trial would proceed. As with many aspects of the Senate, however, there is a substantial amount of detail that the written rules don't address specifically. And unlike other areas of Senate procedure, there is relatively limited previous precedent to previous impeachment trials to fill in those details and to guide operations in this one.

The party suggests that Majority Leader Mitch McConnell intends to at least attempt to seek some sort of bipartisan agreement with Minority Leader Chuck Schumer on some procedural components of a trial. If successful, this would follow the approach taken by their counterparts, Trent Lott and Tom Daschle, at the start of the Clinton impeachment trial in 1999. The bipartisan agreement reached by those

leaders and approved by the Senate in a 100 to 0 vote addressed trial procedures, while a later party line vote concerned which specific witnesses would be called. Despite higher levels of conflict and polarization now than in the late 1990s, McConnell and Schumer may still have an incentive to reach some kind of agreement, even a minimal one, if it reduces the amount of potential procedural uncertainty during the trial itself.

Leaders are limited by what their respective caucuses are willing to support. In the case of impeachment, where the role of a supermajority voting threshold is more limited than in the Senate's usual legislative environment, this is likely to affect McConnell's approach in particular. Because he may or may not have the support of 51 members of his conference for various approaches. But more broadly, power in the Senate as in the House increasingly flows through party leaders, with much of the legislative process unfolding through off-the-floor negotiations.

An impeachment trial may well follow suit. When the Senate released its plan calendar for 2020 recently, it simply left off the month of January, indicating an unusual level of uncertainty about what's next on impeachment and what come 2020 will be happening in Congress.

DEWS: To find more commentary and analysis about the impeachment of President Trump, find the FixGov on our website, brookings@edu, and look for the "This Week in Impeachment" series.

The Brookings Cafeteria Podcast is the product of an amazing team of colleagues, starting with audio engineer Gaston Reboredo and producer Chris

McKenna. Bill Finan, director of the Brookings Institution Press, does the book interviews, and Lisette Baylor and Eric Abalahin provide design and web support. Our intern this fall is Eowyn Fain. Finally, my thanks to Camilo Ramirez and Emily Horne for their guidance and support.

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Until next time, I'm Fred Dews.

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