



# DUE PROCESS

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## Support the Inspector General Access Act, S. 426

When Congress passed the Inspector General Act of 1978, it created a unique jurisdictional carve-out for the Department of Justice (DOJ) that prevents the Office of the Inspector General from investigating allegations of professional misconduct by DOJ attorneys. Instead, allegations of professional misconduct are referred inside DOJ to its own “Office of Professional Responsibility” (OPR). The DOJ is the only federal agency for which such a jurisdictional exception exists—allowing allegations against DOJ attorneys to be handled internally rather than independently.

The Office of Professional Responsibility is operating under a veil of secrecy that creates a perception that DOJ does not address professional misconduct allegations involving their own attorneys with the seriousness they deserve. A 2014 [report](#) published by the Project on Government Oversight found more than 600 substantiated allegations of professional misconduct by DOJ attorneys over a dozen fiscal years. However, in most instances, the details of those investigations, the results of any OPR investigation, and any ultimate consequences stemming from these substantiated allegations of professional misconduct are unknown. Considering that federal prosecutors wield significant power and independence, the lack of accountability and oversight when it comes to allegations of their professional misconduct is especially concerning. Yet OPR’s actions in response to even highly publicized and irrefutable acts of intentional prosecutorial misconduct are opaque. Importantly, even when OPR does take action its findings can be overruled by senior DOJ officials—a situation rife with potential conflict or corruption.

In stark contrast to OPR, inspectors general provide meaningful oversight, operate with independence, and provide a measure of transparency to the American public. In fact, the Office of the Inspector General of the Department of Justice already investigates DOJ subsidiary agencies and employees, including the Federal Bureau of Investigations and the Bureau of Prisons—just not the *attorneys* employed by the DOJ. It’s time this anomaly, created post-Watergate, was corrected.

Introduced by Sens. Dick Durbin (D-IL) and Mike Lee (R-UT), and co-sponsored by a bipartisan group of senators, the Inspector General (IG) Access Act, S. 426, would merely amend the Inspector General Act of 1978 to allow the Office of the Inspector General of the Department of Justice to also investigate allegations of professional misconduct by DOJ attorneys, referring any recommendations for disciplinary action to the Attorney General. The IG Access Act is not controversial legislation, which is why the Senate Judiciary Committee marked up the bill in a 21 to 1 vote in June 2020 and why the House passed the identical companion by voice vote in January 2019.

The IG Access Act is common-sense, bipartisan legislation that would bring much-needed accountability, oversight, and transparency where it is currently missing and eliminate a jurisdictional oddity that has kept the DOJ out of practice with other federal agencies. We urge senators to co-sponsor and support the IG Access Act.

*Due Process Institute is a bipartisan nonprofit that works to honor, preserve, and restore principles of fairness in the criminal legal system. If you have any questions or concerns, please contact Director, Rule of Law Initiatives, Jason Pye at [jason@idueprocess.org](mailto:jason@idueprocess.org).*