

An Ethical Evaluation of Critical Oversight: Essential Protection during Budgetary Cuts

Richard M. Monticello

The U.S. federal budget has become a burdensome ailment for both parties. A variety of ideas and mandates have been used in an attempt to treat the symptoms. Over the last several years, agencies have seen some unprecedented ideas for controlling spending, including government pay freezes, “sequester,” and political sparing over the budget and debt ceiling, resulting in a government shutdown. The global financial bubble and domestic economic conditions including unemployment have vastly changed the application of government programs. There have been recent debates regarding cutting the budget of oversight, as well as cutting certain departments and employees. This paper provides an analysis of current literature on oversight, specifically related to the Offices of Inspector General in critical sectors and the ethical implications and impact of budgetary cuts on their independent mandate to protect and investigate criminal activity. The goal is to show that critical sector offices can be combined to increase the effectiveness of the oversight, without cutting the budget and thus adhering to the taxpayer’s *Du contrat social ou Principes du droit politique*, commonly translated as the people’s social contract with the government. There is no need to cut their budget, departments, or employees. This has been done by examining the budgets of the agencies and reviewing the reported recoveries. Upon examination, it becomes clear that cutting agencies that provide oversight would be a failure by the government to serve and protect the citizens, and it would result in an avoidable ethical catastrophe.

Mission and Impact of the Office of Inspector General

The Offices of Inspector General promote economy, efficiency, and effectiveness in government operations and help detect and deter fraud, waste, abuse, and mismanagement. Current economic and political conditions have vastly changed both the implementation and expectations of government programs. Taxpayers have expected these programs to protect them based on the taxes they have subsequently paid for their service. It is one of the oldest contracts citizens expect from their ruling body. In 1762 Jean-Jacques Rousseau explained that government is an intermediate body set up between the subjects and the sovereign to enable them to communicate with one another; its job is to apply the laws and to maintain civil and political liberty.¹ This is true today as we look specifically at the role of critical-sector-related oversight and the job of applying the law.

With pressure from outside influences, the executive and legislative branches have made budgetary cuts to many programs. These cuts don't always take into consideration the long-term impact to the program and usually just focus on the short-term "savings" in budget resources without a full consideration of the cost impact these cuts will have on the program integrity issue. In other words, a \$1 savings from a reduction in budget resources may actually end up costing more than a dollar in additional program outlays. There is a line that these cuts must not cross, and that is the protection of life. Since there is no measurement for lives the OIG saves with its criminal investigations into faulty defense and aerospace products, or the interdiction of weapons systems that are stolen and sold to hostile nations, we must ensure future budgetary outlays of critical oversight are not impacted for perceived short-term gain. The effectiveness of oversight and the function of government to protect life should never be weakened. Cutting the budget or the department is a violation of the taxpayers' rights to protection—a right they have already paid for and expect.

During this economic downturn, many law enforcement agencies have recently battled with the same ethical dilemmas in response to budget restraints. According to a report by the Department of Justice, Office of Community Oriented Policing Services, "budget-cutting decisions often have unintended consequences," and based on these budgetary shortfalls local police departments have had to change the way they do business. The report also states, "We have a responsibility to the public—and to ourselves—to stand back and look for ways in

which we can be more efficient. There may be elements we can consolidate.”² The best option, and the only one that can provide continued oversight and the protection of life during budgetary cuts, is combining critical-sector agencies such as defense, aerospace, and science.

Mutual Defense of Rights and the Value of Oversight

A strength and weakness independent Inspectors General face is their reliance on both the executive and legislative branch for funding. The impact of across-the-board budgetary cuts on their independent mandate to investigate and account for criminal activity and financial waste will meet with negative results to the people who expect this function. The people elect the lawmakers to enact their laws, and they elect their president to execute these laws; however, both the legislative and executive branch control this enforcement budget.

There are several IGs in the critical sector of the oversight community that provide criminal investigation into the protection of life and also provide the U.S. Treasury with cost savings. Focusing on one example and extrapolating the data, a review of the fiscal year 2013 budgetary estimates of the Department of Defense Inspector General finds that the Defense Criminal Investigative Service (DCIS), the criminal investigative arm of the agency, actually brings in more money in program savings for each dollar it spends in oversight. The value of oversight can be empirically validated by looking at DCIS’s major fraud investigations, such as Allergan (\$561.2 million recovery), GlaxoSmithKline (\$494.9 million recovery), Capital Consortium Group (\$82 million recovery), Louis Berger Group (\$69.3 million recovery), and the Crowley Maritime Corp (\$45 million recovery) (Comptroller DOD 2013). However, even with substantial recoveries, the agency has found ways to reduce its budget and get approval from both Congress and the Department of Defense for their operational budget.

Cutting Oversight Results in Failure to the Social Contract, and Risks Life

The economic impact of the government shutdown has eroded the contract between the state and its people, specifically related to oversight and protection of life. Taxpayers have already paid the government for services they expect. There is a major breach and impact to the social contract when budgets are cut. According to a

Federal Times article, Agency Inspectors General have frozen hiring, cut staff, and narrowed the scope of audits in response to this year's sequester-related budget cuts.

One IG's office, for example, shrunk its audit staff by 13 percent; another said that its full-time-equivalent head count was the lowest since 1978, when the current system was created, according to the report. Among the IGs surveyed, the consensus is that sequester "has had a significant impact on their ability to provide the level of oversight they believe is needed," the report said.

When mandatory cuts are ordered, these departments look to carve out the cuts that are allowable. Based on the budget, long-standing rules and procedures are changed and reduced when the budget is attached. Other federal law enforcement agencies have found themselves fighting the same budgetary battle. The Federal Bureau of Investigation (FBI) has been forced to reduce fuel and vehicle repair. According to a recent article in *Breitbart*, FBI offices have ordered staff not to use their government vehicles, as sequestration has left them with no monies in their fuel budgets.³ Without use of their vehicles, FBI Special Agents cannot do their jobs effectively. Most of the agencies in the oversight community will not make it to a major news outlet when they cut their government vehicle usage, yet the impact will be just as significant. Most government vehicles are leased, and according to DOD-OIG Report 2013-117, "Enhanced Oversight Needed for Non-Tactical Vehicle Fleets in the National Capital Region," within the Department of Defense there is a regulation that leased vehicles must be driven twelve thousand miles per year.⁴ If there are budgetary restraints, vehicles will be parked, and when reviewed they will be excessed if they do not meet the mileage requirements. In a statement by the FBI Agents Association, "Trying to save money by undermining the FBI's ability to protect the public is likely to be far more costly to our country in the long run."⁵

In the most severe cases, laws are not enforced and taxpayers lose out on the benefits. These cuts violate what people perceive as "the rules." "There is a set of rules that everyone recognizes as binding on them, and we all benefit from the fact that these rules are generally followed. Each of us accepts the benefits conferred by this arrangement; and, more than that, we expect and encourage other people to observe the rules."⁶

Oversight is widely looked at as a mandated evil to most agencies, and it is not given an exemption from budgetary cuts under the provisions found in Section 255 and 256 of the Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended. This

has been verified thru the OMB, which released a report and advised Inspectors General (IGs) that they faced budget cuts of over \$100 million in fiscal year 2013 due to sequestration. The report shows that twenty-four IGs faced direct budget reductions of anywhere from \$1 million to \$28 million that fiscal year. Other IGs not specifically itemized by OMB in the report may also be affected through agencywide cuts.⁷

The indiscriminate cuts forced by sequestration subject IGs to the same budget reductions as the agencies they are charged with investigating and auditing. These types of cuts will impact oversight and protection of life. Sequester budget cuts for Inspector General Offices across the board have met with potential lost government return on investments. The Inspectors General community response to an inquiry by Senator Jeanne Shaheen (D-N.H.) overwhelmingly confirms that the budget cuts are doing more harm than good. Federal IGs uncovered more than \$93 billion in potential savings in fiscal 2011, resulting in a \$35 return for every \$1 invested in IG operations, according to the latest annual report by the interagency Council for Inspectors General. By that estimate, the approximately \$100 million in sequester cuts affecting IGs would mean about \$3.5 billion in potential missed cost savings.⁸

Budgetary restraints including the government shutdown of 2013 forced travel restrictions and limited investigative leads to activities related to foreign agents. We can glean insight into global consequences as we review the reports by the House Oversight and Government Reform Committee and statements made by Chairman Darrell Issa (R-Calif.) as part of the ongoing investigation into the attack on the U.S. Consulate in Benghazi, Libya. The economic impact of the shutdown had a global impact on oversight based on the travel budget.

The State Department Accountability Review Board (ARB) placed blame on midlevel officials but did not examine the role of more senior officials involved in security decisions.⁹ The merger of resources from a variety of critical sector agencies will aid in the ability to immediately investigate vulnerabilities and crime within programs, even when resources from the budget are limited.

Combining Agencies with the Same Mission to Deliver on the Social Contract

The OIG's ability to conduct oversight and protect life while facing cuts is a daunting task. In order to improve oversight and

program integrity issues, the Inspector General Act of 1978 should be amended to allow the Offices of Inspector General within the critical sector community to merge into one agency with a separate and independent budget. This is a key factor and must be done in accordance with the framers of our constitution according to the Constitution Society. They advise, "The social contract is very simple. It has only two basic terms: (1) mutual defense of rights; and (2) mutual decision by deliberative assembly (Roland 1995). An assembly is a key factor in changing the IG Act to serve the people. This change must be codified in law. This budget separation change is a key factor to oversight, and it should be mandated by Congress. A new codification in law that stipulates an operational budget will take into account several factors, including but not limited to the original IG Act of 1978, the historical budget of the OIG, and the amount of recoveries and cost avoidances the OIG has produced.

The critical sector OIGs with oversight priorities that are similar should be merged together, including the Department of Defense, Defense Intelligence Agency, National Aeronautics and Space Administration, National Geospatial-Intelligence Agency, National Security Agency, National Science Foundation, and the Special Inspector General for Afghanistan Reconstruction. In many cases these agencies have worked jointly on the same investigations, using double the resources needed.

The State Delivers on Their Contract with the People

Research using the Annual Progress Report to the President, Fiscal Year 2012, found more than fourteen thousand employees at seventy-three OIGs conducted audits, inspections, evaluations, and investigations. Together, the work of the OIG community resulted in significant improvements to the economy and efficiency of programs governmentwide, with potential savings totaling approximately \$46.3 billion. With the OIG community's aggregate FY 2012 budget of approximately \$2.7 billion, these potential savings represent about a \$17 return on every dollar invested in the OIGs (see figure 5.1).¹⁰

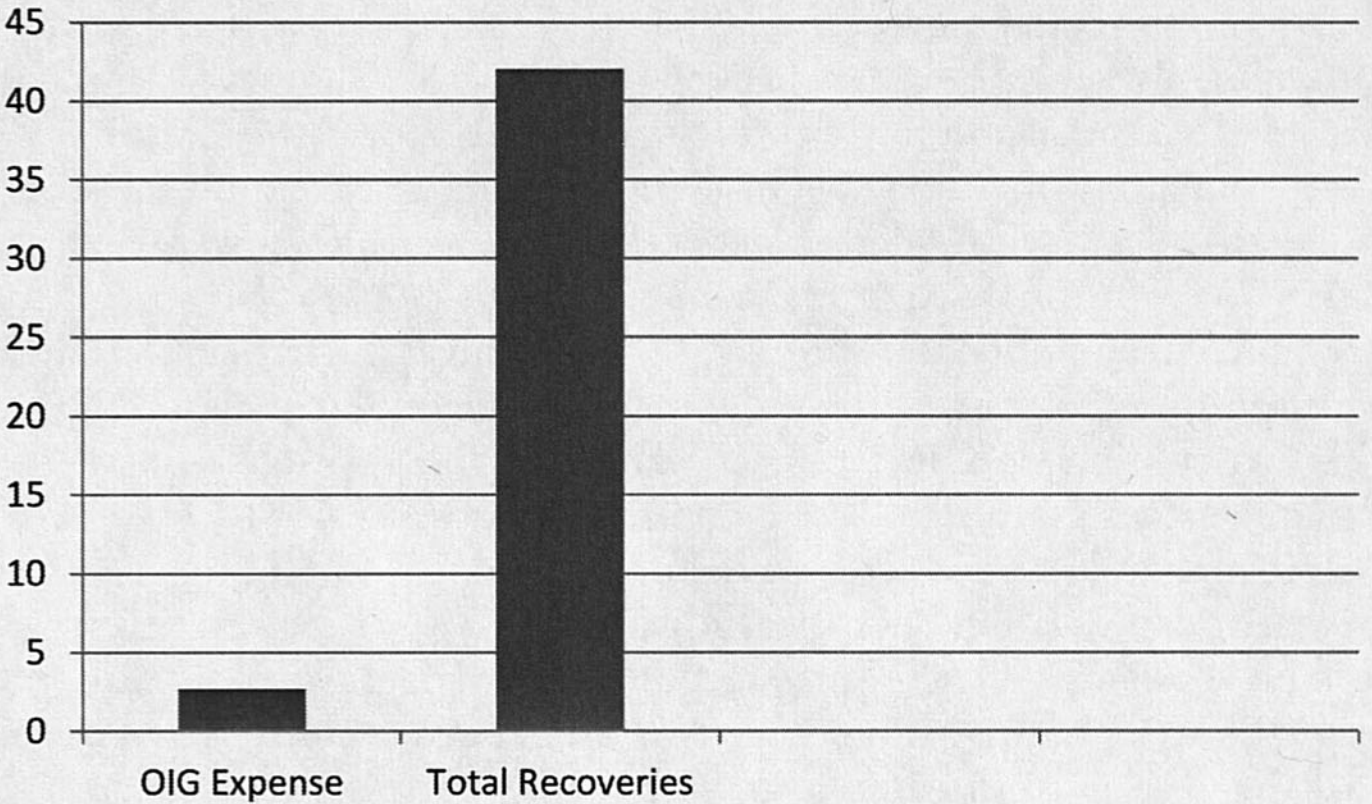


Figure 5.1. OIG Expense versus Total Recoveries

Total OIG Expense and Recovery

The critical sector OIGs are not separated out from this data, so by using the formula from the CIGIE report, we get a return of \$17 for every \$1 spent. By combining the seven aforementioned OIGs and removing the duplicate services, we should be able to reduce management and logistical overhead and achieve a return of \$119 dollars for every \$1 spent. This formula relies on a robust investigative and audit component that will need additional resources to cover all areas of the critical sector.

By looking at the ethical framework in *Du contrat social ou Principes du droit politique* or the people's social contract, we have proven that budgetary cuts would risk life and impact tax dollars. Both of these things are a key factor to the people who have agreed to this contract through their tax revenue and citizenship. There is no need to cut oversight budget, departments, or employees. By examining the budgets of the agencies and reviewing what oversight agencies deliver to the people, it is clear that cutting agencies would be a failure by the government to serve and protect the citizens. The option of combining services and their budgets has proven to be the best option.

Notes

1. Christopher D. Wraight, *Rousseau's "The Social Contract": A Reader's Guide* (London: Continuum Books, 2008).

2. Bernard K. Melekian, "The Impact of the Economic Downturn on American Police Agencies," A Report of the U.S. Department of Justice: Office of COPS, 2011: 52.

3. Sean Reilly, "Budget Cuts Hurting Oversight, IGs Say," *Federal Times*, September 17, 2013, <http://apps.federaaltimes.com/mobile/article/309170004>.

4. Department of Health and Human Services, "Fiscal Year 2013 Office of Inspector General," http://oig.hhs.gov/publications/docs/budget/FY2013_HHSOIG_Congressional_Justification.pdf.

5. Council of the Inspectors General on Integrity and Efficiency, "Progress Report to President FY 2012"; U.S. Department of Defense, "Fiscal Year 2013 Budget Request," 2013, http://comptroller.defense.gov/defbudget/fy2013/budget_justification/pdfs/01_Operation_and_Maintenance/O_M_VOL_1_PARTS/O_M_VOL_1_BASE_PARTS/OIG_OP-5.pdf; Meryl Grenadier, "Watchdogs Not Immune from Sequestration Cuts," Project on Government Oversight, May 30, 2013, <http://www.pogo.org/blog/2013/03/20130319-watchdogs-not-immune-from-sequestration-cuts.html>; Jim McElhatton, "Sequester Doesn't Add Up for IGs," *Federal Times*, <http://www.federaaltimes.com/article/20130520/AGENCY01/305200006/Sequester-doesn-t-add-up-IGs>; Committee on Oversight & Government Reform, "Benghazi Attacks: Investigative Update Interim Report on the Accountability Review Board," September 16, 2013, <http://oversight.house.gov/report/benghazi-attacks-investigative-update-interim-report-on-the-accountability-review-board/>; Sean Reilly, "Budget Cuts Hurting Oversight, IGs Say," *Federal Times*, September 17, 2013, <http://apps.federaaltimes.com/mobile/article/309170004>; Jon Roland, "The Social Contract and Constitutional Republics," *Constitution Society*, September 25, 1995, <http://www.constitution.org/soc/cont.htm>; Phillip Swarts, "FBI Now Tries to Manage with Shutdown after Sequestration," *Washington Times*, October 1, 2013, <http://www.washingtontimes.com/news/2013/oct/1/fbi-now-tries-to-manage-with-shutdown-after-seques/?page=all>.

6. James Rachels, *The Elements of Moral Philosophy* (New York: McGraw-Hill, 2012).

7. Grenadier, "Watchdogs Not Immune from Sequestration Cuts."

8. McElhatton, "Sequester Doesn't Add Up for IGs."

9. Committee on Oversight & Government Reform, "Benghazi Attacks."

10. Department of Health and Human Services, "Fiscal Year 2013 Office of Inspector General."

Richard M. Monticello is a special agent with the Defense Criminal Investigative Service, where he conducts criminal investigations in a variety of national security areas. Special Agent Monticello received his BA in Criminal Justice from Saint Leo University, and he is currently working on his masters at Georgetown University. The views expressed within this paper are those of the writer and not the U.S. government, Department of Defense, or its components. All information obtained for use in this paper is public information.