



May 5, 2022

The Honorable Patrick Leahy  
Chairman  
Senate Committee on Appropriations  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Richard Shelby  
Ranking Member  
Senate Committee on Appropriations  
304 Russell Senate Office Building  
Washington, DC 20510

The Honorable Jack Reed  
Chairman  
Subcommittee on the Legislative Branch  
Senate Committee on Appropriations  
728 Hart Senate Office Building  
Washington, DC 20510

The Honorable Mike Braun  
Ranking Member  
Subcommittee on the Legislative Branch  
Senate Committee on Appropriations  
404 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy, Ranking Member Shelby, Chairman Reed, and Ranking Member Braun:

The Project On Government Oversight (POGO) submits the following requests for language to be included in the fiscal year 2023 Legislative Branch appropriations bill and report.

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. POGO champions reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

To further strengthen Congress's ability to conduct rigorous, fact-based, and bipartisan oversight, POGO suggests the following modest reforms, all of which could be addressed in report language accompanying the Senate Legislative Branch Subcommittee's appropriations bill. The oversight functions of Congress are essential to creating an accountable federal government and to upholding our democracy's system of checks and balances.

1. Assess the viability of a congressional office of legal counsel
2. Increase Capitol Police Office of Inspector General transparency
3. Require the Government Accountability Office to report on agencies' compliance with the Good Accounting Obligation in Government Act

All of these suggestions are further described in the attachment to this letter.

Thank you for your consideration of these proposals to strengthen government accountability and oversight of the legislative branch. For more information, please have your staff contact me at [joanna.derman@pogo.org](mailto:joanna.derman@pogo.org).

Sincerely,

Joanna Derman  
Policy Analyst

Enclosure: 1

## **POGO Recommendations to Strengthen Congressional Accountability and Government Oversight**

In order to strengthen government accountability and congressional accountability, the Project On Government Oversight (POGO) suggests the following reforms be incorporated into report language accompanying the Senate Legislative Branch appropriations bill for fiscal year 2023.

### **Congressional Office of Legal Counsel**

**Appropriations Committee:** Legislative Branch

**Agency:** Government Accountability Office

**Account:** Salaries and Expenses

**Type of Request:** Report Language

**Justification:** The executive branch derives great value from the opinions issued by the Justice Department's Office of Legal Counsel (OLC), which shape public and judicial views of the law. However, these opinions overwhelmingly favor executive branch interests at the expense of Congress, and contribute to the overreach of executive power. It is crucial that Congress develop its own process for issuing respected, persuasive legal opinions on its legislative and oversight authorities. Congress has previously considered establishing a bicameral legal office to articulate and defend its institutional interests and authorities, including during the drafting of the Ethics in Government Act of 1978. Although the OLC objected to a 1975 bill seeking to establish such an office, then called the Office of the Congressional Legal Counsel, the department later agreed to an iteration of that office included in the Senate version of the Ethics in Government Act after negotiations with lawmakers. Proposals to strengthen the House Office of General Counsel and the Office of Senate Legal Counsel have also been considered from time to time. In October 2021, the House Committee on the Modernization of Congress sent a letter to the Government Accountability Office asking it to study the feasibility and possible functions of a Congressional Office of Legal Counsel.

**Proposed Report Language:** The Committee applauds the Government Accountability Office for beginning to study the feasibility and possible functions of a Congressional Office of Legal Counsel. Congress has a strong interest in protecting and asserting its constitutional prerogatives so it can obtain the information it needs to effectively conduct oversight and its legislative duties. The Committee strongly encourages the study to examine how a congressional counterpart to the executive branch's OLC should be structured, what functions and authorities that office should have, and how the office should interact or intersect with the functions and powers of existing legal support offices in Congress.

### **Increase Capitol Police Inspector General Transparency**

**Appropriations Committee:** Legislative Branch

**Agency:** Capitol Police

**Account:** General Expenses

**Funding Level:** N/A

***Type of request:*** Report Language

***Justification:*** The Office of the Inspector General for the U.S. Capitol Police (USCP) is supposed to provide independent, professional, nonpartisan oversight of the U.S. Capitol Police's operations, but it does not make its reports available to the public. This policy is pursuant to the direction of the Capitol Police Board, and undermines public accountability and congressional oversight. Last year's attack on the U.S. Capitol, and the subsequent questions surrounding USCP procedures and operations, are a clear example of why the presumption should be reversed: reports by the USCP should be made publicly available as a general rule, and only in limited exceptions should a summary be published in their stead. Currently, the only documents available on the USCP IG's website are four External Peer Review Reports from 2019, 2016, 2013, and 2010.

In the House report accompanying the fiscal year 2021 legislative branch appropriations bill, lawmakers requested that the IG publicly release reports if they do not compromise law enforcement activities, national security, or congressional security and processes without redaction. The committee's request that the IG review all issued reports from the previous three years to determine which could have been made public is commendable; the USCP IG review was due on March 27, 2021. We urge all reports identified by the IG be published immediately, and a new policy be put into effect requiring that IG reports be made publicly available except under limited circumstances, in which case a summary should be published in their stead.

***Proposed Report Language:*** USCP Office of the Inspector General Report Disclosure: It is a government-wide best practice for inspectors general to make their reports publicly available whenever practicable. Within 90 days of enactment, the USCP IG is requested to commence publishing all final reports on its website and at Oversight.gov on an ongoing basis, two weeks after the report is transmitted to the USCP or to a congressional office. The IG shall err on the side of disclosure, redacting the contents of reports only to the extent necessary to protect national security or personal privacy, but not to conceal evidence of waste, fraud, abuse, or malfeasance. Furthermore, the USCP IG is requested to immediately publish all reports identified as publishable in its March 27, 2021, report.

In addition, the USCP IG is requested to publish on its website and on Oversight.gov within 180 days of enactment of this legislation the following information concerning reports issued over the last 10 years: the subject (or a descriptive title); date of publication; and any findings, recommendations, conclusions, and actions taken that relate to the report. Further, it may publish the entirety of any of its reports sua sponte, subject to the above restrictions, and shall establish a process for the public to request online publication of individual reports.

**Government Accountability Office Report on Agencies' Compliance with Good Accounting Obligation in Government Act**

***Appropriations Committee:*** Legislative Branch

***Agency:*** GAO

***Account:*** General Provisions

**Funding Level:** N/A

**Type of request:** Report Language

**Justification:** The Good Accounting Obligation in Government Act (GAO-IG Act) established clear requirements that agencies publish as a part of their budget justifications each year a list of all recommendations from the Government Accountability Office and from the agency's Inspector General Office that are more than a year old and still open or unimplemented. Despite this law going into effect in 2019 and the importance of the reporting, many agencies have failed to report the necessary information in their budget justification documents. This means that agencies are not consistently reporting on the status of open recommendations, providing an implementation timeline, or issuing detailed justifications for decisions to not implement a particular recommendation. Congress should require the GAO to analyze and report on federal agencies' compliance with the GAO-IG Act to ensure agencies fully consider and respond to recommendations from these key oversight offices.

**Proposed Report Language:** The Committee directs the Government Accountability Office to review and report on every agency's compliance with the reporting requirements of the GAO-IG Act. The report should indicate which agencies are in full compliance, which are missing some of the required reporting, and which are failing to report any of the required information. Further, the report should attempt to determine if there are any barriers or complications that prevent full compliance with the reporting requirements, and what steps Congress might take to ensure future compliance from all agencies. The Committee further directs all agencies to take whatever steps necessary to ensure they issue all required GAO-IG Act information with their next set of budget justification materials. The Committee also strongly encourages agencies to use the GAO-IG reporting process as an opportunity to review open recommendations and consider possible steps to fully or even partially implement the proposed actions.