

MORE PROPOSED OVERSIGHT FROM JOHN CONYERS

John Conyers has been busy. In addition to drafting bills to improve FISA and PATRIOT (more on that later), he has introduced three more bills that would improve Congressional Oversight of the Executive.

The Department of Justice Inspector General Authority Improvement Act of 2009

This Act will authorize the Department of Justice Inspector General to investigate attorney misconduct within the Department of Justice. Under current law, all allegations of wrongdoing by the Department of Justice attorneys are required to be investigated by the by the department's Office of Professional Responsibility, rather than the Inspector General. In contrast with the statutorily independent Inspector General, the Office of Professional Responsibility is supervised by the Attorney General.

This limitation on authority does not exist for any other agency Inspector General. The Department of Justice Inspector General Authority Improvement Act of 2009 will make the authority of the Department of Justice Inspector General consistent with that of all other agencies and will prevent future abuses and politicization within the Department.

DOJ's Inspector General, Glenn Fine, has been pushing for this authority for some time (and not just because it would give him more authority). It fixes two problems that exist right now—one, that lawyers in DOJ are not held

legally responsible in the same way as others might be, because they escape IG oversight (and often benefit from quiet settlements on complaints handled by OPR). And, more importantly, the current situation (in which OPR—which reports to the Attorney General—conducts investigations of lawyers) makes it almost impossible to investigate the actions of the Attorney General or his close allies. Alberto Gonzales was able to put off investigations into the US Attorney scandal for some time this way.

The Inspector General Authority Improvement Act of 2009

This Act will provide the Inspectors General of the various agencies the authority to issue subpoenas for the testimony of former employees or contractors as part of certain investigations. Under current law, a critical witness can avoid being interviewed by an Inspector General, and thus seriously impede an investigation, by simply resigning from the agency.

The bill contains important limitations on an Inspector General's subpoena power in order to prevent abuse or damage to ongoing investigations. Most prominently, an Inspector General cannot issue a subpoena if the Department of Justice concludes in a particular case that the taking of a deposition would interfere with civil or criminal litigation.

Again, this seems like a response to the Bush scandals—not least the way some of the culprits in the US Attorney scandal refused to cooperate with Glenn Fine (or the way John Ashcroft has refused cooperation with all torture and illegal wiretapping IG investigations).

The Disclosure of Presidential Declassification of Intelligence

Information Act of 2009

The bill will require the President to inform, within 15 days, the relevant congressional committees whenever intelligence has been declassified. The bill also expresses the Sense of Congress that additional notice should be provided to the Director of National Intelligence, the Archivist of the United States, and the heads of the applicable elements of the intelligence community.

I will follow up on this one to see what the logic behind it is. But for the moment, I'm going to call it the Valerie Plame Insta-Declassification Bill. After all, if ~~Dick Cheney~~ George Bush had been required to reveal whether he had insta-declassified her identity within 15 days, it would have made it very clear whether Cheney's order to Libby to leak it was nominally legal or whether Cheney and Libby violated the IIPA. But this law would have also made it harder for Bush to warmonger on Iraq, since every time they insta-declassified info to leak to Judy Judy Judy, they would have had to admit that fact.

Frankly, I expect both Republicans, the Administration, and some Democrats to balk at this bill. But we might have fun in the interim.