

THE DOJ INSPECTOR GENERAL'S DIFFICULTIES GETTING GRAND JURY INFORMATION

I'm about to do a series of posts on several investigations of DOJ's Inspector General, Michael Horowitz.

Before I do that, however, I want to call attention to Horowitz' recent complaints – most notably at a Senate Appropriations Hearing on April 3 – about limits on his ability to get grand jury information.

In the exchange above, Senator Richard Shelby asked Horowitz about the problem.

Shelby: Do you believe that you, the Inspector General of the Department of Justice, should have to seek approval of the Attorney General to access grand jury documents or any documents relevant to ongoing investigations?

Horowitz: I don't, Senator. It's inconsistent in my view with the–

Shelby: With your mandate, is it?

Horowitz: Correct–

Shelby: Because even though it's the Justice Department, but it could be any department, if you have to go to the head of the department – the Secretary – for example, cabinet level position to approve what you're seeking, it seems that could be, under dire circumstances, an impediment to doing your job.

Horowitz: Well, and ultimately, that's correct, and ultimately, the letters that we've gotten from the Attorney

General and Deputy Attorney General giving us access have focused on finding that the review was important to their oversight of the department. The Act sets it up such a way that oversight decisions should be made by Inspectors General not by the Secretaries or cabinet heads.

Horowitz had described the problem in his testimony to the Senate Appropriations Committee as well (and he mentioned Fast & Furious, to be sure to get Republicans to take notice).

However, there have been occasions when our office has had issues arise with timely access to certain records due to the Department's view that access was limited by other laws. For example, issues arose in the course of our review of Operation Fast and Furious regarding access to grand jury and wiretap information that was directly relevant to our review. Similar issues arose during our ongoing review of the Department's use of Material Witness Warrants. Ultimately, in each instance, the Attorney General or the Deputy Attorney General provided the OIG with permission to receive the materials because they concluded that the two reviews were of assistance to them. The Attorney General and Deputy Attorney General have also made it clear that they will continue to provide the OIG with the necessary authorizations to enable us to obtain records in future reviews, which we of course appreciate. However, requiring an Inspector General to rely on permission from Department leadership in order to review critical documents in the Department's possession impairs the Inspector General's independence and conflicts with the core principles of the Inspector General Act.

We have had similar issues raised

regarding our access to some other categories of documents.

And the issue came up when Holder testified to the House Judiciary Committee the following week (as I said, mentioning Fast & Furious is like catnip for Republicans).

Horowitz sure seems intent on drawing immediate attention to this issue, which I agree is pretty significant.

As I will show, Horowitz is currently conducting at least two investigations that will or already do require fairly broad access to grand jury investigations. I wouldn't be surprised if the two things were connected.