

HSA@20 Episode Companion: Oversight

April 3, 2023

This Insight accompanies the “Oversight” episode of *The Homeland Security Act at 20* podcast series and includes background information on the issues discussed during the podcast.

Click this [link](#) to ask questions, provide feedback, or offer suggestions for future topics. You can also e-mail the podcast team at HSA20@loc.gov. Thank you for your engagement.

Defining Oversight

[Congressional oversight](#) of the executive branch involves the review, monitoring, and supervision of federal agencies, programs, activities, and policy implementation.

This may include not only reviews of efficiency and effectiveness, but also whether the executive branch is acting in a manner consistent with congressional intent.

The [congressional oversight toolbox](#) includes:

- Investigations and reports
- Hearings
- Legislative activity
- Appropriations
- Reporting requirements
- Letters and staff contacts

Oversight involves more than Congress. It can include:

- Statutorily created special oversight bodies, such as:
 - [Recovery, Accountability, and Transparency Board](#) (2009)
 - [Pandemic Response Accountability Committee](#) (2020)
- [Inspectors General](#)
- [Government Accountability Office](#)
- Public oversight

Authority for congressional oversight comes from several places in Article I of the U.S. Constitution:

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- The [legislative authority](#)
- [Confirmation of nominees](#) (“advice and consent”)
- The “power of the purse”
 - The [Taxing](#) and [Spending](#) Clause
 - The [Appropriations Clause](#)

Congress’s authority to conduct investigations as part of its oversight function is an *implied* constitutional power. Congressional investigative power has limitations:

- [Separation of powers](#), including “[executive privilege](#)”
- Fifth Amendment of the U.S. Constitution
- Legitimate legislative purpose is required as the basis for congressional investigation

Power resides in the House and Senate and is delegated to their various committees:

- [House](#):
 - Clause 1 of Rule X defines the subject matter jurisdictions of House committees
 - Rule XI provides committees procedural authority to conduct investigations and studies in their areas of jurisdiction
- [Senate](#):
 - Rule XXV defines the standing committees of the Senate and their jurisdictions
 - Rule XXVI establishes baseline committee procedure

Homeland Security Congressional Oversight Debate

- President George W. Bush signed [Executive Order 13228](#) establishing the Office of Homeland Security, headed by former Pennsylvania Governor Tom Ridge (October 8, 2001).
 - The White House position was that Governor Ridge did not have to testify before Congress because the office was not established legislatively and he was not confirmed by the Senate.
 - This led to [threats of subpoenas](#) if Governor Ridge would not testify voluntarily.

Once the Homeland Security Act was enacted, and the Department of Homeland Security was established with a Senate-confirmed appointee, the question of how Congress would oversee homeland security became more pressing.

- The Appropriations Committees reorganized in early 2003, with the House and Senate creating subcommittees that dealt solely with DHS.
- [The 9/11 Commission Report](#) in July 2004 recommended reorganization of congressional committee structures (see 13.4, p. 419 and 420).
- In October 2004, the Senate passed a [committee reform resolution](#), amended on the Senate floor to reduce the degree of consolidation of authority in a single committee.
- In January 2005, the House adopted rules that created a new permanent Homeland Security Committee (see [debate on the 108th Congress House Rules from the Congressional Record](#)).

Inspectors General

The history of the modern inspector general (IG) system [can be traced](#) to efforts by agencies beginning to improve their financial management in the late 1950s. In the mid-1970s, Congress began to codify the IG model.

- The [Inspector General Act of 1978](#) institutionalized IGs across the federal government (P.L. 95-452; currently [5 U.S.C. Chapter 4](#)).
- Since 1978, Congress has created more IGs and enhanced their role. Major reform legislation has included:
 - [The Inspector General Act Amendments of 1988](#)
 - [The Inspector General Reform Act of 2008](#)
 - [The Inspector General Empowerment Act of 2016](#)
 - [The Securing Inspector General Independence Act of 2022](#) and the [Integrity Committee Transparency Act of 2022](#)

Selected Potential Ways to Improve Homeland Security Oversight

Inspector General Oversight and Support

- Key stakeholders including Congress, the President, agency leadership, and IGs themselves can conduct [oversight of the IG community](#).
 - The Council of the Inspectors General on Integrity and Efficiency has [confirmed](#) that the DHS Inspector General is currently under investigation.
- One way Congress maintains IG independence is by directing IGs to develop their own [budget justifications](#) and to ensure that information on their resource needs is reported to Congress with the President's budget request.

Improve Congressional Capacity

- For specific information on committee staffing levels in the House of Representatives, see CRS Report R43947, *House of Representatives Staff Levels in Member, Committee, Leadership, and Other Offices, 1977-2021*, by R. Eric Petersen.

FOR MORE INFORMATION

- For more information on oversight, see CRS Report RL30240, *Congressional Oversight Manual*, coordinated by Ben Wilhelm, Todd Garvey, and Christopher M. Davis.
- For more episodes of this podcast series, search “HSA@20” on the CRS website.

NEXT EPISODE

April 10, 2023: Cybersecurity

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