

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.**

**S. 685**

To amend the Inspector General Act of 1978 relative to the powers of the Department of Justice Inspector General.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. GRAHAM

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Inspector General Ac-  
5 cess Act of 2020”.

6 **SEC. 2. INVESTIGATIONS OF DEPARTMENT OF JUSTICE**  
7 **PERSONNEL.**

8 Section 8E of the Inspector General Act of 1978 (5  
9 U.S.C. App.) is amended by adding at the end the fol-  
10 lowing:

11 “(e)(1)(A) Notwithstanding subsection (b)(3), the In-  
12 spector General of the Department of Justice (in this sub-

1 section referred to as the ‘Inspector General’) may request  
2 that the Attorney General assign to the Inspector General  
3 the investigation of allegations of misconduct involving  
4 Department attorneys, investigators, or law enforcement  
5 personnel, where the allegations relate to the exercise of  
6 the authority of an attorney to investigate, litigate, or pro-  
7 vide legal advice.

8 “(B) The Attorney General shall grant a request  
9 made by the Inspector General under subparagraph (A)  
10 unless the Attorney General determines that—

11 “(i) prohibiting such an investigation by the In-  
12 spector General is necessary to prevent—

13 “(I) the disclosure of any information de-  
14 scribed in subsection (a)(1); or

15 “(II) significant impairment to the na-  
16 tional interest of the United States; or

17 “(ii) the allegations presented in the request of  
18 the Inspector General do not implicate potential mis-  
19 conduct by Department attorneys.

20 “(C)(i) If the Attorney General does not grant a re-  
21 quest made by the Inspector General under subparagraph  
22 (A), the Attorney General shall notify the Inspector Gen-  
23 eral in writing stating the reasons for the decision.

1           “(ii) Except as provided in clause (iii), within 30 days  
2 after receipt of any notice described in clause (i), the In-  
3 spector General shall—

4           “(I) transmit a copy of the notice to—

5                   “(aa) the Committee on Homeland Secu-  
6 rity and Governmental Affairs and the Com-  
7 mittee on the Judiciary of the Senate;

8                   “(bb) the Committee on Oversight and Re-  
9 form and the Committee on the Judiciary of the  
10 House of Representatives; and

11                   “(cc) any other appropriate committee or  
12 subcommittee of Congress; and

13           “(II) post a copy of the notice on the website  
14 of the Inspector General.

15           “(iii) If the Attorney General determines that the  
16 procedures under clause (ii) would compromise the integ-  
17 rity of an investigation—

18                   “(I) the Inspector General shall not carry out  
19 the actions described in clause (ii); and

20                   “(II) the Attorney General shall—

21                           “(aa) notify the committees described in  
22 clause (ii)(I) of the notice described in clause  
23 (i) through confidential briefings; and

1                   “(bb) notify the public of the notice de-  
2                   scribed in clause (i) at the conclusion of the in-  
3                   vestigation.

4                   “(iv) To the greatest extent possible, the notice trans-  
5                   mitted and posted under clause (ii) shall be in unclassified  
6                   form.

7                   “(D)(i) The Attorney General shall promulgate regu-  
8                   lations to implement this paragraph.

9                   “(ii) Consistent with section 6(a), the regulations  
10                  promulgated under clause (i) shall require the Counsel,  
11                  Office of Professional Responsibility, to establish a pro-  
12                  cess, in consultation with the Inspector General, to ensure  
13                  that the Office of the Inspector General has timely notice  
14                  of all allegations of misconduct described in this para-  
15                  graph that are received by the Office of Professional Re-  
16                  sponsibility.

17                  “(2) Notwithstanding subsection (b)(3), even if the  
18                  Inspector General has not made a request under para-  
19                  graph (1), the Attorney General may, in his or her discre-  
20                  tion, refer to the Inspector General the investigation of  
21                  any specific allegations of misconduct involving Depart-  
22                  ment attorneys, investigators, or law enforcement per-  
23                  sonnel, where the allegations relate to the exercise of the  
24                  authority of an attorney to investigate, litigate, or provide  
25                  legal advice.”.