EPA's Acting Inspector General Charles J. Sheehan took the extraordinary step last week of notifying Congress that EPA was stonewalling his investigation of potential misconduct involving EPA's Chief of Staff. This was a gutsy move for Sheehan, especially given the extra vulnerability created by his Acting status. Sheehan, it is worth noting, is a career professional, having previously served on EPA's appeals board after long service at DOJ.

The IG's investigation involves two incidents, one regarding a possible effort to influence a scientific advisor's testimony on climate change. The subject matter of the other inquiry is not public but may involve allegations of destruction of documents to conceal misconduct. In both instances, the person refusing to cooperate with the investigation is Ryan Jackson, the EPA Administrator's Chief of Staff. Jackson, who has close ties with Sen. Jim Inhofe, has apparently had the support of Administrator Wheeler.

Wheeler and EPA's General Counsel (a political appointee) have argued against the IG's right to find out who told the EPA Chief of Staff the content of the scientist's upcoming testimony. They have alluded to "constitutional concerns" and suggested that how Congress gets testimony is none of the IG's business. But if the Chief of Staff attempted to silence or intimidate the scientist, or if the person communicating the testimony to the Chief of Staff was attempting to do so, that might violate EPA regulations or arguably constitute obstruction of a congressional inquiry, a criminal offense. Moreover, if EPA is obtaining information from illicit sources, that might raise other legal issues. Either way, the subject seems legitimately within the IG's jurisdiction. And the other possible topic of investigation, altering or destroying government papers, seems obviously a legitimate subject for investigation.

The General Counsel alludes to constitutional concerns that seem to go to the basic role of the IG, suggesting that giving the IG full access to government information and a duty to report to Congress invades presidential control over the affairs of the Executive Branch. If some information sought by the IG is covered by executive privilege or attorney-client privilege, a statute requiring disclosure to Congress or to the public might raise constitutional concerns. Even so, it might be possible for the IG to avoid such disclosure after obtaining the information. A broader argument is that Congress cannot empower executive officials to report to it without going through their superiors for permission. Although this is a standard stance by the executive branch, it is hard to find a real constitutional foundation. Congress places many obligations on specific government officials, such as the many duties of the

Administrator of the EPA. It is hard to see why making reports of various kinds should not be amongst them. Congress has required officials to report to it since Alexander Hamilton was Treasury Secretary. Such reporting requirements seem to be legitimately within Congress's oversight powers.

Moreover, the Administration does retain ultimate control over the activities of the IG. The IG does not enjoy legal protection from removal — and as an Acting, *this* IG would not anyway. If the President disapproves of the way the IG is conducting an investigation, the President has a remedy at hand. Congress might complain if he fired the IG, but the Constitution does not shield the executive branch from congressional complaints.

Beyond the legalities, this dispute highlights some important and disturbing trends. The first is the Trump Administration's efforts to suppress scientific information that calls its policies into question. The second is its equal determination to prevent public disclosure of questionable behavior. Third is the willingness of politically appointed lawyers within the jurisdiction to cover for their bosses. And fourth is the willingness of public servants like Acting Inspector General Sheehan to stand up for government integrity. We can expect these trends to continue as long Trump remain in office.