Mr. CUMMINGS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the measure before us today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of H.R. 202, the Inspector General Access Act. I thank Representatives RICHMOND, HICE, and LYNCH for the bipartisan manner in which they worked on this very important bill in the last Congress.

The Inspector General Access Act would allow the inspector general of the Department of Justice to investigate allegations of misconduct by Department attorneys. The IG is statutorily independent and currently has the authority to investigate other DOJ personnel.

The IG is barred from pursuing appropriate investigations into attorneys at the Department. Under current law, the authority to investigate attorneys is restricted to the Office of Professional Responsibility within DOJ. OPR is not statutorily independent, and its head is not confirmed by the Senate like the IG is. Treating attorneys differently from other personnel is simply unfair.

Michael Horowitz, the inspector general at the Department of Justice, recently testified before our Committee on Oversight and Reform, and this is what he said: “This bifurcated jurisdiction creates a system where misconduct by FBI agents and other DOJ law enforcement officers is conducted by a statuteully independent IG appointed by the President and confirmed by the Senate, while misconduct by DOJ prosecutors is investigated by a component head who is appointed by the Department’s leadership and who lacks statutory independence. There is no principled reason for treating misconduct by Federal prosecutors differently than misconduct by DOJ law enforcement agents.”

H.R. 202 would not prohibit OPR from investigating attorneys. It would simply enable the ability to investigate attorneys, when appropriate to the IG’s authority, an additional layer of accountability.

Empowering IGs has been and should continue to be a nonpartisan issue. The Committee on Oversight and Reform relies on the work of IGs. We strongly support efforts to help them do their jobs effectively and efficiently.

A bill identical to the one before us passed the House on a voice vote in the last Congress. I urge my colleagues to continue their support for IGs by supporting the Inspector General Access Act.
Madam Speaker, I reserve the balance of my time.

Ms. FOXX of North Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker. I rise today in support of H.R. 202, the Inspector General Access Act of 2019. Inspectors general perform a critical oversight function with regard to misconduct at their respective agencies. This committee, the Oversight and Reform Committee, has a long history of advocating for IGs to have timely and complete access to all the information they need to fulfill their oversight and investigative functions.

In continuation of that mission, H.R. 202 removes an unnecessary and outdated statutory hurdle that prevents the inspector general from investigating certain misconduct at the Department of Justice, DOJ.

Current law requires the DOJ IG to refer allegations of misconduct by DOJ department attorneys to the Office of Professional Responsibility, or OPR, rather than initiate an investigation himself. The OPR existed prior to the statutory creation of the DOJ IG in 1988. At the time DOJ IG was created, OPR's specific authority to investigate certain misconduct was codified as a specific hurdle that prevented the Department of Justice IG's investigative authority with the rest of the Federal inspectors general who are not similarly restricted. Congress and this committee have consistently supported the need for independent and transparent oversight of Federal agencies and programs. The current bifurcation of investigative authority at DOJ is inconsistent with this committee's history of supporting the notion of an unencumbered IG.

The DOJ IG is not without its own oversight. The IG is confirmed by the Senate, accountable to the public, and is only removable by the President after notification to Congress. Further, the IG has statutory reporting obligations to both agency leadership and Congress.

The OPR, in contrast, lacks such independence from the agency it is obligated to investigate. The director of OPR is selected and appointed by the attorney general, answers to the attorney general, and can be removed or disciplined only by the attorney general. The IG's independence is critical to the value of their work.

Also critical to the value of the IG's work is transparency. The IG maintains transparency by publishing its reports on a public website. The website also contains information about the IG's operations and functions and a full archive of completed and ongoing work. This standard of transparency does not apply to OPR. Adverse findings by OPR against a DOJ lawyer are subject to review by the department's leadership and can be overruled by the department's leadership without any transparency.

It is important to note that this division of authority is a unique situation amongst the Federal IG community. The need for this legislation has also been discussed in multiple hearings before the Oversight and Reform Committee and in reports by watchdog groups.

The DOJ IG, Michael Horowitz, testified before the Oversight and Reform Committee on the importance of eliminating this discrepancy. Congress's own watchdog, the Government Accountability Office, has issued reports with recommendations to empower the DOJ IG.

This is a good bill, Madam Speaker, and I urge my colleagues to support it. With that, I reserve the balance of my time.

Mr. CUMMINGS. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from the State of Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker. I rise today to urge Congress to pass the Inspector General Access Act of 2019. This act, I am pleased to underscore, enjoys broad bipartisan support from this body now and has in the past, but its approval is more explicit and independent power to investigate allegations of misconduct cases would enhance the public's confidence in the outcomes of these investigations and provide the OIG with the same authority as every other inspector general.

I include Mr. Horowitz's letter in the Record.


Hon. THOM GOWDY, Chairman, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

Hon. ELIJAH E. CUMMINGS, Ranking Member, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.

Dear Mr. Chairman and Ranking Member Gowdy:

I write to give you my support for H.R. 3154, the “Inspector General Access Act of 2017” (Access Act), which your Committee approved unanimously on September 27, 2018. The Access Act would amend the Inspector General Act (IG Act) to provide the Department of Justice (DOJ) Office of the Inspector General (OIG) with authority to investigate allegations of misconduct against DOJ attorneys for their actions as lawyers, just as the OIG has authority under the IG Act to investigate allegations of misconduct made against DOJ attorneys acting in their capacity as lawyers; this role is performed exclusively for the Office of Professional Responsibility (OPR).

The Access Act has received broad bipartisan support, both in successive Congresses and from the Government Accountability Office, but because of an unusual carve-out, the DOJ’s inspector general is believed to be, as the ranking member said, the only Federal agency that has no explicit power to review the conduct of its own attorneys.

If professional misconduct was involved in Acosta’s handling of Jeffrey Epstein’s plea deal, potentially dozens of victims of this connected multimillionaire have a right to know.
same reasons, in 1994, the then-General Accounting Office, now the Government Accountability Office (GAO), issued a report that found that preventing the OIG from investigating misconduct was inconsistent with the independence and accountability that Congress envisioned under the IG Act.

The OIG has long questioned this carve-out because OPR lacks statutory independence and does not regularly release its reports and conclusions to the public. Moreover, to our knowledge, the DOJ Inspector General is the only Inspector General in the entire federal government that does not have the authority to independently investigate misconduct cases handled by attorneys who work in the agency it oversees. Providing the OIG with authority to exercise jurisdiction in attorney professional misconduct cases would enhance the public’s confidence in the outcomes of these investigations and provide the OIG with the same authority as every other Inspector General.

Alleged professional misconduct by DOJ prosecutors, like any alleged misconduct by DOJ agents, should be subject to statutorily independent oversight.

Over fifteen years ago, the Department and Congress recognized the importance of statutorily independent oversight of DOJ law enforcement components (FBI, DEA, USMS, and ATF) when Attorney General Ashcroft authorized the OIG to conduct additional law enforcement oversight. Congress legislated it in 2002. Yet, allegations against Department prosecutors for professional misconduct continue to be handled exclusively by OPR. As a result, presently, if an allegation of misconduct is made against the FBI Director, it is reviewed by the OIG; by contrast, if an allegation of professional misconduct is made against the Attorney General, it is handled by OPR, a Departmental component that the Attorney General supervises.

The rationale supporting independent oversight for alleged misconduct by law enforcement agencies involves equal force to alleged wrongdoing by federal prosecutors, regardless of the nature of the alleged misconduct. There is no principled reason to have two standards of oversight at DOJ—one for federal agents, who are subject to statutorily independent oversight, and one for federal prosecutors, who are not for allegations of professional misconduct. This is particularly true given the extraordinary power that Department law enforcement components, such as the FBI’s Inspector General, and can be removed or disciplined by the Attorney General and to Congress. The OIG, consistent with the IG Act, publishes on our website summaries of investigations resulting in findings of administrative misconduct by senior government officials, such as FBI agents and lawyers, all non-frivolous misconduct allegations made against attorneys within the agency it oversees.

The OIG’s independence, established by statutory authorities and protections, facilitates objective and credible investigations of misconduct allegations, as well as unbiased reports that identify and make useful recommendations for improving the Department. The OIG is headed by a Senate-con- firmed official who can only be removed by the President, with prior notice to Congress. The OIG’s statutory independence is bolstered by the OIG’s dual obligation to report findings and concerns both to the Attorney General and to Congress. The independent OIG is able to make critical investigative and audit findings without fear of retribution.

Conversely, OPR has no statutory independence or protections. The OPR Counsel is appointed by and answers to the Attorney General, who can be appointed or removed by the Attorney General. Although a November 27, 2018 letter from DOJ’s Office of Legislative Affairs (OLA) on H.R. 3154 states that “OPR, an independent office, does not point to any protections, statutory or otherwise, that exist to ensure OPR’s independence from the Attorney General, nor has DOJ proposed strengthening OPR’s independence by adding such protections. Indeed, the letter fails to explain or even acknowledge that FBI has a non-statutorily independent entity handle attorney professional misconduct cases rather than a statutorily independent organization, as is the Department’s OPR for professional misconduct allegations.

The OIG’s independent and transparent oversight enhances the public’s confidence in the DOJ’s programs and improves its operations:

In addition to independence, the OIG considers professional misconduct a type of oversight component that is entirely without merit. The decision by Congress to extend OIG jurisdiction in 2002 to encompass misconduct by FBI and DEA agents has enhanced the public’s confidence in those programs. Moreover, the DEA and other component’s handling of sexual misconduct and harassment cases, the operation of the FBI laboratory, ATF’s actions involving Operation Fast and Furious, and the FBI’s use of its national security authorities (National Security Letters, Patriot Act Section 215, FISA Amendment Act Section 215) demonstrates that the OIG is fully capable of dealing with such matters covering a wide range of complex legal issues. The DOJ OIG is the only entity that has identified the potential opportunity for the OIG to receive reports of misconduct by federal prosecutors.

The Access Act would provide the OIG with oversight over Department lawyers in a manner that is entirely consistent with its oversight authority over Department non-agents.

The present oversight system that applies to allegations made against any DOJ attorney, as provided for in the IG Act and Department regulations, is designed to provide the Access Act seeking to apply to Department lawyers, specifically, under the current system for DOJ non-lawyers, all non-frivolous misconduct allegations must be provided to the OIG for its review and determination as to whether it is of the type and nature that warrants prior to the allegations investigated by the OIG.

The OIG’s limited resources, the OIG handles only those allegations that warrant an independent OIG investigation, and the OIG receives far less serious misconduct allegations to Department components, such as the FBI’s Inspections Division and the DEA’s OPR, for their investigation and matters that the OIG retains, when the OIG completes its investigation, it sends its report to

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The OIG has consistently demonstrated its ability to handle complex legal and factual issues related to our misconduct reviews, including those involving FBI and DEA agents as well, on occasion, ethics issues involving DOJ lawyers. In addition to our recent investigation of the FBI’s actions involving Operation Fast and Furious, which involved evaluating the professional conduct by FBI agents, FBI lawyers, and FBI senior officials, we have investigated the FBI’s actions involving its former agent Robert Hanssen, the FBI’s activities related to James “Whitey” Bulger, the DEA’s oversight of its former agent, and the DEA’s and other components’ handling of sexual misconduct and harassment cases, the operation of the FBI laboratory, ATF’s actions involving Operation Fast and Furious, and the FBI’s use of its national security authorities (National Security Letters, Patriot Act Section 215, FISA Amendment Act Section 215).

Each of those and many other reviews resulted in independent and transparent findings by the OIG, and resulted in changes to Department operations that enhanced their effectiveness and thereby increased the public’s confidence in those programs. Moreover, OIGs throughout the government, including at the Department of Homeland Security and the Securities and Exchange Commission, have authority to investigate misconduct allegations made against attorneys who work at those agencies and have demonstrated that they are fully capable of dealing with such matters covering a wide range of complex legal issues. The DOJ OIG is the only component that has identified the potential opportunity for the OIG to receive reports of misconduct by Department lawyers in a manner that is entirely consistent with its oversight authority over Department non-agents.

The present oversight system that applies to allegations made against any DOJ attorney, as provided for in the IG Act and Department regulations, is designed to provide the Access Act seeking to apply to Department lawyers, specifically, under the current system for DOJ non-lawyers, all non-frivolous misconduct allegations must be provided to the OIG for its review and determination as to whether it is of the type and nature that warrants prior to the allegations investigated by the OIG.

The OIG’s limited resources, the OIG handles only those allegations that warrant an independent OIG investigation, and the OIG receives far less serious misconduct allegations to Department components, such as the FBI’s Inspections Division and the DEA’s OPR, for their investigation and matters that the OIG retains, when the OIG completes its investigation, it sends its report to
the component so that it can adjudicate the OIG’s findings and take disciplinary action, as appropriate. The Access Act creates a similar practice, by maintaining the Department’s OPR to handle misconduct allegations that do not require independent outside review as determined by the OIG, much as the internal affairs offices at the FBI, DEA, ATF, and USMS remain in place today. We are unaware of any claims by Department leaders that this approach has resulted in “more efficient [investigative standards]—“decrease[d] efficiency,” or “inconsistent application” of legal standards. There is no evidence that it has impacted the components “ability to defend” any significant discipline decision before the Merit Systems Protection Board.” Yet this parade of horrors is precisely what the OLA letter claims are occurring if attorneys are treated in the same manner as Special Agents and non-attorneys at the Department, rather than continuing to receive the special oversight treatment granted to them under the current carve-out provision under the IG Act.

This argument is meritless. Indeed, the disciplinary processes at the FBI and the DEA have substantially improved since the OIG obtained statutory oversight authority over those components in 2002, in significant part due to the greater transparency and accountability that has resulted from the OIG’s oversight.

I very much appreciate your strong support for my Office and for Inspectors General throughout the government. If you have further questions, please feel free to contact me.

Sincerely,

MICHAEL E. HOROWITZ, Inspector General.

Mr. CUMMINGS. On December 25, 2018, the New York Times editorial board wrote: “It makes sense to give Mr. Horowitz’s office oversight authority over the activities of Justice Department lawyers—as other inspectors general have over lawyers in their departments. Doing so would aid the cause of justice and strengthen the watchdog office itself are protected from meaningful public scrutiny and accountability.”

This simple change in jurisdiction will ensure that people facing federal charges get a fair day in court and that the U.S. government is properly represented in disputes with corpora-

tions where taxpayer dollars are on the line.

We must ensure that innocent people are not wrongly convicted and sent to prison, and that tainted cases do not cause convictions of guilty parties to be thrown out. With stakes so high, it is essential that DOJ attorneys be held to highest possible standards of accountability.

While the Office of Professional Responsibility’s investigations and actions are notorious for their secrecy, the OIG’s independence and transparency will enhance the public’s confidence in DOJ’s operations.

For these reasons, and for the victims of the Danziger Bridge shootings and their families, I encourage my colleagues to support this common-sense legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and pass the bill, H.R. 202.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ALL-AMERICAN FLAG ACT

Mr. CUMMINGS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 113) to require the purchase of domestically made flags of the United States of America for use by the Federal Government.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 113

Be it enacted by the Senate and House of Represent-atives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. — This Act may be cited as the “All-American Flag Act”.

SEC. 2. REQUIREMENT FOR AGENCIES TO BUY DOMESTICALLY MADE UNITED STATES FLAGS.

(a) REQUIREMENT FOR AGENCIES TO BUY DOMESTICALLY MADE UNITED STATES FLAGS.—

(1) IN GENERAL.—Chapter 63 of title 41, United States Code, is amended by adding at the end the following new section:

“§ 6310. Requirement for agencies to buy domestically made United States flags

(a) REQUIREMENT.—Except as provided in subsections (b) through (d), funds appropriated or otherwise available to an agency may not be used for the procurement of any flag of the United States, unless such flag has been 100 percent manufactured in the United States from articles, materials, or supplies that have been grown or produced or manufactured in the United States.

(b) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the agency is procuring a flag that satisfies quality and sufficient quantity of a flag described in such subsection cannot be procured as and when needed at United States market prices.

(c) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

(1) Procurements for resale purposes in any military or commissary normal exchange, or nonappropriated fund instrumentality operated by an agency.

(2) Procurements for amounts less than the simplified acquisition threshold.

(d) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—The President may waive the requirement in subsection (a) if the President determines that it is necessary to comply with any trade agreement to which the United States is a party.

(2) NOTICE OF WAIVER.—Not later than 30 days after granting paragraph (1), the President shall publish a notice of the waiver in the Federal Register.

(e) DEFINITIONS.—In this section:

(A) AGENCY.—The term ‘agency’ has the meaning given the term ‘executive agency’ in section 802 of title 40.

(B) SIMPLIFIED ACQUISITION THRESHOLD.—The term ‘simplified acquisition threshold’ has the meaning given that term in section 134.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“§ 6310. Requirement for agencies to buy domestically made United States flags.”.

(b) APPLICABILITY.—Section 6310 of title 41, United States Code, as added by subsection (a), shall apply with respect to any contract entered into on or after the date that is 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. CUMMINGS) and the gentle-
woman from North Carolina (Ms. FOXX) each will control 20 minutes.